CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

W 14a

Staff: Jo Ginsberg
Staff Report: June 26, 1998
Hearing Date: July 8, 1998
Commission Action:

STAFF REPORT

DE NOVO HEARING ON APPEAL

LOCAL GOVERNMENT:	Humboldt County
DECISION:	Approval with Conditions
APPEAL NO.:	**A-1-HUM-96-70**
APPLICANT:	**STEVE MOSER**
AGENTS:	MARTIN McCLELLAND and CHAD ROBERTS of Oscar Larson & Associates.
PROJECT NAME:	**Sand Pointe**
PROJECT LOCATION:	North side of Murray Road near the Mad River in McKinleyville, Humboldt County, APN 511-11-14.
PROJECT DESCRIPTION:	**58-lot subdivision of a 26.5-acre site.**
APPELLANTS:	Patricia Hassen/Concerned Citizens, Barbara Kelly/Humboldt Coastal Coalition, and Lucille Vinyard/Redwood Chapter of the Sierra Club.
SUBSTANTIVE FILE DOCUMENTS:	Humboldt County Local Coastal Program; Humboldt County Coastal Development Permit No. CDP-39-94; Conditional Use Permit No. CUP-22-94; Major Subdivision Permit No. FMS-11-94; Rezone No. ZR-18-94; Draft Technical Report for the Humboldt County Airports Master Plan by Hodges & Shutt, dated January 25, 1985; Executive Summary of the Humboldt County Airports Master Plan by Hodges & Shutt, dated June 1980; Humboldt County Airport Land Use Compatibility Plan by Hodges & Shutt, dated March 1993; the Arcata-Eureka Airport Master Plan for Humboldt County by Hodges & Shutt, dated May 1993; Volumes I & II of the Draft EIR dated December of 1995; and the Final EIR dated March of 1996.

STAFF NOTES

1. Procedure

On February 5, 1997, the Coastal Commission found that the appeal of Humboldt County's approval raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is between the first public road and the sea, the applicable test for the Commission to consider is whether the development is consistent with Humboldt County's certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act. Testimony may be taken from all interested persons at the de novo hearing.

2. Continued De Novo Hearing

The de novo hearing was opened at the Commission meeting of September 11, 1997. Staff had recommended denial of the project based on inconsistencies with a number of policies of the certified LCP, with particular concerns regarding seismic and geologic hazards. The Commission continued the hearing at the request of the applicants, but directed that the continued hearing be held at a northern California meeting to better accommodate interested members of the public from the local area. Since the September hearing, the applicants have made a number of changes to the project.

SUMMARY OF STAFF RECOMMENDATION

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

The staff recommends that the Commission **APPROVE** the coastal development permit application for the proposed project on the basis that the project, as conditioned, is consistent with the County's certified LCP.

At the substantial issue portion of the appeal hearing, the Commission found that the project, as approved by the County, raised substantial issue with the County's certified LCP standards regarding seismic hazards, blufftop setbacks, community character, bonus density, and planned unit development. However, in response to concerns raised by the Commission, its staff, and the appellants, the applicant has modified the project to reduce the number of proposed lots in the subdivision from 63 to 58, redesign and relocate several lots within the subdivision so that all lots will be a minimum of 50 feet from the surface trace of an earthquake fault, and increase blufftop setbacks. In addition, staff is recommending a number of special conditions which, if attached to the coastal permit for the revised project, will ensure the project's consistency with the policies of the County's certified LCP.

Staff is recommending a condition which would eliminate the locked-gate aspect of the development to ensure that the subdivision will be compatible with the character of the area by requiring elimination of the vehicle gate and certain fences and allowing the public to walk and drive on the interior streets of the subdivision. Another condition would require additional public access and recreational facilities to ensure that the development will provide "an extraordinary public benefit" in exchange for the greater density that MAP Policy 3.25(B) allows when such a benefit is provided. The additional public access and recreational facilities staff is recommending primarily include providing additional public access parking at both ends of the subdivision, improvement of an extension of the Hammond Trail along the north side of the subdivision, and development of a vertical access between the required public access parking at the north end of the subdivision and the extension of the Hammond Trail.

Other recommended conditions include conditions which would impose design restrictions and height limits for future development; require revised final site and drainage plans that are consistent with the recommendations in the geologic report and addendum; require undergrounding of all new utility lines; and require submittal of plans for controlling stormwater runoff from the site which incorporate construction-period sediment controls and vegetation filter areas.

Staff recommends approval of the project only as conditioned herein.

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION:

1. Motion:

I move that the Commission approve Coastal Development Permit No. A-1-HUM-96-70 subject to conditions.

2. Staff Recommendation of Approval:

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

3. Resolution to Approve Permit:

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 Humboldt County LCP, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Evidence of Recordation of Proposed Offers to Dedicate Easements for Public Access:

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall submit to the Executive Director for review and approval evidence that an irrevocable offer to dedicate a public access and public recreation easement to a public agency or private association approved by the Executive Director, such as the State Coastal Conservancy or the McKinleyville Community Services District, has been executed and recorded over the following areas, as described below and as generally shown in Exhibits 6 and 14:

(a) A 5,000-square-foot public park area at the west end of Murray Road, which will include public parking for 10 cars; and

(b) a 20-foot-wide easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site.

The recorded documents shall include legal descriptions of both the applicant's entire parcel and the easement area. The documents shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer of dedication shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recordation.

2. Evidence of Offer of In-Fee Dedication of Open Space and Access Trail Area:

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall submit to the Executive Director for review and approval evidence that an irrevocable offer to grant in fee to a public agency such as Humboldt County or the McKinleyville Community Services District, which is approved by the Executive Directors of the Coastal Commission and the State Lands Commission, has been executed and recorded over the entirety of APN 511-011-05 (approximately 67.27 acres), including the existing trail leading from the Hammond Trail to the beach, and as generally shown on Exhibits 6 and 14. The grant shall be for public access, open space, and visual resource protection.

Within the easement area, all development as defined in Section 30106 of the Coastal Act is prohibited, except for (1) any public access improvements approved pursuant to a coastal development permit, and (2) installation, repair, and maintenance of any drainage improvements or utility lines approved pursuant to any necessary coastal development permit.

The recorded documents shall include legal descriptions of both the applicant's entire parcel and the easement area. The documents shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer of dedication shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recordation.

3. Evidence of Dedication of Access Trail to Humboldt County:

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall submit to the Executive Director for review and approval evidence that the applicant has dedicated to the County of Humboldt a 15-foot-wide strip of land for public access purposes between the end of Kelly Avenue and the Hammond Trail, along the southern property boundary, and as generally shown on Exhibits 6 and 14.

The grant of dedication shall be for public access purposes, and shall include legal description of the applicant's entire parcel and the public access trail area.

4. Evidence of Recordation of Offer to Dedicate Open Space Easement:

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall submit for review and approval of the Executive Director evidence that an irrevocable offer to dedicate an open space easement to Humboldt County or to a public agency or non-profit organization acceptable to the Executive Director has been executed and recorded over the 25-foot-wide non-buildable green belt area to be established between the public resting area and the subdivision, as generally depicted on Exhibits 6 and 14.

Within the easement area, all development as defined in Section 30106 of the Coastal Act is prohibited, except for (1) any public access improvements approved pursuant to a coastal development permit; and (2) installation, repair, and maintenance of any drainage improvements or utility lines approved pursuant to any necessary coastal development permit.

The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area. The documents shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer of dedication shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recordation.

5. Evidence of Recordation of Offer to Dedicate Open Space Easement:

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall submit for the

review and approval of the Executive Director evidence that an irrevocable offer to dedicate an open space easement to the County of Humboldt or a public or private entity acceptable to the Executive Director has been executed and recorded as described below. The open space area will encompass the area extending east from the Hammond Trail right-of-way to the top of the bluff, and inland from the top of the bluff to the eastern extent of the blufftop setback that extends approximately 25-45 feet from the bluff edge of the western row of parcels in the subdivision, as generally depicted in Exhibit No. 5.

Within the open space area, all development as defined in Section 30106 of the Coastal Act is prohibited except for (1) the fences required by Special Condition No. 7(e); (2) any public access improvements approved pursuant to a coastal development permit; and (3) installation, repair, and maintenance of any drainage improvements approved pursuant to any necessary coastal development permit.

The recorded document shall include legal descriptions of the applicant's entire parcel and the easement area. The documents shall be recorded free or prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer of dedication shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recordation.

6. <u>Offer to Dedicate Easement for Public Access</u>:

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, such as the State Coastal Conservancy or the McKinleyville Community Services District, the following easements and areas for public access, as described below and as generally shown in Exhibit No. 14:

(a) A 20-foot-wide vertical easement extending from the end of Sand Pointe Drive to the Hammond Trail Extension;

(b) A 5-car public parking area in the northeast portion of the subdivision to serve the Hammond Trail Extension.

The recorded documents shall include legal descriptions of both the applicant's entire parcel and the easement area. The documents shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer of dedication shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable for a period of 21 years, such period running from the date of recordation.

7. Deed Restriction over Residential Lots:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the following restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the 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 the coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.

The residential lots indicated as follows and depicted on Exhibit No. 7 shall be subject to the following restrictions:

(a) Height Limits. All structures on Lots Number A-1 through A-8; B-8; C-1 through C-22; and D-1 through D-3 shall have a maximum building height of 23 feet. All structures on other lots are limited to 35 feet.

(b) Lighting. On all parcels, all exterior lights, including any lights attached to the outside of the houses, shall be low-wattage, non-reflective, and have a directional cast downward so as not to shine beyond the limits of the parcel.

(c) House Size. On all parcels, maximum home size is 5,000 square feet (exclusive of garages and outbuildings).

(d) Utility Lines. Above-ground power and telephone lines from the two westernmost poles along Murray Road shall be placed underground, and the poles removed. Any new utility lines required for the subdivision shall be placed underground.

(e) Fencing.

(i) The fencing along the east side of the Hammond Trail between Murray Road and the northern extension of the property shall be no higher than three feet, and shall be of open-style construction.

(ii) The fencing on each of the westernmost lots within the subdivision along the blufftop setback line shall be no higher than three feet in height, and shall be of open-style construction.

(f) Streets, Roads, and Public Parking Areas. All streets and roads within the residential lots shall be made available for public use. No locked gates or fences prohibiting public access into the subdivision shall be permitted. Privacy fences around private

lots are permitted, but any perimeter fences shall be of open-style construction.

8. Final Map:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director two copies of a revised tentative map consistent with the approved Coastal Development Permit. The revised map shall show no more than 58 lots and shall depict all easement areas consistent with Coastal Development Permit No. A-1-HUM-96-70. The applicant shall record the revised map approved by the Executive Director.

9. Development of Improvements Within Park and Trail Areas:

Development of improvements within the park and trail areas shall occur consistent with the restrictions identified below.

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the Executive Director's review and approval, final plans that have been approved by Humboldt County, showing the designs, locations, and construction schedule for the following access improvements consistent with the restrictions identified below:

(a) Public Resting Park: The proposed 5,000-square-foot resting park at the west end of Murray Road shall be constructed prior to recordation of the final map and shall include all proposed amenities depicted on Exhibit No. 9 including lawns, an underground sprinkler system, two picnic tables, two sitting benches, five public parking spaces, and shrubbery to block the view of vehicles from Murray Road. In addition, to the amenities proposed by the applicant on Exhibit No. 9, the park shall include five additional public parking spaces.

(b) Additional Public Parking Lot: A public parking lot for five cars shall be constructed within the easement area located in the northeast portion of the subdivision, and shall be constructed prior to recordation of the final map.

(c) Hammond Trail Extension: A 10-foot-wide trail extending from the northeastern corner of the subject property west to the developed portion of the Hammond Trail shall be constructed within the existing easement held by the County, and shall be constructed prior to recordation of the final map. The trail shall be graded and, at a minimum, gravelled; if determined by Humboldt County Public Works Department to be appropriate, the trail shall be raised above ground level and a drainage ditch constructed.

(d) Sand Pointe Drive Trail: A 10-foot-wide trail shall be constructed within the 20-foot-wide vertical easement extending from the end of Sand Pointe Drive to the Hammond Trail Extension, and shall be

constructed prior to recordation of the final map. The trail shall be graded and, at a minimum, gravelled; if determined by Humboldt County Public Works Department to be appropriate, the trail shall be raised above ground level and a drainage ditch constructed.

(e) Fencing:

(i) The fence proposed by the applicant to extend along the east side of the Hammond Trail between Murray Road and the northern extension of the property shall be constructed prior to recordation of the final map, shall be no higher than three feet, and shall be of open-style construction; and

(ii) Fencing on each of the westernmost lots within the subdivision shall be erected along the blufftop setback line, shall be constructed prior to recordation of the final map, shall be no higher than three feet, and shall be of open-style construction.

(f) Utility Lines: Above-ground power and telephone lines from the two westernmost poles along Murray Road shall be placed underground and the poles removed prior to recordation of the final map.

10. Final Site and Drainage Plans:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director final site and drainage plans for the proposed project. These plans shall be consistent with all recommendations contained in the Geotechnical Investigation Report prepared by SHN Consulting Engineers & Geologists dated December 1994 and the supplement dated January 8, 1998, including the recommendations regarding site preparation and grading, site drainage, and bluff setbacks.

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 because the change is not substantive in nature.

11. Runoff Control Measures:

PRIOR TO ISSUANCE of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director plans for controlling stormwater runoff from the site which incorporate the following elements:

(a) Construction-period sediment controls to minimize sedimentation-related impacts on Widow White Creek, the Murray Road drainage, and the Mad River that include sediment barriers

consisting of filter fabric attached to supporting posts that are installed in a continuous fashion along at least the north, west, and south sides of the development, and other Best Management Practices as appropriate.

(b) Vegetation filter areas adequate in size and designed to remove sediment, organic matter, and other pollutants from runoff from the subdivision before stormwater runoff is discharged from the parcel to drainage facilities along Murray Road.

The applicant shall undertake the mitigation program in accordance with the approved final runoff control plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plan shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT HISTORY.

The Humboldt County Building and Planning Department received an application for the proposed subdivision on February 9, 1995. A draft Environmental Impact Report for the project was completed in the early part of 1996. At the Planning Commission hearings during May through July of 1996, the applicants, County staff, and numerous property owners spoke to concerns regarding the proposed density of the Sand Pointe Subdivision in light of presently adopted plan and zoning standards, and site conditions. The concerns about the project focused primarily on the requested 20 percent bonus density increase, seismic and hydrologic forces affecting the site, compatibility of the development with the neighborhood, effects on coastal resources, and the land use compatibility with the Eureka-Arcata Airport.

In addition, the staff recommendation from the County Planning and Building Department differed with the staff recommendation from the County Public Works Department, including the Aviation Division of the Public Works Department. The Aviation Division was very concerned about possible threats to continued airport operations from the proposed residential density. Specifically, staff at the County Public Works Department were not in favor of the project's 20 percent bonus density increase, primarily because of airport land use compatibility relating to noise and safety issues and the density of the proposed development.

On July 16, 1996 the Planning Commission deadlocked in a 3 to 3 vote (with one abstention), thus failing to act upon the Final EIR and the proposed project. The tie vote of the Planning Commission represented "no action" being taken on

the project, which is a functional denial of the project. The Planning Commission's non-action and effective denial of the project was then appealed by the applicants to the Board of Supervisors.

The Humboldt County Board of Supervisors held a series of public hearings on the appeal and the proposed development on August 13, August 20, August 27, September 3, September 24, and November 5, 1996.

On August 20, 1996, while acting as the Airport Land Use Commission, the Board of Supervisors found, by a 3 to 2 vote, that the proposed 2.4 dwelling units per acre density for the project and site was compatible with the adopted (1980) airport master plan.

At a September 3, 1996 meeting, the Board of Supervisors approved three permits with conditions for the project, consisting of a tentative map approval, a conditional use permit, and a coastal development permit. At a September 24, 1996 meeting, the Board of Supervisors adopted County Resolution No. 96-76 to certify the Final EIR for the project and adopt findings, mitigation and monitoring measures, and a statement of overriding considerations.

The Coastal Commission received notice of the County's final action on the coastal development permit application associated with the project on October 1, 1996. The local decision was appealed to the Commission in a timely manner by three appellants representing three groups of people. They were: (1) Patricia Hassen representing a group called Concerned Citizens, (2) Barbara Kelly representing a group called the Humboldt Coastal Coalition, and (3) Lucille Vinyard representing the Redwood Chapter of the Sierra Club.

The hearing on the appeal was opened and continued on November 12, 1996. The Commission found substantial issue on February 5, 1997. Staff prepared a recommendation on the project de novo, dated August 22, 1997, and recommended denial of the project based on inconsistencies with a number of policies of the certified LCP, with particular concerns regarding seismic and geologic hazards. The project was scheduled to be heard de novo at the Commission meeting of September 11, 1997. However, the applicants requested that the item be postponed so they could address staff's concerns. The Commission opened and continued the hearing, allowing some testimony to be given, recognizing that the Commission would not be meeting in Eureka for another year and that the hearing would most likely be continued at a Commission meeting that would be held far from the local area where it would be difficult for many of the people present to attend.

The project before the Commission de novo is the project as revised by the applicants. As revised, the proposed lot configuration would be redesigned so that no building site is within 50 feet of the active trace of the Mad River earthquake fault, and the blufftop setback would be increased so that all building sites would be set back 25-45 feet from the bluff edge. In addition, the proposed number of lots would be reduced from 63 to 58. Furthermore, the applicants deleted from the application the development of individual homes on

the lots within the subdivision; separate coastal development permits will need to be obtained for home construction in the future. Moreover, height limitations are proposed to be imposed through Conditions Covenants & Restrictions (CC&R's) that would limit building heights for many of the lots in the subdivision to 23 feet, to protect ocean views from existing public streets. The lots that would be restricted in this manner are shown in Exhibit No. 7.

B. PROJECT SETTING AND DESCRIPTION.

1. Area Location.

The subject property and proposed subdivision are located in the McKinleyville area of Humboldt County, about 1,200 feet west of the Highway 101 intersection with Murray Road. The property lies in the northwest corner of McKinleyville's urban limit line. The 26.5-acre property is located at the westerly end of Murray Road, on the north side of the road, between the Pacific Sunset Subdivision and the old Hammond Railroad right-of-way, which is adjacent to the Mad River. (See Exhibits No. 1, 2, 4, and 5.)

The western property boundary generally parallels a coastal bluff which is adjacent to the Mad River and the Pacific Ocean. The Mad River runs parallel to the coast in this location and is separated from the ocean by a broad sand spit. A portion of the Hammond Trail, which is part of the California Coastal Trail, is located mid-slope on a bluff slope within a cut bench area that was the former right of way for the Hammond Railroad. To the west of the Hammond Trail, between the Mad River and the ocean, is an undeveloped 67± acre parcel owned by the applicant that consists of sandy ocean beach, sand dunes, and the bed of the Mad River. As indicated in a letter dated 9 June 1997 from the staff of the State Lands Commission (attached as Exhibit No. 54), the State may hold a fee interest over the bed of the river and a public trust easement over other portions of the parcel. Widow White Creek is located within a ravine, just beyond the northern boundary of the project. The eastern property boundary abuts the Pacific Sunset Subdivision, and the southern property boundary fronts on Murray Road.

The areas to the west and to the north of the proposed subdivision are primarily undeveloped and provide recreational opportunities due to their proximity to the old Hammond Railroad right-of-way, the Mad River, the Pacific Ocean, and White Widow Creek. The areas to the east and to the south are developed residential subdivisions interspersed with larger undeveloped tracts of land.

2. Project Site.

The project site is located on a gently sloping, open coastal terrace that is about 50 to 80 feet above sea level. The parcel includes the upper portion of the coastal bluff west of the terrace. The Hammond Trail is located mid-slope

on the bluff. The lower portion of the bluff below the Hammond Trail adjoins a low-lying sandy terrace at least 70 feet wide covered with riparian vegetation, that fronts on the east bank of the Mad River.

The property is currently developed with one residential unit which fronts Murray Road near the southeast corner of the project site. The site was previously used for agriculture, primarily to grow flowers and bulbs. The site is now used as a hay field. A series of small indentations indicating where gullying has occurred in the past is found on the top of the bluffs. Except for the Hammond Trail, the area from the Mad River shoreline to the top of the bluffs is generally covered by dense brush and trees. Natural drainage of the site is to the west and southwest with a minor drainage area to the north to Widow White Creek.

The subject site lies within an Alquist-Priolo special studies zone. A surface trace of a primary thrust fault has been found and mapped in the southwesterly portion of the property. As noted previously, the project site is also situated above a 50-foot-high coastal bluff that is adjacent to the Mad River and subject to erosion. With respect to man-made hazards, the entire subdivision is located at the end of the airport approach for one of the two runways used by the Arcata-Eureka Airport. The Humboldt County LCP has land use and zoning regulations which call for limiting density in airport approach and transition zones to: (1) maintain airport safety for people who travel by air, (2) minimize risks to life and property for those people who choose to live beneath an airport approach zone, and (3) maintain continued airport operations without interference by people who choose to live under an airport approach zone and then complain about too much airplane noise, etc.

The majority of the project site is agricultural land that is presently used for hay production. The "perennial grassland" over the open coastal terrace is dominated by European grasses. The western margin of the project site includes a coastal bluff and a native plant association known as "northern coastal scrub." This association extends from the vegetated margin of the grassland westward over the edge of the bluff, down over the bluff slope, and ends above the riparian influence zone of the Mad River. This northern coastal scrub plant community is dominated by California blackberry (Rubus ursinus) and a variety of other shrubby perennial species, including coast silktassel (Carrya elliptica), cascara (Rhanus purshiana), salal (Gaulteria shallon, twinberry (Loncera involucrata), coyotebrush (Baccharis pilularis), arroyo willow (Saliz lasiolepis), blueblossom (Ceanothus thyrsiflorus) and nootka rose (Rosa nutkana). Swordfern (Polystichum munitum) is also present. The northern coastal scrub plant community also includes numerous Sitka spruces (Piciea sitchensis) and beach pines (Pinus contorta). An isolated "beach/pine forest," including Monterey Pine (Pinus radiata), is located on the coastal terrace at the north end of the subdivision. An "alder/riparian forest" is located within the coastal ravine that contains Widow White Creek. The edge of the Mad River is bordered by a "northern fore dune grassland and mat" community. For plant associations on the subject property, see Exhibit No. 3.

3. Project Description.

Originally, the Sand Pointe project was proposed as a phased subdivision of a 26.5-acre site into 63 single-family residential parcels ranging in size from approximately 9,900 to 21,000 square feet. Construction of residences was not originally included within the proposed project description. At the August 20, 1996 meeting of the Board of Supervisors, the applicants amended their project description to include authorization of the construction of 63 principal residences, including the construction of streets, parks, screening, utilities, and other site improvements through the combined coastal development and conditional use permit provisions.

In addition to approving a coastal development permit, the County also approved Subdivision FSM-11-94 subject to the environmental impact mitigation measures adopted by the Board in certifying the EIR (see Exhibit No. 52).

After the Commission, on February 5, 1997, found substantial issue on the appeal of the local government approval, the applicants reduced the number of proposed lots to 58, deleted the construction of residences from the project description, and made some other changes to the project, including the benefits identified below in Section 4 regarding the applicant's ability to qualify for a PUD bonus density. The tentative map of the proposed subdivision is shown in Exhibit No. 5, and the proposed access areas are shown on Exhibit No. 6.

Thus, the current project description is for a subdivision of a 26.6-acre site into 58 residential parcels, plus creation of four open-space landscaped parks, and one recreational vehicle storage area for the homeowners. The residential parcels range in size from 9,900 square feet to 22,481 square feet. In addition, the proposed project includes a continuous greenway system within the boundaries of the project; low-elevation, low-intensity onsite street lighting; paved roadways with rolled curbs; offstreet parking; underground utilities; trailways which will provide access to a local coastal trail; and an onsite storm drainage system designed to accommodate onsite treatment of non-point source water pollution, while allowing adequate storm drainage for larger runoff events.

Finally, the proposed project also includes the access areas shown on Exhibit No. 6 and further described in Section 4 below, as well as the EIR mitigation measures identified in Exhibit No. 52.

All parcels would be served by public water and sewer. An outbuilding would be demolished and two cypress trees would be removed. The project does not extend Wilbur Avenue westerly, from the Pacific Sunset Subdivision into the the Sand Pointe project site, although the proposal does include a "crashable" barrier at the end of Wilbur Avenue for additional emergency vehicle access.

The Sand Pointe project, as a Planned Unit Development, is proposed as a secured (fenced and gated) community. The proposal includes a 5 to 6-foot-high perimeter fence with a gated access from Murray Road (see Exhibit

No. 5). The development would vary from the requirements of the base zoning district, such as reduced road widths, parking pockets, lot dimension and setbacks.

Onsite detention swales have been included in the project design to reduce the precentage of incident rainfall running off the site, to increase infiltration, to trap sediments, and to provide for biological treatment of biological and some chemical wastes resulting from project site occupancy. The increased runoff exceeds the capacity of the existing storm drainage system in Murray Road. As a result, segments of the existing storm drain system in Murray Road would be augmented or replaced with larger components (i.e. increase the pipe size below the point of connection of the Sand Pointe drainage system, from 24 inches to 36 inches diameter.)

The impervious surfaces associated with the proposed project would increase surface runoff from the site and contribute to increased erosion at the existing storm drain on the Mad River shoreline. Thus, an energy-dissipation device would be constructed at the end of the existing Murray Road storm drain.

4. <u>PUD Bonus Density</u>.

The project proposes a 58-lot subdivision of a 26.5-acre site. The applicants believe the 58 lots would represent a 10 percent density bonus over the existing LCP requirements of 0 to 2 units per acre (Residential Estates Land Use Designation) and zoning requirements of the RS-20 zone (Residential Single-Family, minimum lot size of 20,000 square feet). The certified LCP authorizes up to a 20 percent density bonus when the project to which it is related provides an "extraordinary public benefit." To qualify for the density bonus, the applicant proposes the following benefits:

(1) an offer to dedicate in fee simple a 67-acre parcel (APN 511-011-05) consisting of lands west of the project site and the Mad River to be conveyed to a suitable public agency or an appropriately qualified non-profit organization (see Exhibits 6 and 14);

(2) an offer to dedicate an easement for a 5,000-square-foot "resting park" with specified improvements including 5 public parking spaces at the west end of Murray Road and located near the entrance driveway to the subdivision, to the McKinleyville Services District or other suitable public agency or qualified private non-profit organization, and a 25-foot non-buildable greenbelt between the public resting area and the subdivision (see Exhibits 6 and 14);

(3) the removal of two westerly power/telephone poles along Murray Road and the undergrounding of the above-ground wires along the west end of Murray Road (see Exhibit No. 14);

(4) an offer to dedicate a 20-foot-wide easement for public access that extends from the west end of Wilbur Avenue along the east side of the subdivision northward to the Hammond Trail Extension (see Exhibits 6 and 14);

(5) limiting the building height of future homes in the subdivision to 23 feet (from average grade to roof peak) for 34 of the 58 proposed lots; Lots A-1 through A-8, B-8, and C-1 through C-22, and D-1 through D-3 to protect views (see Exhibit No. 7);

(6) an offer to install a fence on the east side of the Hammond Trail to keep the public off the adjoining slope where foot traffic could trample vegetation and contribute to erosion (see Exhibit No. 14);

(7) a fee simple dedication to the County of Humboldt of a 15-foot-wide strip of land between Murray Road and the Hammond Trail over which the County currently holds an easement (see Exhibits 6 and 14); and

(8) provision of internal "view corridors" across the project site.

5. Summary of Applicable Land Use and Zoning Regulations.

The Sand Pointe property is within the McKinleyville Area Plan (MAP) of the Humboldt County Local Coastal Program and the Humboldt County Coastal Zoning Regulations (HCC). Under the McKinleyville Area Plan, the plan designation for the property is RE, meaning Residential Estates, 0-2 dwelling units per acre (see Exhibit No. 4). The property is principally zoned RS-20, meaning Residential Single Family, with a minimum lot size of 20,000 square feet. The following special area combining zones and associated regulations also apply to the property: AP - Airport Safety Review, G - Alquist/Priolo Fault Hazard, A - Archaeological Resource Area, N - Noise Impact, R - Streams and Riparian Corridor Protection, P - Planned Unit Development, and Q - Qualified Combining zone (to prohibit second units).

The certified LCP includes, by reference, a number of components of the McKinleyville Community Plan, including the circulation plan and the Airport Compatibility Plan. The Airport Compatibility Plan was adopted by the County for off-airport property, based on a plan prepared in 1980 by Hodges and Shutt. The Airport Land use Compatibility Plan was updated in 1993 by Hodges and Shutt, but the County did not submit it as an amendment to the County's certified Local Coastal Program. Both the certified 1980 plan and the uncertified 1993 plan were considered in the EIR and discussed by both the Planning Commission and the Board of Supervisors at public hearings for the project.

C. ANALYSIS OF LCP CONSISTENCY.

1. Seismic Hazards:

The proposed development is subject to the applicable policies and provisions of the McKinleyville Area Land Use Plan (MAP) and the Humboldt County Coastal Zoning Code (HCC). MAP Policy 3.28 specifically incorporates Section 30253 of the Coastal Act. Section 30253 of the Coastal Act states in applicable part:

> New development shall...minimize risk to life and property in areas of high geologic, flood, and fire hazard,...assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas or in any way require the construction of protective devices...

MAP Policy 3.28(A) also states in applicable part:

> New development shall be consistent with the adopted Humboldt County Safety and Seismic Safety Element of the General Plan.

Lastly, Section A315-16(H)(1) and (2) of the HCC requires a supplemental public safety impact finding to be made for a coastal development permit/project located within an Alquist-Priolo Fault Hazard Area of the coastal zone (which includes the Mad River Fault). Section A315-16 H(1)(b) of the HCC specifically states:

> A project as proposed will not cause or allow a structure for human occupancy to be placed within fifty (50) feet of a trace of an active fault.

As previously mentioned, the surface trace of an earthquake fault (the Mad River Fault) runs through the southwesterly portion of the property. The current project plans indicate that all lots now have designated building envelopes that are more than 50 feet from the active trace of the earthquake fault. Although no buildings will be located within 50 feet of the fault, the main access road is located along the fault line; however, the project includes an emergency vehicle access route that would connect with Wilbur Avenue. Thus, the currently proposed project is consistent with Section A315-16 of the HCC and MAP Policy 3.28, as the project will minimize risk to life and property by restricting buildings to sites located more than 50 feet from the earthquake fault.

2. Development Density/Airport Safety:

As previously mentioned, the subject property lies entirely within an airport approach zone for the Eureka-Arcata Airport in McKinleyville. (See Exhibits No. 11 and 12 for the location of the airport approach and transitional zones in relation to the project; see also the comment letter in Exhibit No. 13.)

Certified MAP Policy 3.28(G) applies to the Arcata-Eureka Airport Special Study Area, and it states in applicable part:

1. New development within the Arcata-Eureka Airport approach and transitional zones shall be consistent with the approved off-site development guidelines contained in the adopted County Airport Master Plan. The Airport Land Use Commission will define and formally establish an airport safety zone, adopt specific noise and safety standards, and apply such standards to all new development within these zones.

2. Generally, within the airport approach and transitional zones the plan recommends an overall residential density of 1 unit per 2.5 acres.

3. The clustering of new development or planned unit development technique shall be encouraged for new development in these zones to mitigate health and safety concerns.

Section A314-50(D)(3) of the certified Humboldt County Coastal Zoning Code (HCC) states:

> The maximum density in an approach zone is one unit per three acres. A minimum of one (1) dwelling unit per lawfully created lot is permitted, even if this density is exceeded. The special permit process shall be used to retain to the maximum extent feasible the contiguous open space in the approach zone.
>
> Exceptions to the maximum density of one unit per three acres within an approach zone may be permitted subject to approval by the Director of the Department of Public Works.

In 1980 a document entitled "Draft Technical Report, Humboldt County Airport Master Plan" by Hodges & Shutt, Aviation Planning Services, was adopted for use by the County. The document contains background information on airport planning issues, off-airport planning issues, and discussions of airport/land use compatibility policies (noise, airspace, and safety). The document recommended certain airport/land use compatibility policies.

When the County adopted the McKinleyville Area Plan (MAP) in 1982, it incorporated the 1980 Airport Master Plan into Section 3.28(G), the Arcata-Eureka Special Study Area. As noted above, certified MAP Policy 3.28(G) generally recommends an overall residential density of 1 unit per 2.5 acres within the airport approach and transitional zones. Use of the words "generally" and "recommends" in MAP Policy 3.28(G) provides some discretion on the part of the reviewing agency to determine maximum density. This discretion, of course, is limited by the application of all other applicable LCP policies and standards.

The property is subject to several combining zones of the certified HCC. These "overlay or combining zones" are used where special regulations apply to the property. The purpose of the combining zones is to establish regulations for land use and development in special areas that are identified in the Humboldt County LCP. The special zone regulations apply when any of the special area combining zones are combined with a principal zone by the County Board of Supervisors. The HCC states that "the most restrictive regulation governs" where one or more of the County's regulations conflict with one another or where one or more regulations are applicable to the same matter within a zone.

The property is specifically subject to the AP (Airport Safety Review) combining zone as identified in Section A314-50 of the HCC because the property is located entirely within an airport approach zone. The purpose of the AP zone is to establish regulations to maintain compatibility between the proposed land uses and development and Humboldt County airports and to further minimize risks to life and property under airport approach zones. The airport approach zone restricts density to 1 dwelling unit per 3 acres. The requirements of the AP zone are in addition to the requirements of the principally permitted RS-20, Residential Single Family, one unit per 20,000 square feet. The 1 unit per 3 acre density requirement of the AP zone was established based on the recommendation of the 1980 Airport/Land Use Safety Compatibility Plan. The maximum density for unsubdivided lands within an AP zone is limited to one unit per three acres, unless an exception is made by the Director of the Public Works Department (see Exhibit No. 19).

MAP Policy 3.28(G) and Section A314-50(D)(3) of the HCC do allow a certain amount of flexibility on the part of reviewing agencies to determine appropriate density for this project. As noted above, MAP Policy uses the terms "generally" and "recommends" with regard to the maximum density limitation. Section A314-50(D)(3) specifically allows the Director of Public Works to make exceptions to the maximum allowable density and without specifying within that section the criteria that must be met to grant an exception. However, as also described above, the ability of a reviewing agency to make exceptions to the 1 unit per 3 acre density requirement does not have the effect of waiving any other policy or requirement of the LCP, such as those pertaining to seismic hazards. The Commission finds that a project must be found to be consistent with all applicable LCP policies and standards even after application of Section A314-50(D)(3). Thus, the grant of a density exception does not mean the project need not comply with other LCP policies and standards.

In this case, the project would allow 2.2 units per acre in the approach zone. This density would exceed the generally permitted density of 1 unit per 2.5 acres and the approach zone maximum of 1 unit per 3 acres. As described elsewhere in this report, the project can be conditioned to be found consistent with all other LCP policies and standards.

In addition, a project density of 2.2 dwelling units per acre is supported by the more recent, 1993 Airport Land Use Compatibility Plan, which suggests a

higher density may be allowable within an airport approach zone. The 1993 Airport Land Use Compatibility Plan designates the project site at a density of 4 dwelling units per acre. This 1993 Plan has been adopted by the County for planning considerations at the Arcata-Eureka Airport. According to the applicant, the 1993 Plan is based on updated safety and noise information for the Airport, which indicated that the lower recommended densities in the 1980 Plan were no longer needed to protect the Airport from incompatible uses.

Thus, even though the 1993 Plan has (a) never been adopted by the County for areas outside of the Airport, including the subject property; (b) was never amended into the LCP; and (c) is not the standard of review for the review of coastal development permits, the Commission finds that the information in the 1993 Plan can still be considered when determining de novo if it is appropriate to approve the proposed higher density in the airport approach zone.

Thus, although the project's density of 2.2 dwelling units per acre exceeds (a) the generally permitted density of 1 dwelling unit per 2.5 acres (which translates into .4 dwelling units per acre) called for in MAP Policy 3.28(G), and (b) the permitted density of 1 dwelling unit per 3 acres (which translates into .33 dwelling units per acre) that is required for all new development within an airport approach zone per Section A314-50(D)(3) of the HCC, the Commission finds that since Section A314-50(D) allows exceptions to the maximum density of one unit per three acres within an approach zone if the Director of the Department of Public works approves such an exception, and the Director has in fact approved such an exception, the proposed project is consistent with the certified LCP and can be approved.

3. <u>Geologic Hazards and Blufftop Setbacks</u>:

The applicable LCP policies regarding the contents of geotechnical reports, blufftop setback distances, and required findings for consistency are provided below.

McKinleyville Area Plan (MAP) Policy 3.28 specifically incorporates Section 30253 of the Coastal Act. Section 30253 of the Coastal Act states in applicable part:

> New development shall...minimize risks to life and property in areas of high geologic, flood, and fire hazard,...assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas or in any way require the construction of protective devices...

MAP Policy 3.28(A) also states in applicable part:

> New development shall be consistent with the adopted Humboldt County Safety and Seismic Safety Element of the General Plan.

MAP Policy 3.28(C) states in applicable part:

> The developments permitted in the hazard areas shall be sited and designed to assure stability and structural integrity for their expected economic lifespans....Bluff and cliff developments...shall not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding geologically hazardous areas.

Section A314-16(F) of the Humboldt County Coastal Zoning Code (HCC) applies to geologic hazard regulations and the contents of geotechnical reports. Section A314-16(F) states in applicable part:

> (3) ...Specifically, within the coastal zone, the reports should give particular treatment and analyze the following, as applicable:
>
> (a) Historic, current and foreseeable cliff erosion...; and
>
> (f) Professional conclusions as to whether the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the lifespan of the project.

Section A314-16(G) of the HCC applies to geologic hazard regulations and development standards. Section A314-16(G) states in applicable part:

> (1) The applicant shall either provide additional information as recommended by the preliminary geologic and/or soils report, or modify the proposed development to avoid identified areas of potential instability. The proposed development shall be sited, designed, and constructed in accordance with the recommendations of the report(s) in order to minimize risk to life and property on the project site...; and
>
> (3) Within the coastal zone, the following shall also apply:
>
> (a) Developments shall be sited and designed to assure stability and structural integrity for their expected economic lifespans....

MAP Policies 3.28(A) and 3.28(C) require that a geotechnical report consider, describe, and analyze a variety of specific information about the project site and the proposed development to minimize geologic hazard impacts that are associated with new development. Section A314-16(F) specifically requires that geotechnical reports analyze "historic, current, and foreseeable cliff erosion." The primary approach set forth above for minimizing erosion hazards on coastal bluffs is to require an adequate setback for any new development. By maintaining a sufficient setback, natural erosion can continue without the need for protective devices and the development will remain safe. The setback will vary from location to location, depending on the rate of erosion, and the expected lifetime of the proposed structures.

A line of 50-foot-high, vegetated coastal bluffs is located along the westerly side of the property. The stability of the bluffs is not affected by ocean waves due to an intervening sand bar that is located between the ocean and the Mad River, although there is some evidence showing that the sand bar has been temporarily breached in recent history due to winter storms per recent monitoring reports by CALTRANS on the impact of the rip rap at the mouth of the Mad River. The stability of the bluffs is not affected by tidal action and the erosive force of the Mad River due to a low-lying sandy terrace consisting of a riverine floodplain 70+ feet wide located between the east bank of the Mad River and the base of the coastal bluffs. This low-lying terrace or floodplain has some ability to absorb river bank erosion over the life of the project. However, the stability of the bluffs is affected by a number of other factors at the site, including but not limited to: (1) surface water runoff, (2) groundwater conditions, (3) the inherent structure and cohesiveness of the marine sediments that comprise the coastal bluffs, and (4) the close proximity of the bluffs to the surface trace of an active fault, where even a modest amount of movement on the fault can cause the bluffs to slump.

With respect to the last factor, there is an area along the bluffs several hundred feet north of the subject property where the bluffs have slumped into the Mad River. These bluffs have no stabilizing vegetation on them, and the factor causing bluff failure may be the close proximity of the fault to the coastal bluffs.

Several relevant geotechnical reports were prepared for the subject property. SHN prepared "Earthquake Fault Zone Fault Evaluation Report," dated November 1994, "Preliminary R-1 Geologic and Geotechnical Report," dated December 1994, and "Supplement to Preliminary R-1 Geologic and Geotechnical Report and Earthquake Fault Zone, Fault Evaluation Report," dated January 8, 1998. The latter report was prepared after the September 11, 1997 de novo hearing in response to concerns raised by the appellants, members of the public, and the Commission staff about the adequacy of the bluff setback proposed at that time.

One of the concerns raised was an apparent inconsistency between the minimum blufftop setback distance the Final EIR indicated would be provided for the project and the setback distance shown in the initial geotechnical report maps and in the tentative subdivision map approved by the County. Whereas the Final EIR called for a 25-40 foot setback, the geotechnical report map and tentative subdivision map showed a variable setback ranging from 10 to 43 feet.

A second concern was the lack of a clear discussion in the geologic report about specific rate or rates of bluff retreat and why the proposed setbacks were appropriate.

A third concern was that the proposed bluff setbacks were established based on a 50-year economic lifespan for future houses in the subdivision when the Commission has often insisted that economic lifespans of at least 75 years be used. Use of too short a lifespan could result in setbacks that are not

sufficiently large to protect the future homes from bluff retreat hazards during the later years of the homes' existence.

A fourth concern raised was a difference of professional opinion as to the adequacy of the recommended blufftop setbacks between the applicant's geotechnical firm, SHN, and a geotechnical firm hired by one of the group of appellant's, LACO Associates.

The geotechnical report prepared by SHN in November of 1994 regarding bluff stability concludes:

> Based on the results of our field investigation, it is our opinion that the project area is suitable for the development as proposed, and that the development will not contribute to, or be subject to, substantial geologic or soils engineering hazards, if our recommendations are implemented.

The SHN report and data were reviewed by LACO Associates. Among other things, LACO stated the following in a comment letter:

> The R-1 has recommended what we consider insufficient setbacks from the top of the bluff...It is our opinion that there already exists a significant risk of slope failure at the site, without oversteepened slopes, a reduction in vegetational cover, and an increase in soil water. The setbacks from the top of the bluff should be reconsidered and should be increased, in our opinion.

The LACO letter also disagreed with the EIR's conclusion that the mouth of the Mad River has been "stabilized" by the rip rap installed by CALTRANS. When the mouth of the Mad River was opposite the subject property around 1974 and 1975, the easterly bank of the Mad River and the narrow floodplain area between the river and the foot of the bluffs were subject to direct wave attack from the ocean, as well as the erosive force of tidal waters and winter flood waters. There is disagreement as to the probability that the mouth of the river will migrate back to a position opposite the property sometime during the economic lifespan of the project. In light of this and the other risks mentioned above by LACO Associates, LACO concluded that: "...the bluff setbacks for structures in this proposed subdivision should be reviewed and probably should be increased to adequately protect the anticipated homes."

To address these concerns, the applicant has increased the blufftop setback to 25-45 feet from the bluff edge for buildings within the subdivision, with an average of 35 feet (see Exhibit No. 6), as recommended in the January 1998 Supplement to the Geotechnical Report. The January 8, 1998 supplemental report states:

> SHN believes it is important to point out that our previous setback recommendations (shown on the December 1994 Site Map, and discussed extensively in our response letters of June 10 and August 5, 1997) were

judged to be adequate for residential structures with a 75-year economic lifespan. However, the revised bluff top setbacks will clearly provide a significant additional margin of safety for future residents. These revised bluff top edge setbacks are still contingent on our previous recommendations (December 1994 R-1 Geologic and Geotechnical Report). Particular attention is directed to the recommended restrictions to disturbing vegetation and concentrating surface runoff in the vicinity of the bluff top.

The Commission finds that the geotechnical investigations that have been performed for the project and the setbacks that are currently recommended are sufficient to conform to the requirements of the LCP pertaining to bluff retreat concerns. With regard to the LCP's requirements for geologic hazard investigation reports specified in Section A314-16(F) of the HCC, the combined results of the geotechnical investigations have addressed historic, current, and forseeable cliff erosion and provided professional conclusions that the subdivision will neither be subject to nor contribute to significant geologic instability with regard to bluff retreat during the lifespan of the future homes within the development. As noted, the proposed setbacks are based on an appropriate 75-year economic lifespan for the future homes in the subdivision. Based on the conclusions of the geotechnical investigations, the Commission finds that the proposed 25-45 foot bluff setback in combination with the other recommendations to prevent disturbance of vegetation and concentrated surface runoff in hazard zones around the bluff will ensure that the development will be sited and designed to assure stability and structural integrity for the economic lifespan of the future homes and will not create or contribute significantly to geologic hazards related to bluff erosion and retreat consistent with MAP Policy 3.28.

With regard to the specific concerns raised during the September 11, 1997 de novo hearing on the project, the Commission notes that the previous inconsistencies between the bluff setback called for in the Final EIR and those shown in project plans have been eliminated. The applicant's agents have indicated to Commission staff that the inconsistencies were due to an error in the EIR. Inaccurate measurements of the bluff setback line shown in the geotechnical maps and project plans during preparation of the EIR resulted in a greater setback being stated in the text of the EIR than was shown on the maps and plans. By increasing the actual setback proposed and moving the bluff setback line in the project plans farther back form the bluff edge to reflect this increase, both the Final EIR and the project plans are now consistent in indicating that a bluff setback of 25-45 feet will be provided. In addition, as noted previously, the recommended setback is now based clearly on a 75-year economic lifespan for the future homes. Furthermore, as recommended by LACO Associates, the setbacks from the top of the bluff have been reconsidered and increased.

The Commission notes that the January 1998 supplemental geotechnical report prepared by SHN provides the most recent current evaluation available of the setback issue. No geotechnical evaluation challenging the conclusions of the January 1998 SHN report were received by the date the staff recommendation on

the project de novo was mailed. With regard to the concern over the potential for the mouth of the Mad river to migrate back to a position opposite the property sometime during the economic lifespan of the project and thereby increase tidal erosion on the bluff, the Commission notes that such concerns are highly speculative. No conclusive evidence has been presented indicating that such a phenomenon would indeed occur and at what rate the addition of tidal erosion would increase bluff retreat. As noted previously, an approximately 70-foot terrace between the base of the bluff and the river bank would be capable of absorbing some amount of erosion if such an event occurred.

The applicant proposes to implement the proposed 25-45 foot blufftop setback through the recordation of an offer to dedicate an open space easement. The Commission attaches Special Condition No. 5, requiring the applicant to submit evidence that he has recorded the proposed offer to dedicate an open space easement over the area extending east from the Hammond Trail right-of-way to the top of the bluff, and inland from the top of the bluff to the eastern extent of the blufftop setback that extends approximately 25-45 feet from the bluff edge of the western row of parcels in the subdivision. Within the open space area, all development as defined in Section 30106 of the Coastal Act is prohibited, including the alteration of landforms, removal of any vegetation, use of heavy machinery or equipment, use of the area for livestock grazing, or the erection of structures of any type, except for (1) the fence proposed by the applicant to keep public access uses off the bluff slope; (2) any public access improvements approved pursuant to a coastal development permit; and (3) installation, repair, and maintenance of any drainage improvements approved pursuant to a coastal development permit. This condition will ensure that no development takes place within the recommended blufftop setback area that would have adverse impacts on the bluff, such as increased erosion and runoff, thus minimizing the potential geologic hazard.

The Commission further attaches Special Condition No. 9(e)(2), which requires that the applicant erect three-foot-high fencing along the blufftop setback line on each of the westernmost lots within the subdivision, to ensure a clear delineation of the setback line and to ensure no development takes place seaward of the setback line. The fence will make it clearer to future homeowners of these lots what portion of their property is restricted by the open space easement and precluded from further developing and landscaping.

To ensure the other recommendations of the geologist to reduce bluff erosion are followed, the Commission attaches Special Condition No. 10. The condition requires submittal of final site and drainage plans for the proposed project which shall be consistent with the recommendations made in the Geotechnical Investigation Report and supplement; in particular, the plans shall be consistent with the recommendations regarding site preparation and grading, site drainage, and bluff setbacks.

The Commission therefore finds that as the proposed project will minimize risks to life and property in an area of high geologic hazard, will assure stability and structural integrity for the life of the project, and will not

create or contribute to geologic instability for the life of the project, it is consistent with Section 30253 of the Coastal Act (incorporated by reference into the LCP), and with MAP Policy 3.28.

4. Visual Resources/Community Character:

The visual resource section of the McKinleyville Area Land Use Plan (MAP) incorporates Section 30251 of the Coastal Act, which states in applicable part:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas...(and) be visually compatible with the character of surrounding areas.

MAP Policy 3.42(A) states in applicable part:

> No development shall be approved that is not consistent with the physical scale of development as designated in the Area Plan and zoning for the subject parcel.

As previously mentioned in the project setting and description portion of the staff report, the areas to the west and to the immediate north of the subject property are primarily undeveloped lands consisting of the Hammond Trail, the Mad River, the sand spit, the Pacific Ocean, and Widow White Creek. Much of this area is designated and zoned in the County LCP as NR (Natural Resources). Consequently, these areas are not comparable to the subject property.

However, the areas to the east and to the south consist of fully developed or developing subdivisions. With the exception of the southeast corner of the Pacific Sunset Subdivision (which is designated and zoned in the County LCP as Commercial Recreation due to its proximity to the Murray Road entrance and exit ramps onto Highway 101), the balance of the area is designated in the LCP as RE (Residential Estates), 0 to 2 units per acre, and is zoned as RS-20, Residential Single-Family, minimum lot size of 20,000 square feet. Thus, even at full buildout under the present LCP densities, the surrounding area will not exceed a density of 2 units per acre.

The applicant has submitted a written discussion of how he believes the proposed project will maintain community character. The discussion paper is attached as Exhibit 16, pages C-1 through C-4. The introductory section of the paper states as follows:

> The intent of the design standards placed on the Sand Pointe subdivision is to retain the sense of a small scale community, one which is distinct from other communities that fits both with adjacent neighborhoods and into the community as a whole. Aesthetic approval is integrally tied to linking any new development with the open setting and existing

> developments to the east and south. The retention and reinforcement of distinctive ocean views and provision for a variety of housing environments will serve to attract a socially diverse residential community.
>
> Development around Sand Pointe and throughout McKinleyville is characterized by a diversity of housing and landscaping styles. Through the incorporation of site standards and controls, Sand Pointe can complement the scale, form and proportion of existing adjacent developments while maintaining a consistent internal relationship of one house to another.
>
> Site controls help achieve continuity and preserve values by means of regulation and design controls. Standards imposed by covenants and subdivision regulations are necessary to set requirements for visual access through the site. The strongest preservation of visual resources is through the site's reduction of building heights, layout of parks and the street and path systems. These were all placed in such a manner as to best maintain ocean views and retain open space. Additional controls, outlined below, shall be placed on the site to further protect the visual resources both on and off the Sand Pointe subdivision site.

The emphasis of the applicant on preserving views and instituting design controls will certainly help in reducing the visual impacts of the proposed project upon the McKinleyville community. The Commission finds, however, that despite these desirable aspects of the project, the subdivision as proposed will have major differences with surrounding development that keep the subdivision as proposed from being visually compatible with the character of the surrounding area as required by the certified LCP.

The proposed project has an average residential lot size of 14,485 feet, a density of 2.2 units per acre. The average size of the lots within the proposed subdivision would be smaller than the size of the surrounding lots in the Airport Protection combining zone. Lots within the Pacific Sunset Subdivision to the east of the subject property and lots to the south of the subject property are zoned RS-20, Residential Single-Family, 20,000 square foot minimum lot size. The Coastal Commission approved an LCP amendment (Hartman) that would allow some of the lots within the Pacific Sunset Subdivision to be further subdivided. However, it is important to note that the approved amendment does not apply to the westerly row of lots in the Pacific Sunset subdivision that are located under the County's AP (Airport Protection) combining zone, so those lots will continue to have a lot size of 20,000± square feet. In addition, although the allowable building height in the subject zoning district is 35 feet, the westernmost lots within the adjacent Pacific Sunset Subdivision have been restricted to 18 feet in height.

The Pacific Sunset Subdivision is also notable for its absence of fences, its lack of high hedges and other screening elements, and its feeling of open space in and around the homes. By contrast, the proposed subdivision would be

surrounded with a 5 to 6-foot-high fence with a security gate, closely spaced homes, and no public access through the subdivision. The residential neighborhood adjacent to the site to the south, on the other side of Murray Road, is also not a locked-gate community. With one exception, no locked-gate residential subdivision currently exists anywhere along the coastline of McKinleyville or the entire coastline of Humboldt County.

The one exception is the Knox Cove subdivision, located within McKinleyville approximately 1/4-mile south of the proposed Sand Pointe subdivision. The 29-unit subdivision was approved by the Commission in 1984 (Coastal Development Permit No. 1-83-208). The development includes an iron gate across Knox Cove Drive and a low stucco wall that extends from the gate to the bluff edge. The proposed gate and fencing at the Sand Pointe subdivision would not be any more of a prominent feature within the area than the gate and wall at Knox Cove. The question the Commission must consider, however, is whether the visual character of the area is defined by the Knox Cove subdivision or the rest of the developing coastal areas of McKinleyville. The first through public road that extends along the coastline in the area is Highway 101, which is located approximately a half-mile inland from the Mad River and the ocean. The 24-acre Knox Cove subdivision covers only approximately 5% of the lands already subdivided for residential development in the McKinleyville area west of Highway 101. Given that only one subdivision in this area is a locked-gate community, and the locked-gate subdivision occupies only a relatively small percentage of the coastal residential lands, the Commission finds that the locked-gate Knox Cove development does not define the visual character of the area, but rather represents an exception. Thus, the Commission finds that the locked-gate aspect of the proposed Sand Pointe subdivision would be at odds with the character of the surrounding area.

Therefore, given the differences in density, height, and relative open space between the proposed project and the other subdivisions in the surrounding area, the Commission finds that the project as proposed is not consistent with the visual resource policies of the Local Coastal Program as the development cannot be found to be visually compatible with the character of the surrounding area.

To address concerns regarding protection of visual resources and consistency with community character, the Commission attaches Special Condition No. 7(f), which requires submittal of final site plans showing no locked gates or fences prohibiting public access into the subdivision, and perimeter fences, which shall be no higher than three feet, and shall be of open-style construction.

As noted above, the applicant has voluntarily agreed to impose certain building limitations on the future development of homes within the subdivision and to underground existing power poles along Murray Road to help ensure compatibility of the development with the character of the area. To ensure that these measures are implemented, the Commission attaches Special Condition No. 7, which requires the applicant to record a deed restriction over the subdivision that includes the proposed provisions restricting building height

limits on 34 lots to 23 feet; limiting the maximum house size within the subdivision to 5,000 square feet (exclusive of garages and outbuildings); requiring that all exterior lights, including any lights attached to the outside of the houses, shall be low-wattage, non-reflective, and have a directional cast downward so as not to shine beyond the limits of the parcel; and requiring that above-ground power and telephone lines from the two westernmost poles along Murray Road will be placed underground, the poles removed, and any new utility lines required for the subdivision be placed underground. Special Condition No. 9(f) requires that the removal of the utility poles and the undergrounding of the existing lines be performed pursuant to approved plans prior to recordation of the final parcel map.

Therefore, the Commission finds that, as conditioned, the proposed development will minimize adverse visual impacts and will be compatible with the community character of the surrounding area, consistent with MAP Policy 3.42.

5. Bonus Density and Planned Unit Development.

The proposed project also raises the twin issues of whether (a) the project provides "extraordinary public benefits" to justify a 10 percent bonus density increase under the property's P (Planned Unit Development) combining zone; and (b) a 10 percent bonus density is appropriate for the property, given the density limitations of the property's AP (Airport Protection) combining zone, which limits density to 1 unit per 3 acres in an airport approach zone.

A. Applicable LCP Policies.

McKinleyville Area Plan (MAP) Policy 3.28(G) applies to the Arcata-Eureka Special Study Area and it states in applicable part that:

> 3. The clustering of new development or planned unit development technique shall be encouraged for new development proposed in these zones to mitigate health and safety concerns.

The "zones" referred to above are the airport approach and transitional zones.

Map Policy 3.25(B) applies to housing, and it states in applicable part:

> It shall be the policy of the County to encourage the Planned Unit Development (PUD) concept. Where such utilization would provide extraordinary benefits to the community and to the County, such as: dedications of open space and public access, protection of visual resources and sensitive habitats beyond that already required in Sections 3.41 and 3.42, incentives may include increases of up to 20% over planned densities. (Amended by Res. No. 83-58, 3/15/83)

Section A314-62(A) of the Humboldt County Coastal Zoning Code (HCC) applies to the P (Planned Unit Development) combining zone. Its Purpose section states:

Purpose. The purpose of these provisions is to encourage planned developments, and to allow flexibility in the administration of the development standards in this Division for the purpose of:

(1) Permitting more flexibility to cope with difficulties due to topography and other natural or man made features;

(2) Provide for clustered development in concert with the provision of residential amenities such as open space, recreation areas, and neighborhood commercial services;

(3) Encourage a more creative approach to land development through waiver of development standards and application of less rigid development criteria where such flexibility can better provide for the protection and enhancement of designated sensitive habitats and cultural resources.

Section A314-62(F) of the HCC applies to the P (Planned Unit Development) combining zone. Its Design Guidelines Section states that Planned Unit Developments shall be designed in accordance with the following guidelines:

(1) Site Adaptation. To the maximum extent possible, the plan and design of the development shall assure that natural features of the land and environment are preserved.

(2) Lot Arrangement. All lots within the development shall be designed and arranged to provide maximum feasible access to or frontage on open space or recreational areas, and to provide maximum south orientation as required by Chapter 2.5, Division 2, Title III of the Humboldt County Code.

B. <u>Analysis of Bonus Density and Planned Unit Development Issue</u>.

1. <u>"Extraordinary Public Benefits" to justify a 10 percent bonus density increase</u>.

Map Policy 3.25(B) specifically allows a bonus density of 20 percent over planned densities if the developer provides "extraordinary benefits" to the community and to the County, such as dedications of open space and public access, and protection of visual resources and sensitive habitats beyond that already required in Section 3.41 and 3.42. However, implementation of Map Policy 3.25(B) is discretionary. Other than providing examples, such as public access dedications, the LCP does not define what is meant by "extraordinary benefits" or "extraordinary public benefits." Although the LCP does not provide any specific proportionality test, the policy does require protection of visual resources and sensitive habitats beyond that already required by the LCP.

The Commission finds that the proposed locked-gate community which does not allow public access through it and whose internal parks are only for the

residents of that subdivision, is not in itself a public benefit. As explained above, the applicant is proposing five more residential lots than would otherwise be allowed consistent with the applicable zoning. The Commission must therefore consider whether the "benefits" offered by the applicant are of sufficient value to the public to warrant the proposed 10% density bonus.

The applicant's list of "extraordinary public benefits" provided with the project is shown on pages 16-17 of this report. One public benefit proposed by the applicants is the fee simple dedication of a 67-acre parcel (APN 511-011-05) located west of the project site, between the Hammond Trail and the Pacific Ocean. The usable area of this dedication is limited somewhat by the fact that part of the bed of the Mad River is included in this 67-acre parcel. Recent and comparable appraisals submitted by the applicant's agent at the request of staff show that the 67-acre property is worth around $100,000 dollars.

The other "benefits" offered by the applicant include the creation of a 5,000-square-foot "resting park" at the end of Murray Road, to be offered to a public agency or appropriate private association, and a 25-foot non-buildable greenbelt easement between the public resting area and the subdivision; the removal of two power poles and undergrounding of utility lines; an offer to dedicate a 20-foot-wide easement for public access that extends from the end of Wilbur Avenue to the extension of the Hammond Trail; voluntarily limiting the building height to 23 feet on 34 of the 58 proposed lots; offering to install a fence on the east side of the Hammond Trail; a fee simple dedication to the County of a 15-foot-wide strip of land between Murray Road and the Hammond Trail; and the provision of internal view corridors across the project site.

The Commission does not find these "benefits" to constitute an "extraordinary public benefit" sufficient to warrant the proposed 10% density bonus since some of these "benefits" are things which the Commission would have required anyway as mitigations for the visual impacts of the subdivision, such as underground utility lines and reduced building height limits, and since the amenities would primarily benefit the subdivision residents rather than provide extraordinary benefits to the general public.

Regarding the 67-acre parcel to be dedicated for public use, the Commission finds that whether this dedication would constitute an "extraordinary" benefit must be evaluated in view of its present "Natural Resource" zoning designation and other limitations. Whether the dedication would also constitute an extraordinary public benefit is also limited by the fact that the state already possesses a fee and public trust easement over portions of the Mad River (see Exhibit No. 54). The 67 acres, due to its zoning designation and the fact that a portion of it is underwater and is thus undevelopable anyway, is unlikely to be developed and would most likely remain vacant even if the portion not already owned by the public is not dedicated to the public. Furthermore, the dedication of this entire parcel to the public and subsequent use for passive public recreation (thus, no construction of buildings) would

also serve to benefit the residents of the Sand Pointe subdivision, who would have a scenic, undeveloped public park between their homes and the ocean, and thus a clear, unobstructed view to the west. The Commission must weigh the relative benefits to the public against the private benefit accorded by this dedication to determine if an "extraordinary public benefit" is derived from this dedication, in combination with the other amenities offered by the applicant.

The Commission finds that the public access enhancements proposed by the applicant along the end of Murray road at the southwest end of the development, including development of the resting park, the greenbelt open space easement, and the offer to dedicate a 15-foot-wide area in fee simple to Humboldt County, would certainly be beneficial as they would facilitate continued public access use of that site. There is a need for public access parking as Murray Road is a primary access point to the Hammond Trail and the resting park would create a useful staging area for people coming to use the trail. However, the Commission finds that the proposed public access enhancements either by themselves or in combination with the other public benefits proposed by the applicant do not constitute "extraordinary public benefits" proportional to the density bonus the applicants are seeking for the subdivision. A developed trail through an easement held by the County for public access use already exists in this location and is used daily by the public. The proposed dedication would simply grant fee simple rights to the County for lands over which the County already holds an easement. Thus, the the end of Murray Road would continue to serve as a connection to the Hammond Trail even without the applicant's proposed enhancements.

Similarly, the Commission finds that the proposed offer to dedicate a vertical easement from the end of Wilber Avenue in the Pacific Sunset Subdivision to the future extension of the Hammond Trail along the north end of the site would be beneficial for public access use. The acceptance of the easement and future development and opening of a trail for public use would help provide an opportunity for the public to access the Hammond Trail in another location. Once again, however, the Commission finds that the proposed public access easement either by itself or in combination with the other public benefits proposed by the applicant does not constitute extraordinary public benefits proportional to the density bonus the applicants are seeking for the subdivision. The accessway would not be usable by the public in the near future because in addition to requiring a public agency to accept, develop and open the offered easement to public use, the Hammond Trail extension to which it would connect is not yet built. The County has not yet obtained funding to build the extension. Furthermore, the offer does not include an easement for public parking reserved for public access users. The lack of reserved parking may discourage use of the easement as residential parking along the streets may make parking on the streets of the Pacific Sunset Subdivision near the proposed accessway problematic.

However, the Commission finds it would be extremely beneficial and valuable if the applicant developed and improved the existing Hammond Trail extension, which currently is an undeveloped easement extending from the northeastern

corner of the subject property west to the developed portion of the Hammond Trail, which currently ends near the northwest corner of the Sand Pointe parcel, as well as providing parking and vertical access connection through the north end of the Sand Pointe subdivision to the Hammond Trail extension. According to a representative from the Redwood Community Action agency, which is under contract with the County to develop the Hammond Trail, funding does not currently exist for improvements to the Hammond Trail extension, and it is not known when or even if such funding might become available. Thus, the Commission finds that if the applicant improved this trail extension, it would provide a very valuable and significant public benefit, as it would complete an important link of the Hammond Trail, a public access trail of statewide importance.

As discussed previously, the Commission is requiring that the locked-gate aspect of the subdivision be eliminated and the public be allowed to drive and walk on the internal streets of the proposed subdivision. Providing a small parking area at the northern end of proposed Sand Pointe Drive at the north end of the subdivision, and providing a vertical public access easement would greatly facilitate access for the public to the new extension of the Hammond Trail. For those who choose to walk, these facilities would allow a continuous route northward from Murray Road through the subdivision to the north with return via the Hammond Trail along the bluff. Thus, the Commission finds that such public access enhancements would also provide a very valuable and significant public benefit.

Finally, the Commission finds it would also be extremely beneficial to provide additional parking at the end of Murray Road. Murray Road is a principal arterial through McKinleyville. The road has a freeway interchange with Highway 101, less than half a mile from Sand Point. Thus, the existing access connection from Murray Road to the Hammond Trail is one of the easiest and direct access points available and its use can be expected to increase as the fast-growing community of McKinleyville adds citizens interested in accessing its scenic coastline.

Therefore, the Commission finds that the development and improvement of the Hammond Trail extension, developing a five-car public access parking area at the north end of Sand Pointe Drive linked to an improved vertical accessway connecting to the aforementioned Hammond Trail extension, and adding five additional parking spaces to the five already proposed by the applicant at the resting park at the end of Murray Road, in combination with the other offered benefits, together constitute an "extraordinary public benefit." The Commission has attached Special Conditions 1, 2, 3, 4, 6, 7, and 9 to ensure that these benefits are provided.

2. <u>Appropriateness of bonus density increase to site</u>.

The applicants have used the PD (Planned Unit Development) combining zone to design a 58-lot subdivision which incorporates a bonus density of 10 percent over base zoning density. However, this request is premised on whether the

development is consistent with the provisions of the PD zone. Under Section A314-62(A) of the HCC, the PD zone is intended to be used to "permit more flexibility to cope with difficulties due to topography and other natural or man made hazards." For instance, in this case the subdivision has been redesigned to locate building sites on lots at least 50 feet from the active trace of an earthquake fault, and to encompass blufftop setbacks of at least 25 feet. Section A314-62(A) provides for "clustered development" in concert with the provision of open space and recreational areas. As designed, the project does include private interior parks, a public resting park, and a non-buildable greenbelt areas adjacent to the public resting park as well as grouped parking "pods."

Thus, the Commission concludes that some amount of clustering has been proposed as part of the project, pursuant to the PD zone provision.

C. Conclusion

The Commission concludes that if the applicant provides the additional benefits required by the Commission in addition to the provision of the various benefits offered by the applicant, such benefits will as a whole constitute an "extraordinary public benefits," as significant public access and recreation opportunities and significant visual resource protection will be provided. The Commission thus finds that a 10 percent bonus density is appropriate for the subject property.

The Commission attaches several special conditions to ensure appropriate implementation of these benefits. Special Condition No. 1 requires that the applicant submit evidence that an offer to dedicate a 5,000-square-foot resting park at the west end of Murray Road and a 20-foot-wide Hammond Trail easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site has been recorded consistent with the applicant's proposal and the Commission's standardized recordation procedures.

Special Condition No. 2 requires that the applicant submit evidence that an offer to grant the entirety of APN 511-011-05 (approximately 67.27 acres) in fee to a public agency has been recorded consistent with the applicant's proposal, including the existing trail leading from the Hammond Trail to the beach.

Similarly, Special Condition No. 3 requires that the applicant submit evidence that a 15-foot-wide strip of land between the end of Kelly Avenue and the Hammond Trail, along the southern property boundary, adjacent to the existing public access trail has been dedicated to Humboldt County as proposed.

Special Condition No. 4 requires that the applicant submit evidence that a 25-foot-wide non-buildable green belt easement has been offered for dedication between the public resting area and the subdivision, as proposed by the applicant.

Special Condition No. 6 requires that the applicant record an offer to dedicate a 20-foot vertical easement extending from the end of Sand Pointe Drive to the Hammond Trail extension and a five-car public parking area int he northeast portion of the subdivision to serve the Hammond Trail extension.

Special Condition No. 7 requires the applicant to record a deed restriction that includes a 23-foot building height limit for 34 of the 58 proposed lots, a provision that any new utility lines required for the subdivision be placed underground, and a provision that the fencing along the east side of the Hammond Trail be no higher than three feet and of open style construction.

Special Condition No. 9 requires that the applicant submit plans approved by Humboldt County for the development and improvement of: (a) the public resting park, which will include lawns, an underground sprinkler system, two picnic tables, two sitting benches, shrubbery to block the view of vehicles from Murray Road, and a parking lot for 10 cars for public use to be located in line with the right-of-way of Kelly Avenue; (b) an additional public parking lot for five cars to be constructed within the easement area located in the northeast portion of the subdivision; (c) a 10-foot-wide trail extending from the northeastern corner of the property west to the developed portion of the Hammond Trail; (d) a 10-foot-wide trail to be constructed within the 20-foot-wide vertical easement extending from the end of Sand Pointe Drive to the Hammond Trail extension; (e) fencing along the east side of the Hammond Trail between Murray Road and the northern extension of the property, to be no higher than three feet and of open-style construction, and to be installed prior to recordation of the final map; and (f) removal of power poles and undergrounding of utility lines, as proposed by the applicant.

6. <u>Protection of Water Quality</u>:

The McKinleyville Area Plan (MAP) specifically incorporates Section 30231 of the Coastal Act. Section 30231 of the Coastal Act states in applicable part:

> The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes...shall be maintained and, where feasible, restored...

The proposed subdivision will greatly increase runoff from the site as the project will cover large grass-covered fields with roadways. Future development of homes in the subdivision will also cover many more parts of the site with buildings, driveways, patios, and other impervious surfaces that will prevent much of the rainfall that falls on the site from filtering into the ground.

In addition, during construction, grading will strip the protective vegetative cover off of large areas of the site, greatly increasing risks of erosion and sedimentation.

The Final EIR for the site recommended a number of mitigation measures to address concerns with runoff. To ensure that the proposed subdivision does

not result in increased stormwater runoff pollution of the nearby Mad River, the Commission has attached a special conditions that is consistent with the recommendations of the EIR.

To ensure that the proposed project is sited and designed in such a manner that it will not create or contribute significantly to problems of erosion, sedimentation, and stormwater runoff impacts, the Commission attaches Special Condition No. 11, which requires submittal of a runoff control plan. The condition requires that the runoff control plans include construction period sediment controls. The controls must include the installation of continuous sediment barriers along the north, west, and south sides of the development and other Best Management Practices as appropriate. The condition also requires that the project include the installation of vegetation filter areas adequate in size and designed to remove contaminants before runoff is discharged from the parcel to drainage facilities along Murray Road.

The Commission thus finds that the proposed project, as conditioned, is consistent with the McKinleyville Area Plan and with Section 30231 of the Coastal Act, as potential stormwater runoff impacts of the development will be minimized and the biological productivity and quality of the waters of the Mad River will be maintained.

7. Public Access:

Projects located within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. These Coastal Act sections have been incorporated into the McKinleyville Area Plan (MAP) Policy 3.50. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

The Humboldt County LCP includes a number of policies regarding standards for providing and maintaining public access. Section A314-6 of the Humboldt County Coastal Zoning Regulations (HCC) states in applicable part that:

> (A) The purpose of these regulations is to specify the nature and location of development subject to coastal public access requirements,

> to set forth standards for the incorporation of coastal accessways into new development projects, and to prescribe the legal methods and instruments to be used in affecting the public access dedication...
>
> (C) New development on parcels containing the accessways recommended for dedication in the applicable coastal land use plan shall include an irrevocable offer to dedicate an easement for public access to and along the coast...

Section A314-8(A) states in applicable part that:

> The purpose of these regulations is to insure that development permitted by the County and located within the County's coastal zone does not interfere with public access acquired through use.

Section A314-8(C) of the HCC states that where, pursuant to the applicable review process of a development project, there is substantial evidence of historical public use of an accessway, and the proposed development would interfere with such public use, the following shall apply:

> The proposed development shall be sited and designed so as not to block or interfere with use of such accessway; or
>
> An equivalent accessway shall be provided, including dedication of an easement as described in Section 314-6 of this Division, if the applicable Resource Protection Impact Findings are made. (Equivalent accessway means public access of equivalent type, intensity, and area of use to the same destination.)

McKinleyville Area Plan (MAP) Policy 3.53(B) states:

> Where potential public prescriptive rights of access to the shoreline are affected by new developments, the applicant shall either:
>
> 1. Site and design the project to maintain the accessway, or
>
> 2. Provide an equivalent accessway to the same destination including dedication of an access easement as described in Section 3.55, or
>
> 3. Demonstrate that either the State of California has quit-claimed any interest it may have in the accessway or a court of competent jurisdiction has determined that prescriptive rights do not exist along the accessway.

MAP Policy 3.54 states in applicable part that:

> New development on parcels containing the accessways identified in Chapter 4 shall include an irrevocable offer to dedicate an easement...for public use...Such offers shall run for a period of 21

> years and shall be to grant and convey to the people of the State of California an easement for access over and across the offer's property.

MAP Section 3.55 establishes guidelines for vertical and lateral accessways. The guidelines state that vertical access: (1) may be resited along boundaries of a property, (2) shall be a minimum of 10 feet wide for pedestrian use with additional width as required for slope or construction easements and/or other uses, and (3) shall establish at least a 5-foot-wide privacy buffer between the accessway and a residence for pedestrian accessways.

The McKinleyville Access Inventory in the MAP identifies the westerly end of Murray Road (map index number 29) as a place to gain access to the Mad River. The MAP notes that prescriptive rights may have been established over the years at this point. Parking is currently limited to 4-6 cars. MAP Access Inventory Policy No. 29 for the westerly end of Murray Road recommends:

> In coordination with the subdivision and development of the residential area north of Murray Road, this accessway should be dedicated, consistent with Chapter 3 policies, and include this following: Improvement of the roadway which leads down to the river to accommodate both pedestrian and equestrian access, and provision of limited parking near the trailhead.

The McKinleyville Access Inventory identifies the Hammond Trail (map index 33) as a coastal trail within an old railroad right of way that provides lateral access along the coast and the Mad River. A portion of the trail runs along the north bank of the Mad River and along the westerly side of the proposed development. The MAP notes that:

> A coastal hiking, biking, and equestrian trail has been proposed in the California Recreation Trails Plan and the adopted Humboldt County Trails Plan. In the McKinleyville Planning Area, this is proposed to run along the Little River and Clam Beaches and then follow the old Hammond Railroad right-of-way to the Mad River.

The MAP Access Inventory for the trail also recommends:

> Development of the old Railroad Bridge and the Coastal Trail should follow the recommendation of the adopted County Trails Plan.

McKinleyville Area Plan (MAP) Policy 4.54.29 states that:

> The western end of Murray Road has a locked gate and a private road leads onto the sand beach. The Mad River until fairly recently emptied into the ocean a mile to the south, however, over the past few years, the river mouth as migrated to the north and is currently north of Widow White Creek. Once access to the river is attained, movement to the north or south along the beach is available dependent on tides and flows of the river. Prescriptive rights may have been established over the years at this point. Parking currently limited to 4-6 cars.

RECOMMENDATION:

In coordination with the subdivision and development of the residential area north of Murray Road, this accessway should be dedicated, consistent with Chapter 3 policies, and include the following: improvement of the roadway which leads down to the river to accommodate both pedestrian and equestrian access, and provision of limited parking near the trailhead.

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.

In this case, the applicant has included as part of the project several public access and recreation provisions to justify the proposed 10% density increase above what is normally allowed for the zoning, pursuant to HCC Section A314-62(E)(1). The applicant has offered to dedicate to a public agency or private association approved by the Executive Director a 5,000-square-foot resting park at the west end of Murray Road, and a 20-foot-wide Hammond Trail easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site.

Furthermore, the applicant has offered to construct a 5,000-square-foot resting park at the west end of Murray Road, which will include lawns, an underground sprinkler system, two picnic tables, two sitting benches, shrubbery to block the view of vehicles from Murray Road, and parking for the Hammond Trail.

As discussed above, in addition to the benefits offered by the applicant, the Commission requires the applicant, pursuant to Special Conditions No. 9(c) and (d), to construct a 10-foot-wide trail extending from the northeastern corner of the subject property west to the Hammond Trail within an existing easement area, and a 10-foot-wide access trail within a 20-foot-wide easement area that would extend from the end of Sand Pointe Drive to the Hammond Trail Extension.

Regarding the issue of possible prescriptive rights, the County has indicated that no substantial evidence of historical prescriptive public access has been presented. County staff had conducted a prescriptive rights survey, asking questions regarding: (a) the frequency of use, (b) the year the use started, (c) evidence of whether the site or area was ever posted with no access signs, (d) whether the user ever asked for permission from the property owner, and (e) whether other members of the general public were observed using the access.

County staff indicated that of the 23 surveys which were returned, 18 people indicated that they had used the site. County staff found a trail on the east

side of the property, that became well worn from the end of Wilbur Avenue and continuing northward into the Widow White riparian corridor beyond the property's north boundary. County staff concluded that

> Public use of the trail was...primarily by adjacent and nearby area residents and that substantial evidence of historical use by the general public has not been demonstrated. Accordingly, requirements that the development either be redesigned to allow continued use or relocate historical accessways is not indicated...Neighborhood use by Pacific Sunset residents and guests is significant, especially as noted along the eastern side of the Sand Pointe site. In addition, the applicant is proposing a public access corridor from the end of Wilbur Avenue to the north end of the property as part of his 'extraordinary public benefits' package for the bonus density increase under the proposed Planned Unit Development combining zone.

Where there is substantial evidence of the existence of a public access right acquired through use, and a proposed development would interfere with that right, the Commission may deny a permit application under Public Resources Code Section 30211. As an alternative to denial, the Commission may condition its approval on the development being modified or relocated in order to preclude the interference or adverse effect. This is because the Commission has no power to extinguish existing public rights, even though it may authorize development which affects the exercise of those rights.

A full assessment of whether the criteria for implied dedication has been met in this case could only be made after a more intensive investigation of the issue has been performed. In this case, however, the combination of the access required by the Coastal Commission and the applicant's dedication of a public access could serve to protect any existing public access rights which would be eliminated by the proposed development. If the Commission determines that the proposed access is, in fact, equivalent to the access use made of the site in the past, the Commission need not determine if substantial evidence of an implied dedication exists because regardless of the outcome of the investigation, the Commission could find the project consistent with Section 30211. If an investigation indicated substantial evidence of an implied dedication exists, the project would not interfere with such public rights because as proposed and conditioned, access is equivalent to the access previously provided in the areas subject to the implied dedication.

Therefore, the proposed project as conditioned is consistent with Section 30211 because, whether or not a court-of-law were to adjudicate that existing use of the site for coastal access constitutes a public prescriptive right, for the reasons stated above, the Commission finds that the proposed development would not interfere with any access rights.

Finally, the applicant proposed a private, locked-gate community, which would prohibit all public pedestrian and vehicular access into the subdivision. The Commission, however, is requiring that the subdivision <u>not</u> be gated, and that

public pedestrian and vehicular access be permitted. Thus, the Commission finds that the proposed project, as conditioned, does not interfere with any potential prescriptive rights, which have not been demonstrated to exist.

The Commission thus finds that the proposed project is consistent with the public access and recreation policies of the Coastal Act and the certified LCP, as access and recreational opportunities are provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse, in the manner required in the LCP.

8. Planning and Locating New Development:

The McKinleyville Area Plan (MAP) incorporates into Policy 3.21(A) Coastal Act Section 30250(a), which states in applicable part:

> New development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively on coastal resources.

MAP Policy 3.21(B) states in applicable part:

> ...division of lands within the Urban Limit to the densities indicated in the Land Use Designations, are contingent on the ability of the area to accommodate that development or that density. More specifically, no lands within the Urban Limit shall be developed or divided as allowed by the Area Plan, unless the following findings are made in addition to any other findings required by this chapter Section 3.40.
>
> a. That water supply and adequate provision for sewage disposal, as required by the use at the density permitted in the Area Plan, is available to the development or division.
>
> b. That the carrying capacity of major roads of coastal access corridors is sufficient for all permitted uses, or that improvements to an adequate level can be provided at a cost affordable within the reasonable expectation of the County, or if an incorporated city where the Urban Limit surrounds the city.

Water and sewer services will be provided for the proposed subdivision by McKinleyville Community Service District. The County has indicated that the carrying capacity of major roads of coastal access corridors were found to be sufficient to accommodate the proposed subdivision. A traffic and circulation study was prepared to address existing conditions in the project area. The study area covered the project area intersections and street segments from the Highway 101 ramps west to the northern end of Kelly Avenue. Existing traffic in the study area was described as "relatively light with little or no delay

at the study intersections except for the northbound U.S. 101 offramp where moderate delay conditions were observed."

Traffic studies typically express the adequacy of a circulation system by referring to the "level of service." Level of service A (LOS A) is free traffic flow; LOS F is stalled traffic conditions. The minimally adequate level of service accepted in a circulation system is usually set by public agencies at LOS D. In the project vicinity, all intersections were observed to be operating at LOS A.

The Commission thus finds that the proposed project is consistent MAP Policy 3.21 to the extent that adequate services are available and the carrying capacity of major roads of coastal access corridors is sufficient for all permitted uses.

9. California Environmental Quality Act (CEQA).

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

The proposed project has been conditioned in order to be found consistent with the policies of the Humboldt County LCP and the public access and recreation policies of the Coastal Act. Required mitigation measures will minimize all adverse environmental impacts, including requirements that:

(1) the applicant submit to the Executive Director evidence that an irrevocable offer to dedicate a public access and public recreation easement to a public agency or private association has been executed and recorded over a 5,000-square-foot public park area at the west end of Murray Road, which will include public parking for 10 cars, and a 20-foot-wide easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site;

(2) the applicant shall submit to the Executive Director evidence that an irrevocable offer to grant in fee to a public agency has been executed and recorded over the entirety of APN 511-011-05 (approximately 67.27 acres), including the existing trail leading from the Hammond Trail to the beach;

(3) the applicant shall submit to the Executive Director evidence that the applicant has dedicated to the County of Humboldt a 15-foot-wide strip of land for public access purposes between the end of Kelly Avenue and the Hammond Trail, along the southern property boundary, for public access purposes;

(4) the applicant shall submit for review and approval of the Executive Director evidence that an irrevocable offer to dedicate an open space easement to Humboldt County or to a public agency or non-profit organization has been executed and recorded over the 25-foot-wide non-buildable green belt area to be established between the public resting area and the subdivision;

(5) the applicant shall submit for the review and approval of the Executive Director evidence that an irrevocable offer to dedicate an open space easement to the County of Humboldt or a public or private entity has been executed and recorded over the area extending east from the Hammond Trail right-of-way to the top of the bluff, and inland from the top of the bluff to the eastern extent of the blufftop setback that extends approximately 25-45 feet from the bluff edge of the western row of parcels in the subdivision;

(6) 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, easements and areas for public access consisting of a 20-foot-wide vertical easement extending from the end of Sand Pointe Drive to the Hammond Trail Extension, and a 5-car public parking area in the northeast portion of the subdivision to serve the Hammond Trail Extension;

(7) the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting restrictions on development within the subdivision, including restrictions on height limit, lighting, house size, utilities, and fencing; in addition, all streets and roads within the residential lots shall be made available for public use, and no locked gates or fences prohibiting public access into the subdivision are permitted;

(8) the applicant shall submit for the review and approval of the Executive Director two copies of a revised tentative map consistent with the approved Coastal Development Permit;

(9) the applicant shall submit for the Executive Director's review and approval, final plans that have been approved by Humboldt County, showing the designs, locations, and construction schedule for access improvements for the public resting park and parking spaces; the additional public parking lot in the northeast portion of the subdivision; construction of the Hammond Trail Extension extending from the northeastern corner of the subject property west to the developed portion of the Hammond Trail; construction of a 10-foot-wide trail within the 20-foot-wide vertical easement extending from the end of Sand Pointe Drive to the Hammond Trail Extension; fencing along the east side of the Hammond Trail between Murray Road and the northern extension of the property; fencing along the blufftop setback line on each of the westernmost lots within the subdivision; and utility lines.

(10) the applicant shall submit for the review and approval of the Executive Director final site and drainage plans for the proposed project that are consistent with all recommendations contained in the geotechnical reports;

(11) the applicant shall submit for the review and approval of the Executive Director plans for controlling stormwater runoff from the site which incorporate (a) construction-period sediment controls to minimize sedimentation-related impacts on Widow White Creek, the Murray Road drainage, and the Mad River that include sediment barriers consisting of filter fabric attached to supporting posts that are installed in a continuous fashion along at least the north, west, and south sides of the development, and other Best Management Practices as appropriate; and (b) vegetation filter areas adequate in size and designed to remove sediment, organic matter, and other pollutants from runoff from the subdivision before stormwater runoff is discharged from the parcel to drainage facilities along Murray Road.

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

9997p

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.

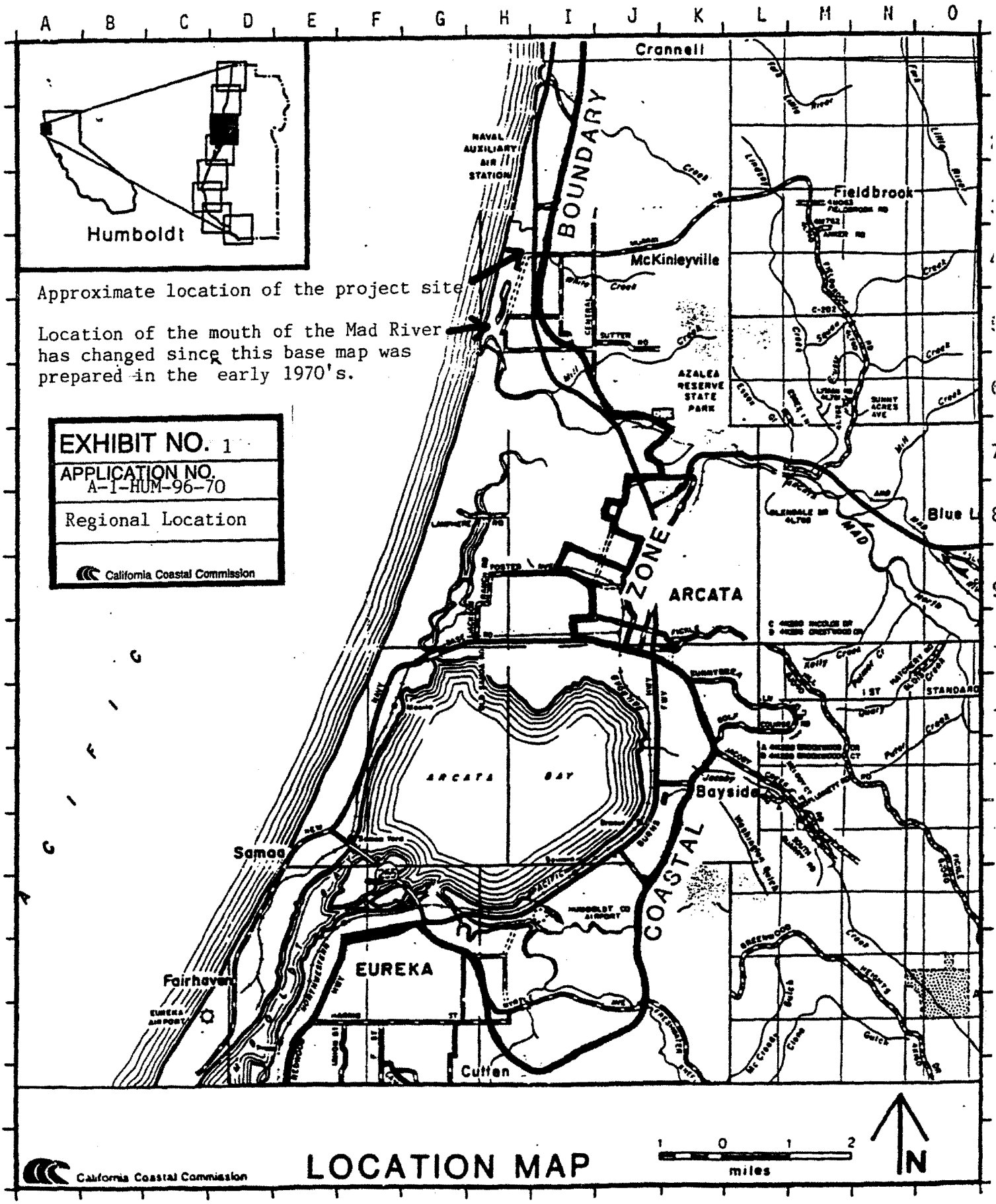
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

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.


Humboldt
Approximate location of the project site
Location of the mouth of the Mad River has changed since this base map was prepared in the early 1970's.
EXHIBIT NO. 1
APPLICATION NO. A-1-HUM-96-70
Regional Location
California Coastal Commission
Crannell
NAVAL AUXILIARY AIR STATION
BOUNDARY
Fieldbrook
McKinleyville
AZALEA RESERVE STATE PARK
ZONE
ARCATA
ARCATA BAY
Bayside
Samoa
COASTAL
EUREKA
Fairhaven
Cutten
Blue L
MAD
STANDARD
LOCATION MAP
miles
N

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

STATE
DEPARTMENT

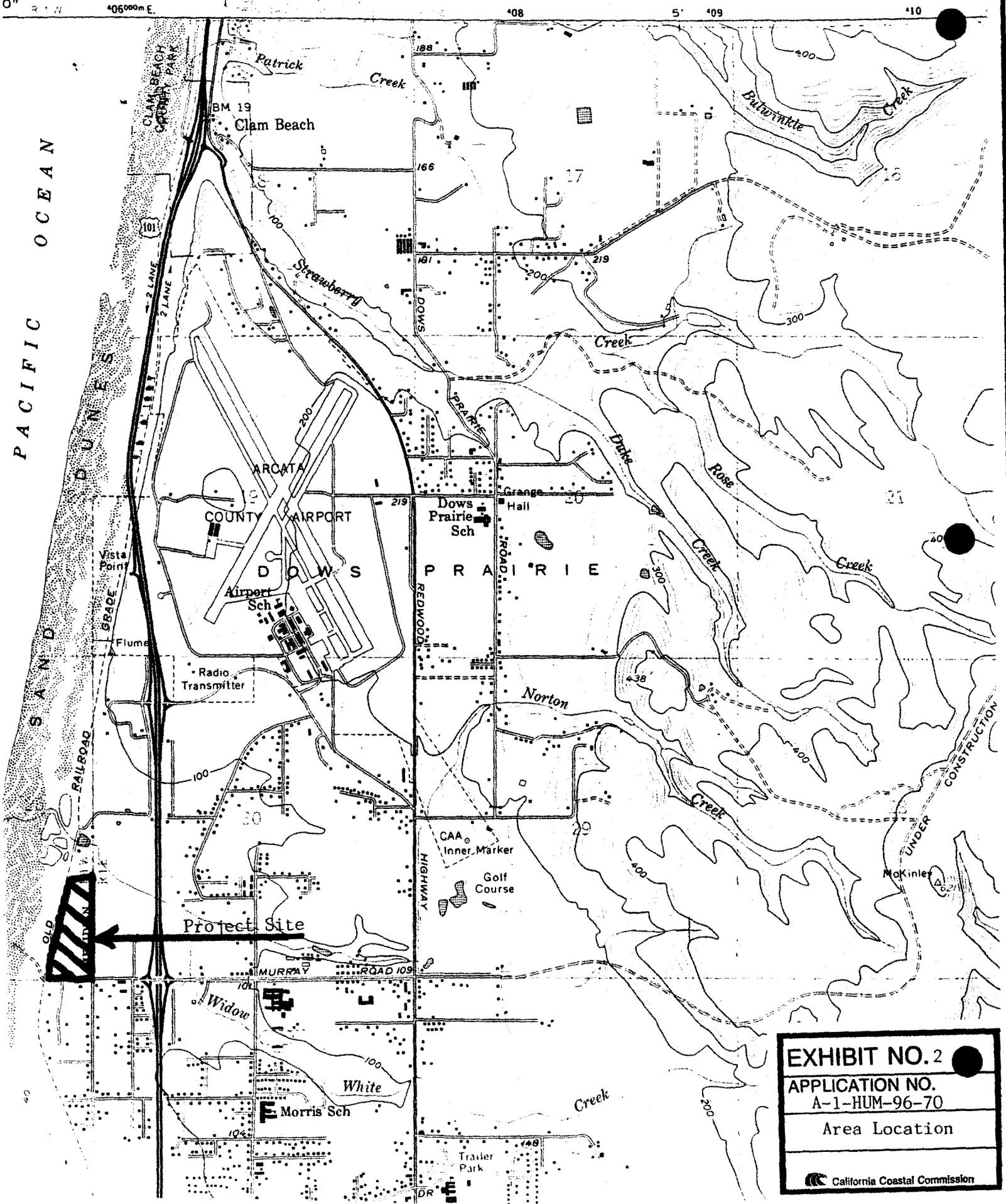


EXHIBIT NO. 2

APPLICATION NO.
A-1-HUM-96-70

Area Location

California Coastal Commission

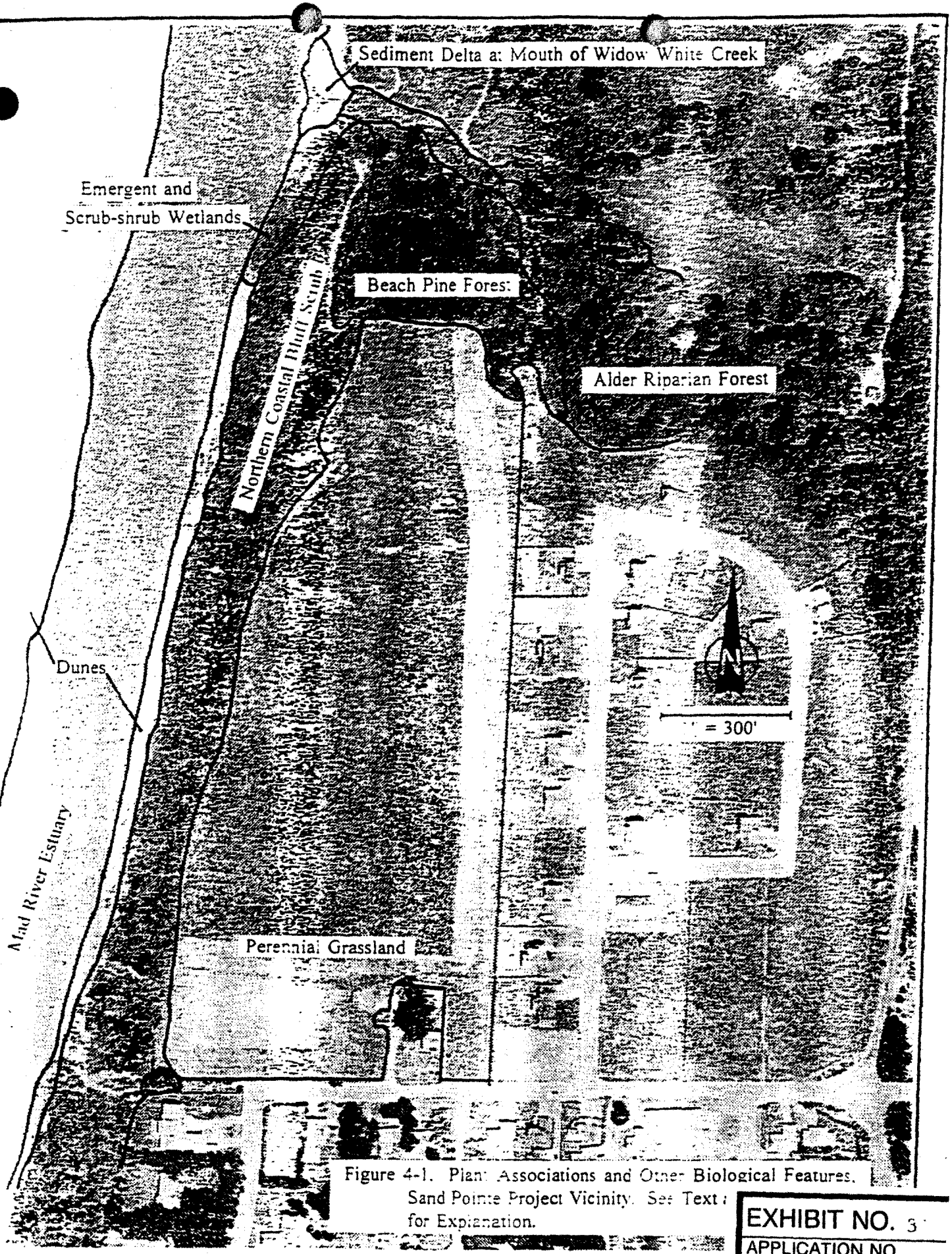


Figure 4-1. Plant Associations and Other Biological Features, Sand Pointe Project Vicinity. See Text for Explanation.

EXHIBIT NO. 3

APPLICATION NO. A-1-HUM-96-70

Plant Associations

California Coastal Commission

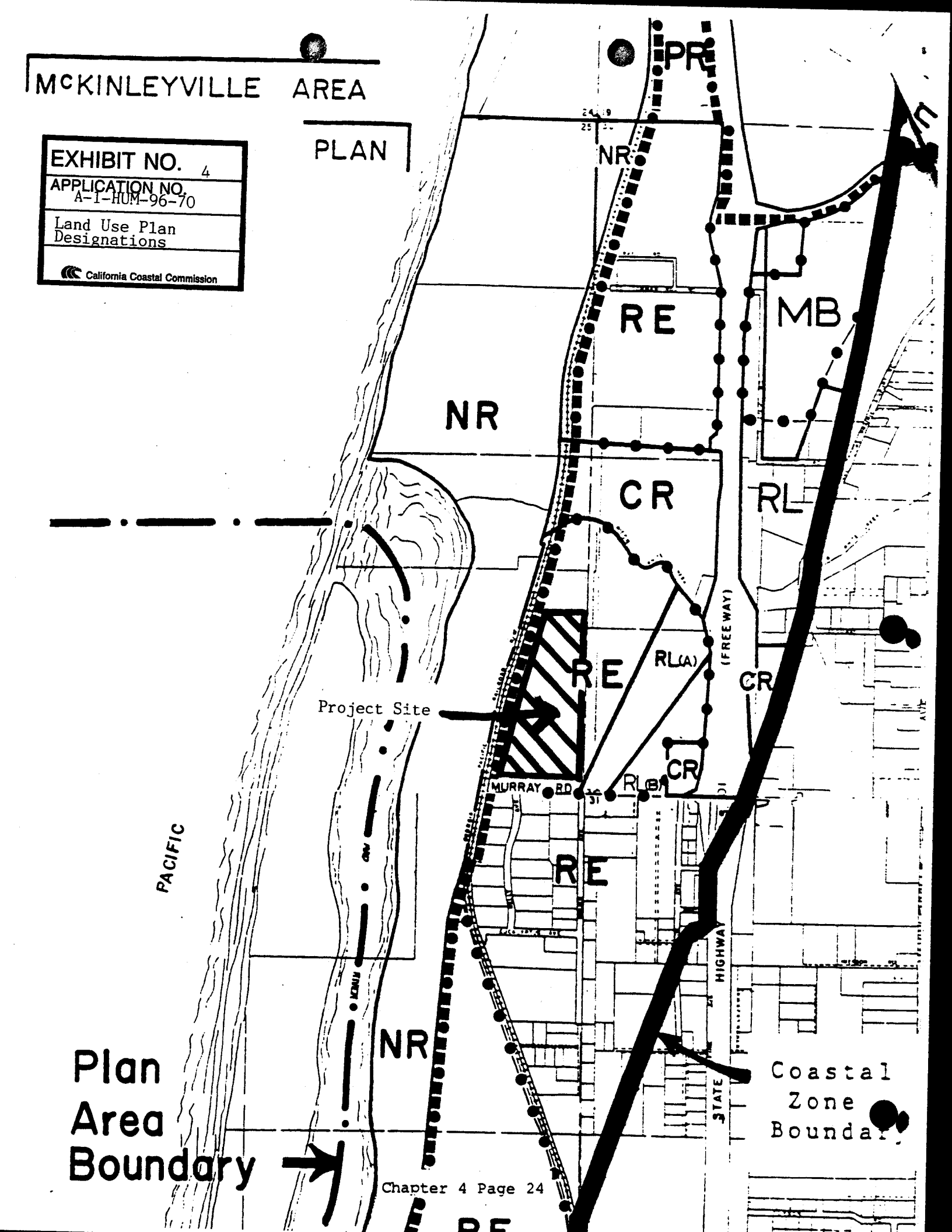
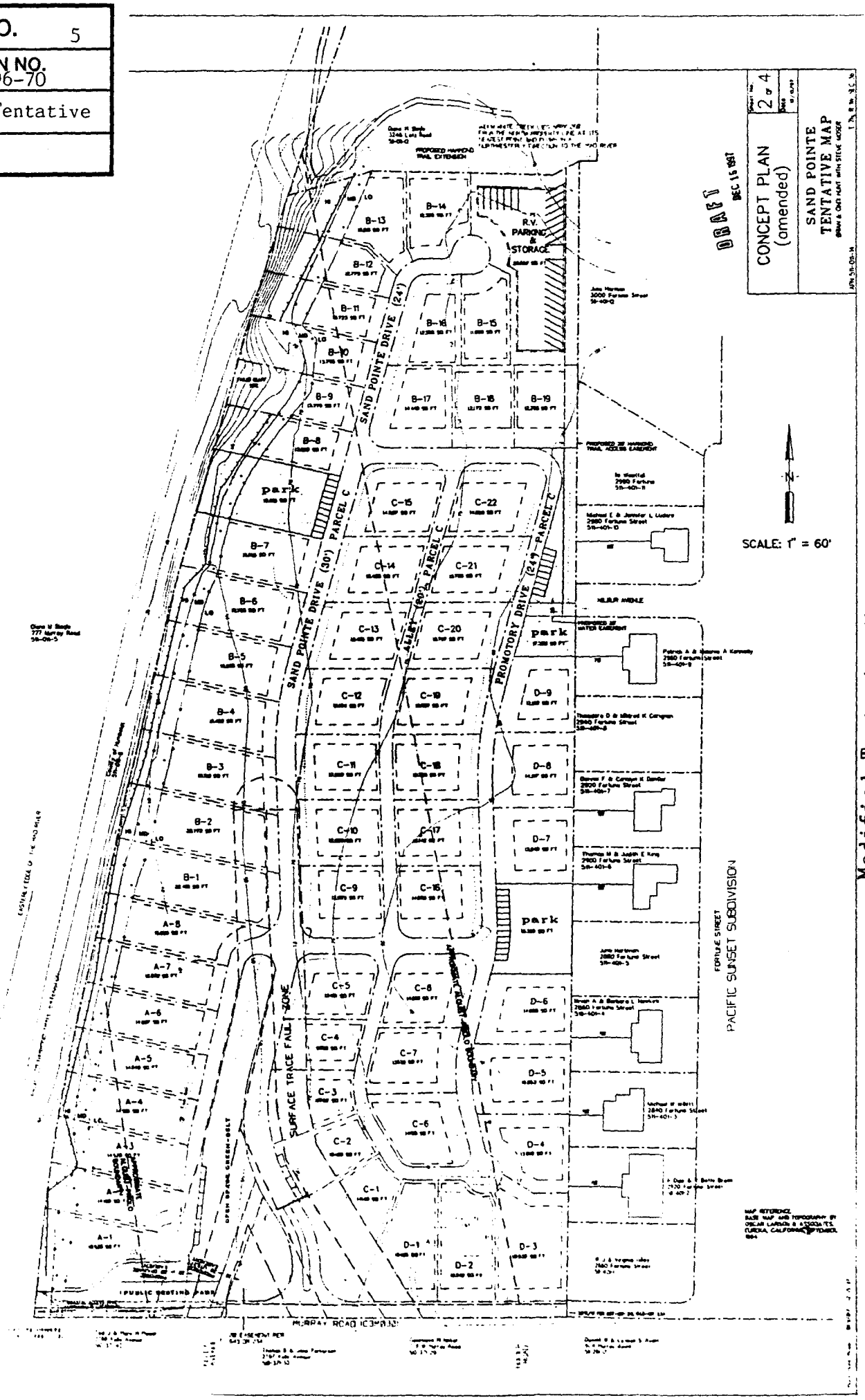
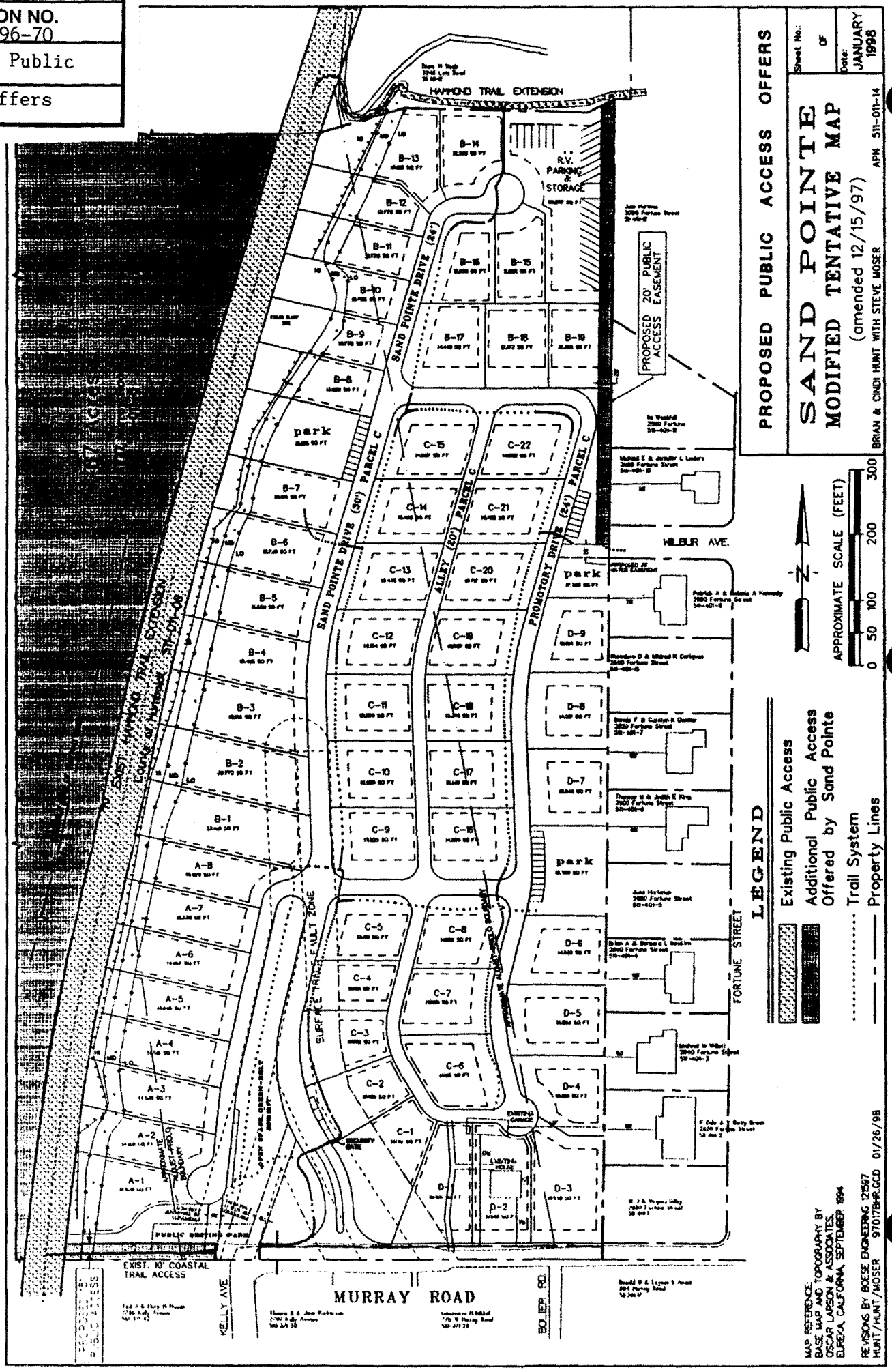

McKINLEYVILLE AREA
PLAN
EXHIBIT NO. 4
APPLICATION NO. A-1-HUM-96-70
Land Use Plan Designations
California Coastal Commission
PR
NR
RE
MB
NR
CR
RL
RE
RL(A)
(FREEWAY)
CR
Project Site
CR
MURRAY RD
RL(B)
RE
PACIFIC
HIGHWAY
STATE
NR
Coastal Zone Boundary
Plan Area Boundary
RE

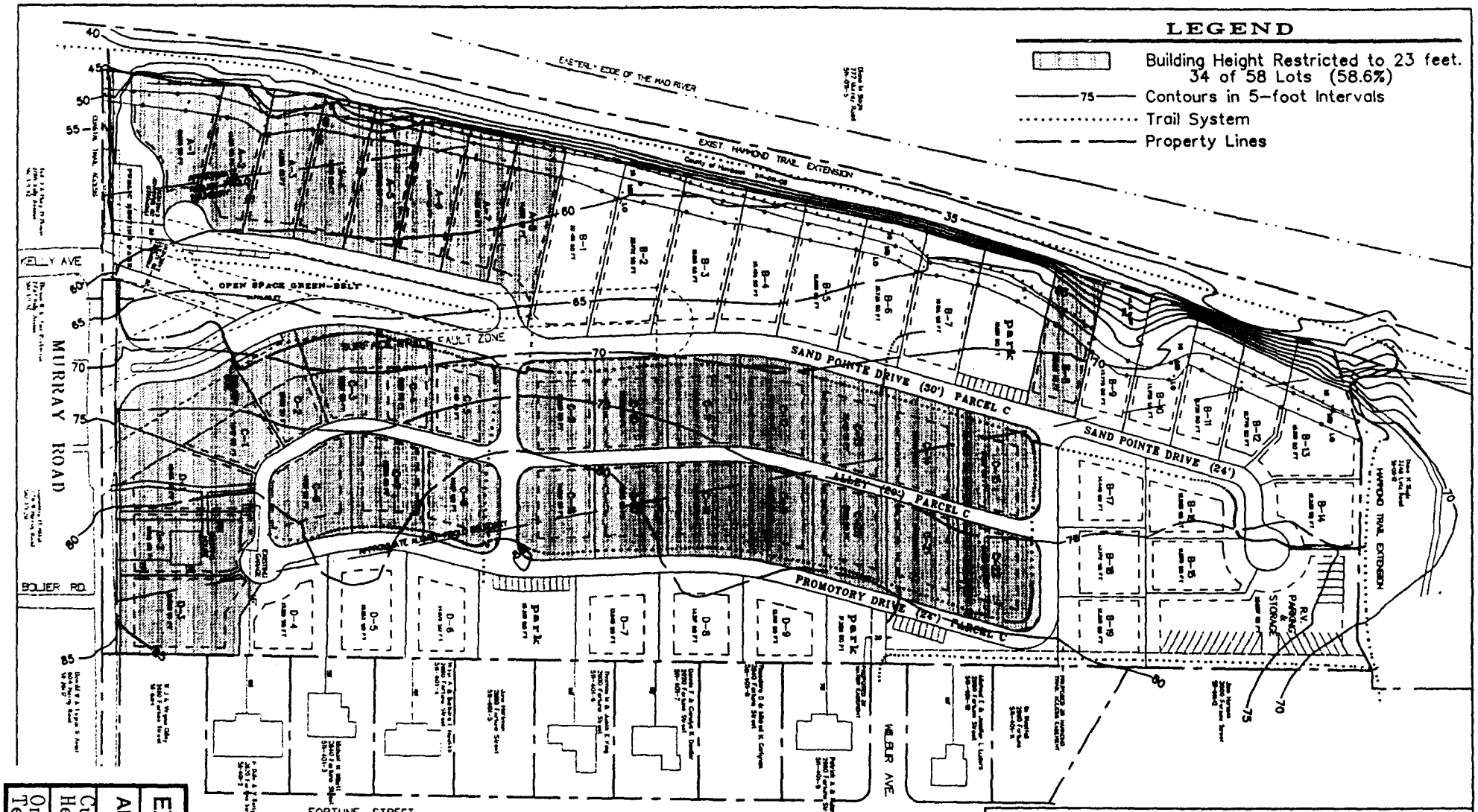
EXHIBIT NO. 5
APPLICATION NO. A-1-HUM-96-70
Modified Tentative
Map



Modified Tentative Map
Building height restricted to 23 feet
34 of 58 lots (58.6%)

EXHIBIT NO. 6
APPLICATION NO. A-1-HUM-96-70
Proposed Public
Access Offers





BUILDING HEIGHT RESTRICTIONS

SAND POINTE
MODIFIED TENTATIVE MAP

(amended 12/15/97)

BRIAN & CINDI HUNT WITH STEVE MOSER

APN 511-011-14

Sheet No.: OF

Date: JANUARY 1998

1597
:GCD 01/26/98

EXHIBIT NO. 7

APPLICATION NO. A-1-HUM-96-70

Current Building Height Restrictions On Modified Tentative Map

EXHIBIT NO. 8
APPLICATION NO. A-1-HUM-96-70
Building Height Restrictions on
Original Tentative Map

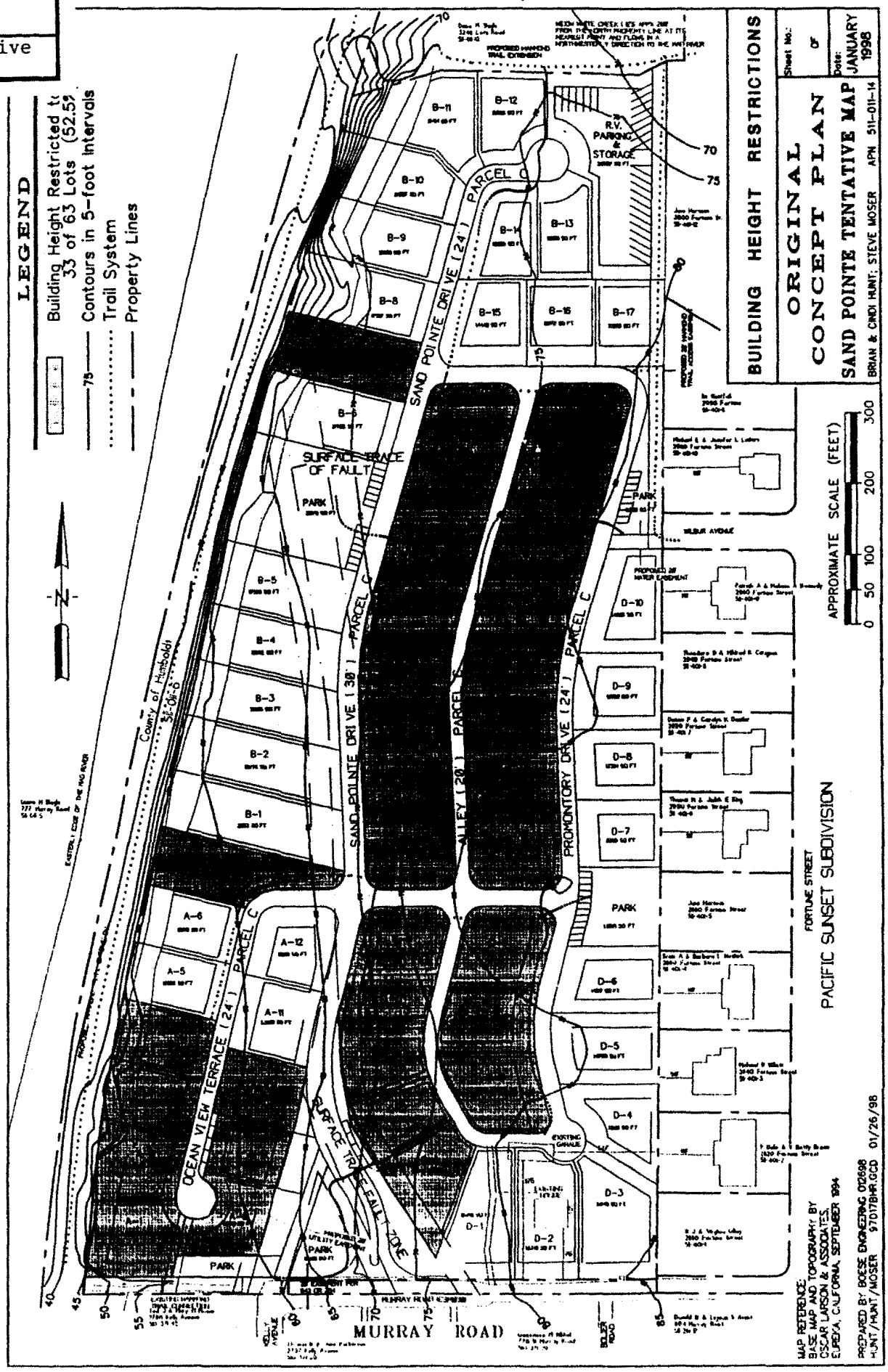
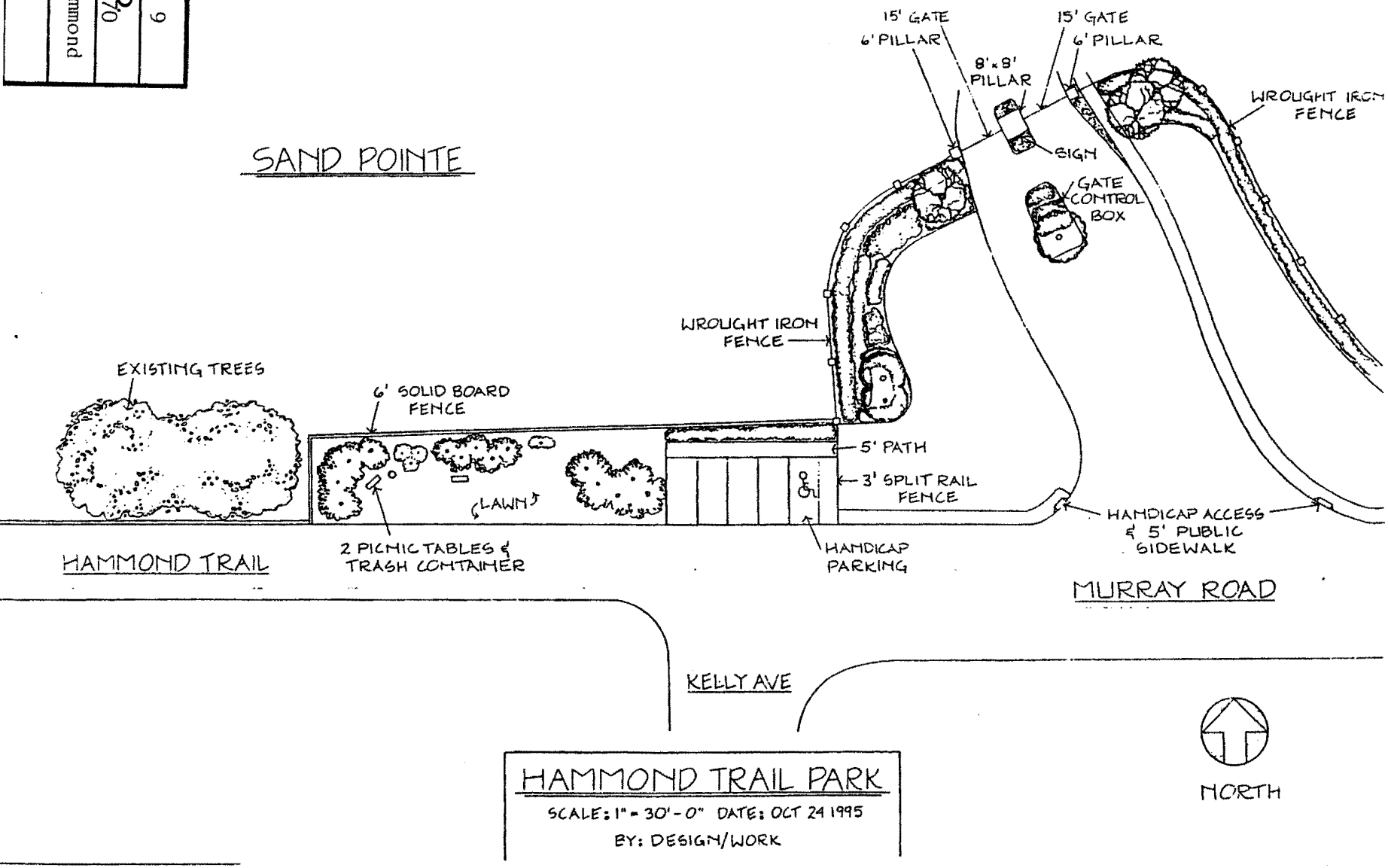


EXHIBIT NO. 9
APPLICATION NO. A-1-HUM-96-70
Proposed Hammond Trail Park

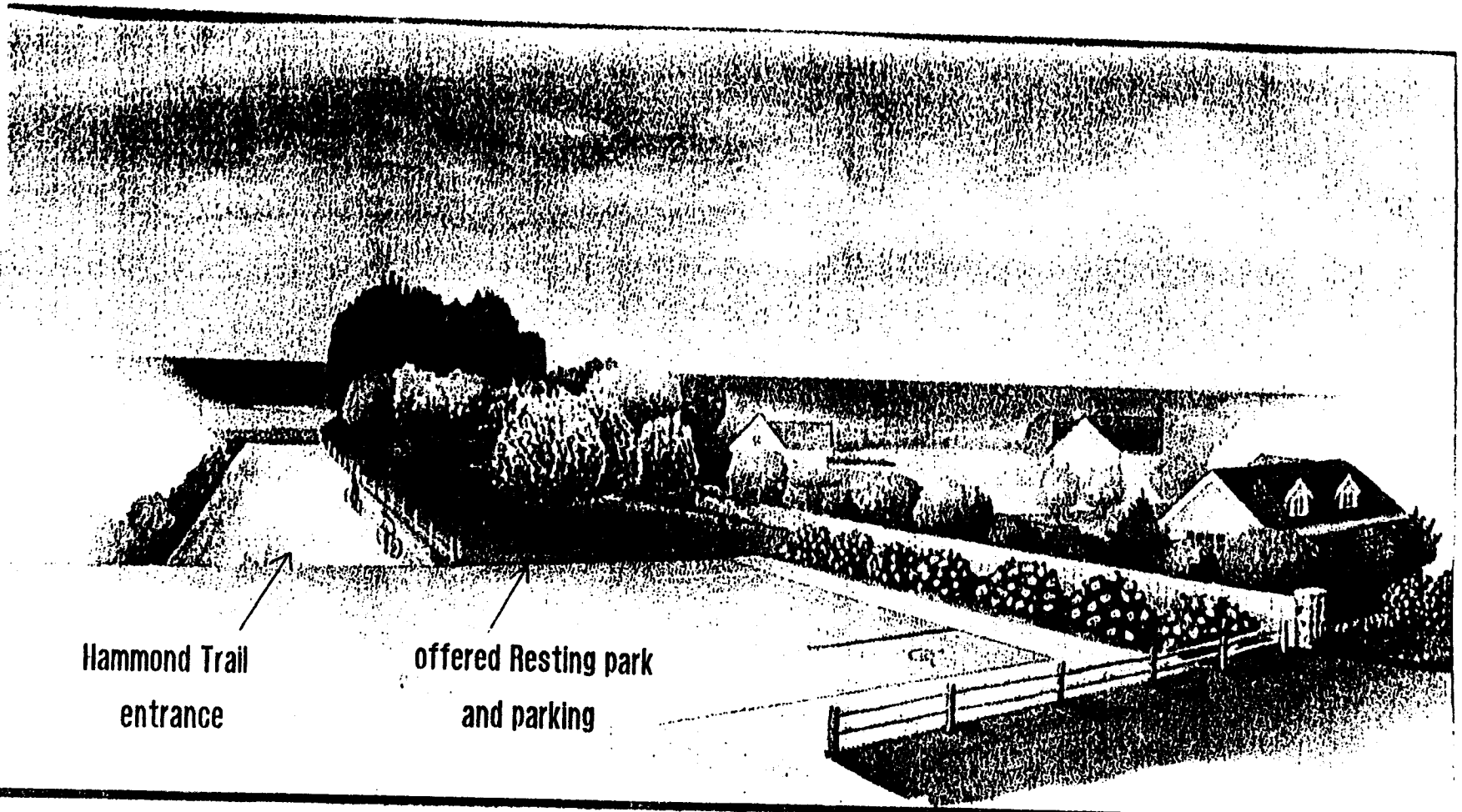


HAMMOND TRAIL PARK

SCALE: 1" = 30'-0" DATE: OCT 24 1995

BY: DESIGN/WORK

EXHIBIT NO.	10
APPLICATION NO.	A-1-HUM-96-70
Rendering of Proposed Resting Park and Fencing	



APPENDIX D

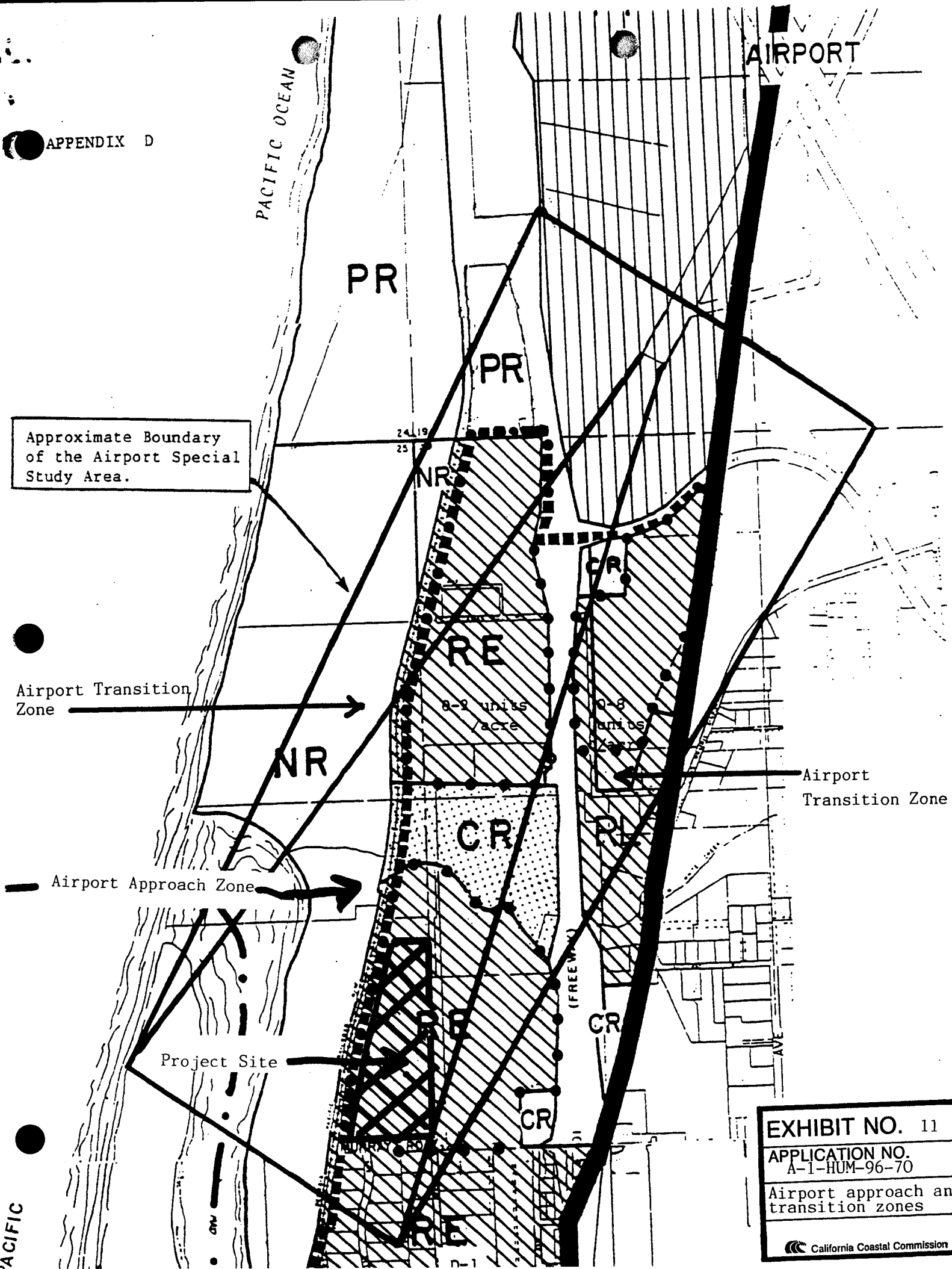
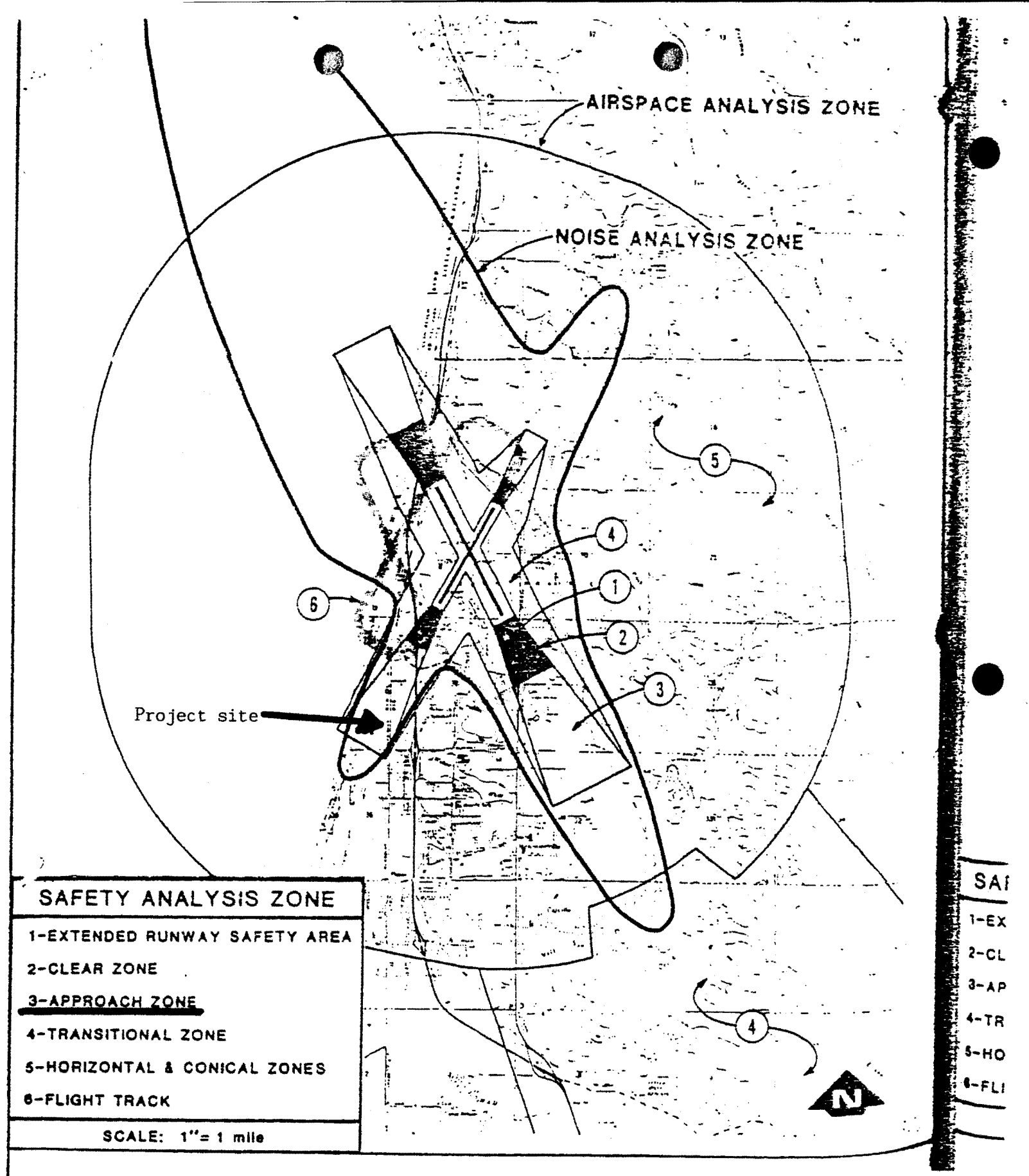


EXHIBIT NO. 11

APPLICATION NO. A-1-HUM-96-70

Airport approach and transition zones

California Coastal Commission



AREA OF INFLUENCE - ARCATA AIRPORT

EXHIBIT NO. 1

APPLICATION NO.
A-1-HUM-96-70

Airport Safety Zones

California Coastal Commission

RECEIVED
JAN 21 1997
CALIFORNIA
COASTAL COMMISSION

Richard C. Tobin
2650 Buttermilk Lane
Arcata, CA, 95521
707-825-8424

January 19, 1997

Dear Commissioners,

It would be a shame if you approved the Sand Pointe Project before the Humboldt County Board of Supervisors properly adopts the Off Airport portion of the Arcata Airport Land Use Compatibility Plan (ALUCP).

They use the old plan when it is convenient then use the Draft, unapproved, 1993 Plan when it is convenient.

The Board has publicly admitted the 1993 Draft ALUCP needs to be properly reviewed, however, they have refused to allow it to come up for review. The Board also agrees that the Sand Pointe Project is in the area covered by the ALUCP.

This is extremely important because the number of dwelling units per acre is significantly increased in the plan which has not been approved.

I respectfully request that you:

1. Send the appeal back to the Humboldt County Board of Supervisors and tell them the appeal is premature. or
2. Remove consideration of the Sand Pointe appeal off the docket until the Humboldt County Board of Supervisors submits a legally approved Airport Land Use Compatibility Plan. or
3. Deny the appeal.

Sincerely,

Signed

EXHIBIT NO. 13
APPLICATION NO. A-1-HUM-96-70
Comment Letter
California Coastal Commission

EXTRAORDINARY PUBLIC BENEFITS TO JUSTIFY DENSITY BONUS

PUD Bonus Density.

The project proposes a subdivision for 58 parcels, which the applicants believe represents a 10 percent density bonus with respect to existing LCP requirements of 0 to 2 units per acre and zoning requirements of the RS-20 zone (Residential Single-Family, minimum lot size of 20,000 square feet). The certified LCP authorizes up to a 20 percent density bonus when the project provides an "extraordinary public benefit." To qualify for the density bonus, the applicant proposes the following benefits:

A. Benefits Offered by Applicant

(1) an offer to dedicate in fee simple a 67-acre parcel (APN 511-011-05) consisting of lands west of the project site and the Mad River to be conveyed to a suitable public agency;

(2) an offer to dedicate a 5,000-square-foot "resting park" with specified improvements including 5 public parking spaces at the west end of Murray Road and located near the entrance driveway to the subdivision, to be dedicated to the McKinleyville Services District or other suitable public agency or qualified private non-profit organization, and a 25-foot non-buildable greenbelt easement between the public resting area and the subdivision;

(3) the removal of two westerly power/telephone poles along Murray Road and the undergrounding of the above-ground wires along the west end of Murray Road;

(4) an offer to dedicate a 20-foot-wide easement for public access that extends from the end of Wilbur Street along the east side of the subdivision northward to the Hammond Trail;

(5) limiting the building height of future homes in the subdivision to 23 feet (from average grade to roof peak) for 34 of the 58 proposed lots; Lots A-1 through A-8, B-8, C-1 through C-22, and D-1 through D-3 to protect views;

(6) an offer to install a fence on the east side of the Hammond Trail to keep the public off the adjoining slope where foot traffic could trample vegetation and contribute to erosion;

(7) a fee simple dedication to the County of Humboldt of a 15-foot-wide strip of land between Murray Road and the Hammond Trail over which the County currently holds an easement; and

(8) provision of internal "view corridors" across project site.

EXHIBIT NO. 14
APPLICATION NO. A-1-HUM-95-70
Extraordinary Public Benefits
California Coastal Commission

B. Additional Benefits Required by Commission

(1) development of 5 additional parking spaces for public use in the area of the Public Resting Park at the west end of Murray Road, for a total of 10 parking spaces;

(2) an offer to dedicate a 20-foot-wide vertical easement for public access that extends from the end of Sand Pointe Drive to the Hammond Trail Extension, and improvement of the easement for public use;

(3) development of 5 parking spaces for public use within an easement area to be offered for dedication by the applicant in the northeast portion of the subdivision to serve the Hammond Trail Extension; and

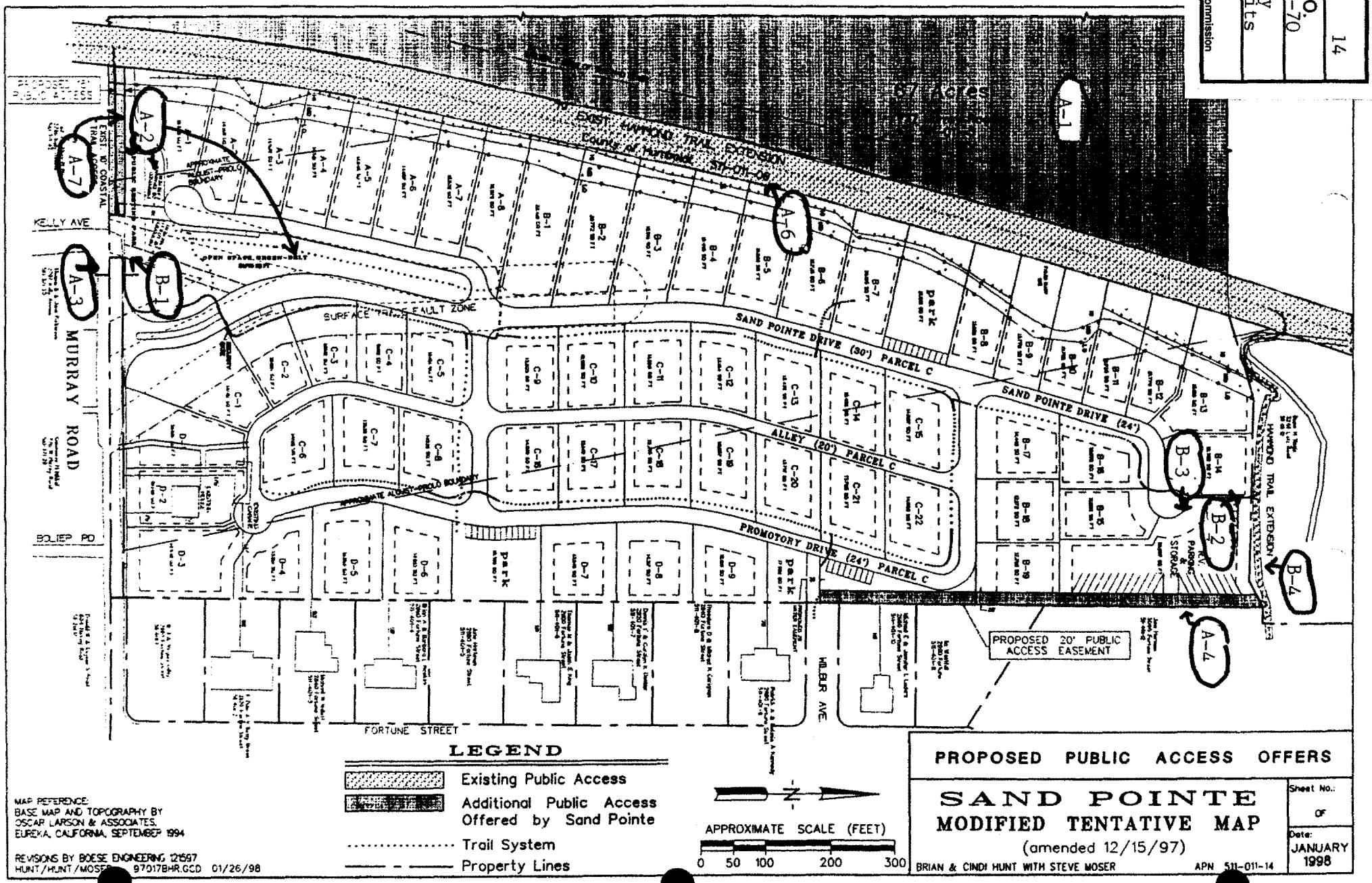
(4) construction of a 10-foot-wide Hammond Trail Extension extending from the northeastern corner of the subject property west to the Hammond Trail, within an existing easement held by the County.

EXHIBIT NO. 14

APPLICATION NO. A-1-HUM-96-70

Extraordinary Public Benefits

California Coastal Commission



CONSULTING ENGINEERS
& GEOLOGISTS

John R. Selvage, P.E.
K. Jeff Nelson, P.E.
Roland S. Johnson, Jr., C.E.G.

812 W. Wabash
Eureka, CA 95501-2138
(707) 441-8855
FAX (707) 441-8877

480 Hemsted Drive
Redding, CA 96002-0117
(916) 221-5424
FAX (916) 221-0135

Reference: 094117.100

EXHIBIT NO. 15
APPLICATION NO. A-1-HUM-96-70
Supplement to
Geologic Reports

January 8, 1998

Steve Moser
1836 Central Avenue
McKinleyville, CA 95519

SUBJECT: SUPPLEMENT TO PRELIMINARY R-1 GEOLOGIC AND GEOTECHNICAL REPORT AND EARTHQUAKE FAULT ZONE, FAULT EVALUATION REPORT FOR THE PROPOSED SAND POINTE DEVELOPMENT PROJECT, APN 511-11-14, MCKINLEYVILLE, HUMBOLDT COUNTY, CALIFORNIA

Dear Mr. Moser:

At your request, SHN is providing this report to document additional earthquake fault investigations, and revised conclusions and set back recommendations related to surface fault traces and the coastal bluff edge. This information should be used to supplement the Preliminary R-1 Geologic and Geotechnical Report, dated December 1994, and the November 1994 Fault Evaluation Report, both prepared by SHN. This report also supplements SHN letters dated June 10, 1997 and August 5, 1997 which responded to requests for additional geotechnical information by the California Coastal Commission. Attachments to this document include an Amended Site Plan, Figure 2, dated December 1997 and two trench profile sheets (1 of 2 and 2 of 2, dated 11/97) which are graphic logs of Fault Investigation Trench 4 and Fault Investigation Trench 5. The Amended Site Plan, Figure 2 will replace Site Map, Figure 2 (dated December 1994) in the Preliminary R-1 Geologic and Geotechnical Report. The Amended Site Plan will supersede the Site Plan, Figure 2 (dated November 1994) in the Earthquake Fault Zone, Fault Evaluation Report. Logs of Trench 4 and Trench 5 will supplement Logs of Trench 1, Trench 2, and Trench 3 in the 1994 Fault Evaluation Report.

A letter to the California Coastal Commission from William A. Bryant of the Division of Mines and Geology (dated September 8, 1997) concluded that "... before setbacks are finalized, additional trenches should be excavated and logged in order to adequately address surface fault

EXHIBIT NO. 15
APPLICATION NO.
A-1-HUM-96-70
Supplement to
Geologic Reports

rupture hazard across the northern part of the Sand Pointe property." To satisfy the concerns of the Division of Mines and Geology, and similar concerns expressed in the Coastal Commission Staff Report (August 22, 1997), SHN initiated a supplementary fault investigation in the project area north of previous Trench 3. Trenches were excavated and logged on November 11 and 12, 1997. Trench 4, the northernmost of the two trenches, extended from the east boundary of the Alquist-Priolo Zone to the approximate center of the Moderate Bluff Slope Failure Hazard Area (see Amended Site Plan), a total distance of 320 feet. No evidence of faults was encountered, even though pre-Holocene age bedded sedimentary deposits were exposed throughout the length of the trench. Trench 5 was located 150 to 180 feet north of Trench 3 approximately perpendicular to the designated surface trace of the fault as interpreted from the previous investigation. Trench 5 encountered an antithetic fracture that had displaced a thin gravel bed approximately one inch and a thrust fault with approximately 5 feet of dip slip displacement. The projection of the thrust fault to the surface of the ground is approximately 3 feet west of the fault trace designated by the 1994 investigations.

Since the trust fault encountered in Trench 3 exhibited at least 16 feet of dip slip displacement and the thrust fault encountered in Trench 5 exhibits only 5 feet of dip slip displacement, it is apparent that near surface fault displacement diminishes as the fault trace traverses toward the north. Measurements of the fault profile logs show that displacement diminishes at least 11 feet over the 165 feet between Trenches 3 and 5. This is equivalent to a displacement reduction rate of at least 0.066 feet of dip slip displacement for each foot north along the near surface trace of the thrust fault. At this rate, near surface thrust faulting will cease no more than 75 feet north of Trench 5. This northward "pinching out" of the fault explains why Trench 4 encountered no evidence of near surface faulting. Because diminishing fault movement is not likely to be precisely proportion to horizontal distance, we conclude that it is prudent to add a "buffer zone" of 25 feet past the

EXHIBIT NO. 15
APPLICATION NO. A-1-HUM-96-70
Supplement to
Geologic Reports

calculated end of the near surface fault trace. Therefore, the Amended Site Plan shows the fault ending 100 feet north of Trench 5 on an alignment that projects the fault trace on a straight line between the Trench 5 "fault trace at surface" and the previously defined surface fault trace inflection on Profile 4.

You will note that the width of the "zone of exclusion of structures for human occupancy (i.e. the setback)" on the Amended Site Plan is shown to be 50 feet from all fault traces. This includes a 50 foot radius zone from the designated end of the fault north of Trench 5. This amended setback reflects the requirement of Section A 315-16 H (1) (b) of the HCC, which states that "A project as proposed will not cause or allow a structure for human occupancy to be placed within fifty (50) feet of a trace of an active fault." In addition, the added setback distance will provide an even higher level of safety from surface fault rupture hazard than was previously designated.

The Amended Site Plan includes a revision of the line between the Low Bluff Slope Failure Hazard area and the Moderate Bluff Slope Failure Hazard area. For most areas along the coastal bluff top edge this revision creates a wider Moderate bluff hazard zone, which results in a significantly greater distance from the coastal bluff top edge to the western boundary of the low bluff slope failure hazard area (i.e. the "bluff setback" line). In no case is the revised bluff setback line closer to the bluff top edge than the line indicated on the December 1994 site map. You will also note that the minimum bluff top set back is now 25 feet which is consistent with the project EIR. The average bluff top setback is now approximately 35 feet.

SHN believes it is important to point out that our previous setback recommendations (shown on the December 1994 Site Map, and discussed extensively in our response letters of June 10 and August 5, 1997) were judged to be adequate for residential structures with a 75 year economic lifespan. However, the revised bluff top setbacks will clearly provide a significant additional

margin of safety for future residents. These revised bluff top edge setbacks are still contingent on our previous recommendations (December 1994 R-1 Geologic and Geotechnical Report). Particular attention is directed to the recommended restrictions to disturbing vegetation and concentrating surface water runoff in the vicinity of the bluff top.

Again, we hope that this report and attached documents covers the geologic hazard concerns of the Coastal Commission. Please let us know if further clarification will be required.

Sincerely,

SHN CONSULTING ENGINEERS
& GEOLOGISTS

CERTIFIED ENGINEERING GEOLOGIST
ROLAND S. JOHNSON, JR.
No. 1120
STATE OF CALIFORNIA
expires 12/31/98

Roland S. Johnson, Jr., CEG 1120
Principal Engineering Geologist

RSJ:ls
Attachments

G:\1994\094117\LTR-2.RJ

EXHIBIT NO.	15
APPLICATION NO. A-1-HUM-96-70	
Supplement to	
Geologic Reports	

EXHIBIT NO.	16
APPLICATION NO. A-1-HUM-96-70	
1998 Amendment to	
Application	

Oscar Larson & Associates
Consulting Engineers & Land Surveyors

317 Third Street • P.O. Box 3806 • Eureka • CA 95502 • (707) 445-2043 • FAX (707) 445-8230 • email: olarson@northcoast.com

Messrs. Bob Merrill and Jim Muth
North Coast Area
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco CA 94105-2219

Reply to: OL:01198:MGM:6357

19 January 1998

Subject: Sand Pointe Project, McKinleyville, California; CDP No. A-1-HUM-96-70
Amendment to Application

Dear Messrs. Merrill and Muth:

After our meeting in October 1997, you requested that we provide to you a clarification of our project details. In response to your request, we have developed a summary found as Attachment A. In general, our application is the project as approved and conditioned by the Humboldt County Board of Supervisors.

The initial application is requested to be modified as a results of:

- additional geotechnical evaluations, and
- an offering of additional restrictions on project development

The modifications which make up this amendment are summarized on page 2 of Attachment A.

The bases of the modifications flow principly from two documents as follows:

- Supplement to Preliminary R-1 Geologic and Geotechnical Report and Earthquake Fault Zone, Fault Evaluation Report for the Proposed Sand Pointe Development Project, APN 511-11-14, McKinleyville, Humboldt County, California (January 8, 1998); and

- A document (6 pages) entitled "Maintenance of Community Character for Sand Pointe Subdivision," prepared by Design Works, Arcata, California; Mary Gearheart, Principal).

These documents are found as Attachments B and C respectively.

Sheet 2 of 4 of the Tentative Map (Concept Plan), which incorporates the modifications, is found as Attachment D.

You had also requested that we provide the information and various documents/citations the County used concerning the Airport Compatibility issue. The information was used by the County's Airport Land Use Commission when it determined that development up to 2.4 dwelling units per acre is compatible with the County's adopted (1980) Airport Plan, and by the Board of Supervisors in making the LCP consistency findings for the project.

Please find the requested information as Attachment E.

Found as Attachment F is a summary pertaining to the County's Airport Land Use Plan and related issues (including CCC actions).

Attachment G provides information pertaining to the AP - Airport Safety Review Zoning.

Attachment H provides information regarding the Density Bonus and Planned Unit Developments.

Mr. Moser intends to review this information with you on 22 January 1998. If you have additional requests, please feel free to contact me.

Please note that there has been a change in ownership of the property. The Hunts, Cindi and Brian, no longer have ownership interest.

Thank you for your continuing assistance.

Sincerely,

OSCAR LARSON & ASSOCIATES

Marty McClelland

Martin G. McClelland
Operations Manager

MGM:ikmy

Encl.

copy: Jim Baskin, County Planning
Steve Moser

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to Application

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to Application

ATTACHMENT A

PROJECT DESCRIPTION
SAND POINTE PROJECT
A-1-HUM-96-70

Our initial submittal includes the project as approved and conditioned by the Humboldt County Board of Supervisors as described in the following:

- Our base application made to the County of Humboldt (February 1995) as modified and conditioned during the County's approval process. The modifications and conditions are found within the following County documents:

  - Planning Staff report to the Planning Commission (for Commission meeting of 30 May 1996) and subsequently used at the hearing conducted by the Board of Supervisors.

  - Board of Supervisors Order dated 3 September 1996, approving the Airport Land Use Commission's finding concerning compatibility with the adopted Airport Master Plan.

  - Board of Supervisors Order dated 3 September 1996, approving the certification of the Environmental Impact Report and approving the project, as conditioned.

  - Board of Supervisors Resolution No. 96-76, dated 24 September 1996, certifying the completion of and making findings and adopting a statement of overriding considerations as to the Final Environmental Impact Report and adopting a Mitigation and Monitoring Program for the implementation of the proposed project.

  - Board of Supervisors Resolution, 5 November 1996, which:

    - approved submittal of a zone reclassification to the California Coastal Commission (Resolution 96-86);

    - readopted Ordinance 2131 which established the 'Q' qualified combining zone which prohibits second or secondary dwelling units;

    - amended the Record of Action of 25 September 1996 (Board action 3 September 1995);

    - approved Exhibits A-1 and A-2, Conditions of Project Approval.

- Modifications to the Sand Pointe subdivision in response to neighborhood and Coastal Commission staff concerns and to further the implementation of the Coastal Act policies concerning geologic hazards, public access, and public views:

  1. Additional trenching and geotechnical investigation by SHN and a reviewing geologist to more definitively establish the extent of the fault trace.

2. Increased the setbacks from the fault trace to a consistent 50 feet throughout the project.

3. Established the high, medium, and low bluffline stability zones and moved the building setbacks farther away from the bluffline.

4. Decrease the number of lots from 63 to 58. The total parcel size is 26.5 acres. The zone allows up to 2 units per acre or 53 lots. The maximum density bonus is 20% or 10 additional lots based upon the creation of extraordinary public benefits. We are now reducing our request to a 10% density bonus or 5 additional lots for a total of 58.

5. The change includes a decrease by one of the number of lots adjacent to the Pacific Sunset subdivision. We slightly increased the size of the park here and realigned the lots to more easily allow a visual corridor for the neighbors.

6. In the center portion of the subdivision (old tentative map, lots C-9 through C-17) we eliminated two of these lots and increased most of the side yard setbacks to 15 feet.

7. In the southwest portion of the property we have decreased the density between the fault trace and the bluffline and have established a much larger greenbelt/non-buildable area.

8. Dedicate to the County of Humboldt a 15-foot wide strip of land between Murray Road and the Hammond Trail for additional access to the trail.

9. We have increased the total number and area of lots with building height restrictions to enhance the view from Murray Road (see attached map).

10. We have restricted the fencing and landscaping heights in the side yards to create a more open feeling and consistency of design with the surrounding area.

11. Maximum home size is 5,000 square feet (exclusive of garages and out-buildings).

♦ In addition to the Geologist's recommendations, the project includes the following additional Bluff Protection Measures:

- Increased storm water flows directed to onsite facilities (reduce/eliminate surface flow to/over bluff face).
- Vegetation disturbance prohibition (by easement) within geologist's recommended "bluff edge" setback and face of bluff.
- Fence installation (along east edge of Hammond Trail-County property) to protect vegetation from intrusion by those using the public access trail.

♦ Our request does not include individual residential structures (houses, garages) at this time.

MAINTENANCE OF COMMUNITY CHARACTER FOR SAND POINTE SUBDIVISION

Changes made in response to Board of Supervisors hearing:
- Fencing is to be placed on east side of Hammond Trail to protect bluffs as per Department of Public Works specifications
- Fencing on east side of project is to be open style construction and 5 foot maximum height
- A Resting Park is to be dedicated to Mckinleyville Community Services District as an open space, non-buildable easement.

In response to Coastal Commission staff and neighborhood concerns, the following changes have been made:
- Open space green belts have been increased at entrance to subdivision
- A 25 foot non buildable, green belt easement has been placed between public resting area and subdivision
- 4 lots have been removed within the southwest portion of the subdivision to protect views through the project from along Murray road and to cluster houses away from the bluff edge and fault hazard zone.
- 2 lots have been removed from the center of the project to decrease the overall bulk and side yard set backs have been increased to 15 feet for all but the end lots in this central area of the subdivision
- Lots D-3 - D-9 and the 2 parks along the east side of the subdivision have been repositioned to maximize visibility for lots along Fortune Street in the Pacific Sunset Subdivision. The total number of lots has been decreased by one lot in this area to better match the neighborhood densities.

GENERAL

The intent of the design standards placed on the Sand Pointe subdivision is to retain the sense of a small scale community, one which is distinct from other communities that fits both with adjacent neighborhoods and into the community as a whole. Aesthetic approval is integrally tied to linking any new development with the open setting and existing developments to the east and south. The retention and reinforcement of distinctive ocean views and provision for a variety of housing environments will serve to attract a socially diverse residential community.

Development around Sand Pointe and throughout Mckinleyville is characterized by a diversity of housing and landscaping styles. Through the incorporation of site standards and controls, Sand Pointe can complement the scale, form and proportion of existing adjacent developments while maintaining a consistent internal relationship of one house to another.

Site controls help achieve continuity and preserve values by means of regulation and design controls. Standards imposed by covenants and subdivision regulations are necessary to set requirements for visual access through the site. The strongest preservation of visual resources is through the site's reduction of building heights, layout of parks and the street and path systems. These were all placed in such a manner as to best maintain ocean views and retain open space. Additional controls, outlined below, shall be placed on the site to further protect the visual resources both on and off the Sand Pointe subdivision site.

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to
Application

SIDE YARD SETBACKS
View corridors, utilizing side yard setbacks are intended to avoid a continuous wall effect and minimize horizontal mass. Depending on each parcel location, side yard setbacks will vary from 5 feet to 20 feet. Landscaping in sideyards shall be chosen to remain low at maturity and trimmed to maintain visual access through the parcel. All setbacks and view corridors are to be kept clear of utility storage areas, landscaping over 7 feet in height, fencing over 3 feet in height, or any other obstructions which may interfere with visual access.

Lots D-3 - D-9
Lot lines for parcels in this area have been realigned to correspond more closely with the center of lots along Fortune Street in Pacific Sunset Subdivision. In addition, side yard setbacks for these lots have been increased to 20 feet in order to further protect views from Pacific Sunset. These setbacks are to be kept clear of all architectural elements over 4 feet in height, fencing over 3 feet in height, and landscaping shall be maintained at no greater than 7 foot height at maturity.

Lots C-10 - C-14, and C-21 -C-17
Side yard setbacks have been increased to 15 feet in the center to further decrease the building bulk on the project site. Landscaping requirements shall be the same as for all other lots in the subdivision.

LANDSCAPE MATERIALS
Choices of landscaping materials can help relate residences to the landscape and landscapes to each other. In order to keep the proposed Sand Pointe community compatible with existing neighborhoods, landscape plants are to repeat low growing plant materials used in similar, windswept coastal areas in Mckinleyville.

The following criteria shall be used in selection of plant material for individual residences:

Landscaping plans are to be submitted to a design review committee for approval.
All landscaping is to be well maintained.
Any natural vegetation along the bluff is to remain undisturbed and only native vegetation of low growing nature is to be added to the top of the bluff.
Landscaping is to be installed within 6 months of occupation of residence.

SUBDIVISION PERIMETER FENCING
Fences have a particular influence on a site. Functionally they confer privacy and visually they define spaces, provide vertical texture and reinforce residents' relationship to their immediate living area as distinguished from the larger setting. Fencing styles are to be chosen to convey a general character and create a pleasingly consistent visual structure. The lack of uniformity as seen in most local development fails to do this and in doing so undermines a sense of community and fails to protect views on and off a site. The following provisions for exterior fencing serve as a means of designing an environment which is aesthetically pleasing, not visually oppressive and compatible with the existing scale of the overall community.

East Line Fencing (Except for Storage Area at Northeast corner)
The fencing along the eastern line of the subdivision shall be constructed of open board construction that meets the following criteria.

Fencing is to blend with the terrain and shall not exceed 5 feet in height.
Fencing style is to be open with space between the boards to allow for air movement and ocean views.

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to
Application

Fencing shall have the following architectural elements: post and board toppers, square edged posts, wood construction, and left natural.

Storage Area Fencing and Landscaping
The fencing along the east and north lines of the storage area is to be 6 feet in height, solid wood construction and a style that is compatible with other fences along the east , north and south lines. The purpose of this fence is to screen recreational vehicles from visibility; therefore, it shall be solid wood construction, post and board toppers and square edged posts, left natural.

Landscaping within the storage area is to be well maintained and not to exceed 18 feet in height at maturity.

South Entrance and North Line Fencing
Fencing along Murray Road has been carefully placed back from the road to maintain visibility of the ocean. The best way to make a fence seem transparent is to keep its members black; therefore the majority of the fencing at the south entrance is to be black, wrought iron, open picket style, accented with masonry posts. The rest is to match the 6 foot wood fence that is used along the north property line.

INTERIOR INDIVIDUAL LOT FENCING
All proposed location, style, material and height of individual lot fencing shall be submitted for approval to the subdivision design review committee, as appointed by the owners. All fencing or screening shall be limited to 6 feet in height. In side yard areas, no fence shall be constructed over 3 feet in height. Except for privacy fencing as described below, all fencing in rear and front yards shall be limited to 3 feet in height.

Privacy Fencing
Private outdoor zones are necessary for all dwellings. A wall or screen of up to 6 feet in height is allowed to insure privacy as long as the following conditions are met:

- Fencing is not to extend further than 30 feet in any direction away from the house.
- Privacy fencing is not to extend into side yard setbacks.
- All fencing or screening exceeding 3 feet in height is not to exceed a total linear length of 90 feet.
- All fencing is to be subject to subdivision design review and must have the following architectural elements: post caps, board toppers and square edged posts.
- Fencing is be wood construction, painted to match house or left natural.

Perimeter Fencing
Groups of houses should appear related to one another rather than jumbled together without pattern. Perimeter fencing of each parcel is not recommended; however individual property owners may wish to distinguish their property from the larger setting. Unity with variety can be provided by the use of related perimeter fence styles. In order to reinforce each resident's relationship to their immediate living area without being visually obstructive, fencing of up to 3 feet in height may be constructed around each parcel's property line if the following conditions are met:

- All fencing is to be approved by the subdivision's design review committee.
- Fencing is to be wood construction, stained white or left natural.
- Fence style is to be limited to open picket or post and rail constructed of pickets, split or smooth finish rails with square edged posts.

ARCHITECTURAL ELEMENTS

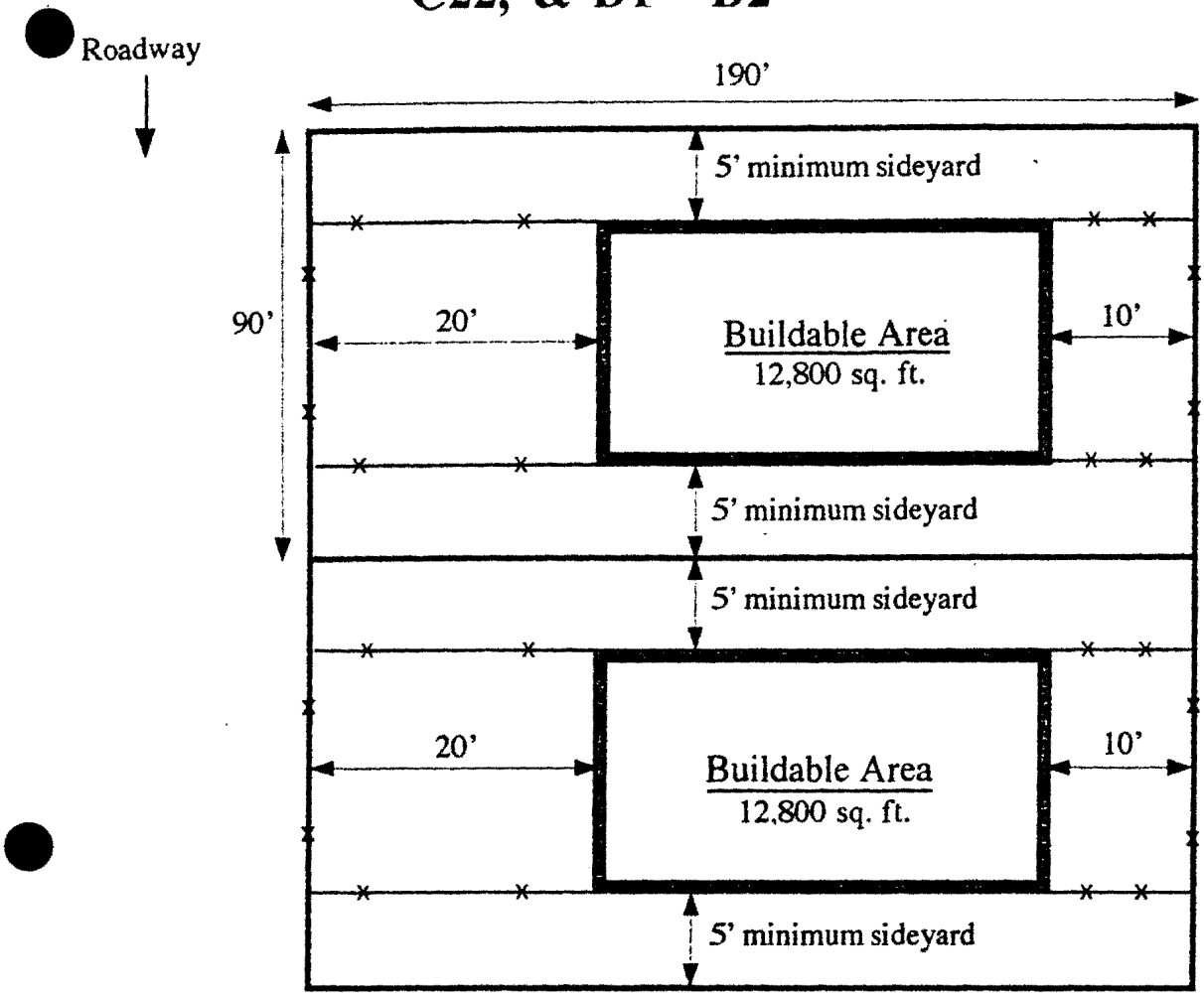
Approaches or entrances to outdoor spaces are often noted with such structures as gates, arbors or other architectural passageways. All architectural elements placed within the landscape are to be approved by the subdivision's design review committee. The only time any of these or other architectural elements such as gazebos or outdoor storage units are allowed is if they meet the following criteria:

Any gate, arbor or similar architectural passageway is to be a style consistent with the architecture and materials of perimeter fencing.

Architectural elements are not to exceed 3 feet in height unless they are outside of the side yard setback areas; and in that case they may not exceed 10 feet in height.

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to
Application

Typical Site Plan for Lots: A1 - A8, B1 - B19, C1, C2, C9, C15, C16, C22, & D1 - D2



KEY:

Typical Lot Areas:
Gross size - 17,100 sq. ft.
Buildable area - 12,800 sq. ft.
Maximum ground coverage - 5,985 sq. ft.

Typical Buildable Area

Front & Rear Yard Setbacks
Allowable:
Fences and screens up to 6 ft. in ht., not to exceed a total of 90 linear ft.
Architectural elements up to 12 ft. in ht.

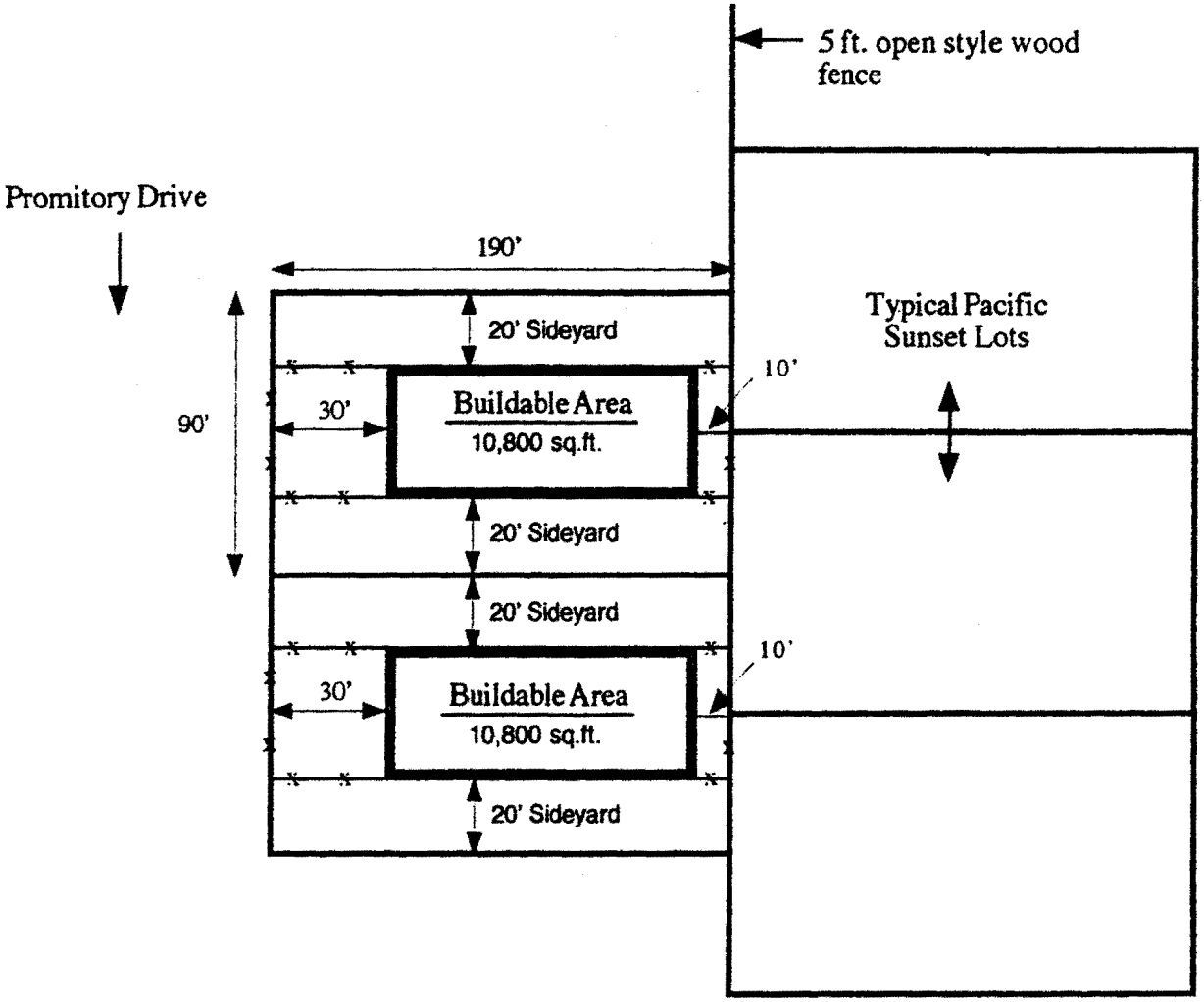
Sideyard Setback:
5 - 15 ft., depending on lot location
Allowable:
Fences up to 3 ft. ht.
Landscaping up to 7 ft. ht.

North

Not to scale

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to
Application

Typical Site Plan for Proposed Lots: D3 - D9



KEY:

Typical Lot Areas:
Gross size - 17,100 sq. ft.
Buildable area - 10,800 sq. ft.
Maximum ground coverage - 5,985 sq. ft.

EXHIBIT NO. 16
APPLICATION NO. A-1-HUM-96-70
1998 Amendment to
Application

Typical Buildable Area

Front & Rear Yard Setbacks:
Allowable:
Fences and screens up to 6 ft. in ht., not to exceed a total of 90 linear ft.
Architectural elements up to 12 ft. in ht.

Sideyard Setback
20 ft.
Allowable:
Fences up to 3 ft. ht.
Landscaping up to 7 ft. ht.

North

Not to scale

DEPARTMENT OF CONSERVATION
DIVISION OF MINES AND GEOLOGY
Regional Geologic and Hazards Mapping
801 K Street, MS 12-31
SACRAMENTO, CA 95814-3528
Phone (916) 324-7299
FAX (916) 445-3334
TDD (916) 324-2555

March 26, 1998

RECEIVED
MAR 30 1998
CALIFORNIA
COASTAL COMMISSION

James J. Muth
Coastal Planner
California Coastal Commission, North Coast Area
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Muth:

This letter is in response to the additional work on the proposed Sand Pointe subdivision in the McKinleyville area done by SHN and titled:

> Supplement to the Preliminary R-1 Geologic and Geotechnical Report and Earthquake Fault Zone, Fault Evaluation Report for the proposed Sand Pointe Development Project, APN 511-11-14, McKinleyville, Humboldt County, California, dated January 8, 1998.

I reviewed this report strictly with respect to fault-rupture hazard and followed up with a letter to Mr. Roland Johnson of SHN dated February 23, 1998 regarding clarification of the minor west-dipping antithetic fault exposed in trench T-5. Mr. Johnson responded to my review comments in a letter report dated March 23, 1998, titled:

> Additional discussion of antithetic fault, Fault Evaluation Report for the proposed Sand Pointe Development Project, APN 511-11-14, McKinleyville, Humboldt County, California.

The February 23, 1998 letter to Mr. Johnson and the SHN letter report dated March 23, 1998 are included with this letter.

The January 8, 1998 supplemental report and the February 23, 1998 letter report adequately address my concerns regarding setback recommendations for mitigation of fault rupture hazard for the northern part of the property and the activity assessment of the minor antithetic fault exposed in T-5. The January 8, 1998 report was reviewed and approved by Humboldt County (see enclosed Giblin Associates letter dated January 14, 1998

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

The issue of the adequacy of coastal bluff setback recommendations is beyond the scope of my original letter. The Division of Mines and Geology does not have the resources and staffing available for this type of review nor do we have regulatory authority on coastal bluff issues. The Coastal Commission might consider retaining a Certified Engineering Geologist with special expertise in coastal landslide issues if you believe that coastal bluff setback recommendations have not been adequately reviewed.

Please call me (telephone (916) 323-9672) if you have any questions.

Sincerely,

William A. Bryant

William A. Bryant, CEG 1554
Alquist-Priolo Program Manager

encl.
cc: M. Reichle
SHN/R. Johnson

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

REC'D JAN 23 1998

GIBLIN ASSOCIATES
CONSULTING GEOTECHNICAL ENGINEERS

POST OFFICE BOX 6172 SANTA ROSA, CA 9540
TELEPHONE (707) 528-3078 FACSIMILE (707) 528-283

January 14, 1998

Job No. 1306.6.8

Planning and Building Department
County of Humboldt
3015 H Street
Eureka, CA 95501-4484
Attention: Mr. Jim Baskin

Gentlemen:

Geologic Conformance Review
Alquist-Priolo Earthquake Fault Zone Act
Sand Pointe Project
Assessor's Parcel No. 511-11-14
McKinleyville, California

This letter presents the results of our geologic conformance review regarding the report entitled "*Supplement to Preliminary R-1 Geologic and Geotechnical Report and Earthquake Fault Zone, Fault Evaluation Report for the Proposed Sand Pointe Development Project, Assessor's Parcel No. 511-11-14; McKinleyville, Humboldt County, California,*" by SHN Consulting Engineers and Geologists, dated January 8, 1998. The subject supplemental report is directed toward reevaluating fault rupture hazard within proposed building sites that are located within an Alquist-Priolo Earthquake Fault Zone.

The purpose of our review was to evaluate the above referenced report for conformance with the policies and criteria of the California Division of Mines and Geology as described in Special Publication 42, revised 1990, and California Coastal Commission Guidelines. Our conclusions are not an independent assessment of the suitability and stability of the site, but are intended to present our opinion as to whether qualified personnel have adequately investigated the characteristics of the site and provided recommendations consistent with the technical data supplied in the report.

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

SCOPE

We have performed the following scope of services:

1. A detailed review of the fault evaluation report, associated maps, aerial photographs used by the investigators, and subsurface logs; and assessment of the adequacy of the documentation and the appropriateness of the depth of study conducted in consideration of the use proposed for the project site.

2. A review of pertinent regional geologic literature, maps and other reference materials.

3. An on-site review of the project area during excavation and logging of Trenches 4 and 5 with the author of the subject investigation, Roland S. Johnson, Jr., to observe fault features, as well as geomorphic features that may be fault-related.

4. Preparation of this written review.

FINDINGS AND CONCLUSIONS

Based on our on-site evaluation and review of the above referenced fault investigation report by SHN Consulting Engineers, it is our professional opinion that the information presented in the report generally satisfies the policies and criteria in California Division of Mines and Geology Special Publication 42. In addition, we are in general concurrence with the report's fault related scope, methodology and interpretations, and judge that the conclusions and recommendations, including recommended construction setback distances from faults, are appropriate. However, opinions and conclusions regarding active faulting and/or risk are solely the responsibility of SHN Consulting Engineers. We assume no responsibility for the opinions and conclusions of SHN Consulting Engineers. We recommend that this letter be included in the file for the project. Should changes occur in the proposed use of the subject property, we should be notified to review and comment on those changes in a written letter.

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

We trust this provides the information needed at this time. If you have questions or wish to discuss this in more detail, please do not hesitate to contact us.

Yours very truly,
GIBLIN ASSOCIATES

Jim Glomb
Certified Engineering Geologist No. 1154

Jere A. Giblin
Geotechnical Engineer No. 339

CERTIFIED ENGINEERING GEOLOGIST
JAMES D. GLOMB, JR.
#1154
Exp. 6-30-98
GEOLOGIST
STATE OF CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER
JERE A. GIBLIN
No. GE 339
Exp. 9/30/01
GEOTECHNICAL
STATE OF CALIFORNIA

JDG/JAG:nay.77
Copies Submitted: 4

cc: SHN Consulting Engineers & Geologists
812 W. Wabash
Eureka, CA 95501
Attention: Roland S. Johnson, Jr.

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

STATE OF CALIFORNIA - THE RESOURCES AGENCY PETE WILSON, Governor
DEPARTMENT OF CONSERVATION
DIVISION OF MINES AND GEOLOGY
REGIONAL GEOLOGIC AND HAZARDS MAPPING
801 K Street, MS 12-31
Sacramento, CA 95814-3531
Phone (916) 324-7299
ATSS 454-7299
Fax (916) 445-3334

February 23, 1998

Mr. Roland Johnson
SHN Consulting Engineers and Geologists
812 W. Wabash
Eureka, CA 95501

Dear Mr. Johnson,

This letter is in reference to your supplemental fault rupture hazard investigation, titled "Supplement to Preliminary R-1 geologic and geotechnical report and earthquake fault zone, fault evaluation report for the proposed Sand Pointe development project, APN 511-11-14, McKinleyville, Humboldt County, CA," dated January 8, 1998.

I've briefly reviewed the supplemental report supplied to me by Mr. James Muth of the California Coastal Commission. I agree with your conclusions regarding the principal east-dipping thrust fault exposed in trenches T1, T3, and T5. However, the minor west-dipping fault (antithetic fault) exposed in T5 needs further discussion.

1. What is the estimated age of the deposits offset by the antithetic fault?
2. What is the evidence for or against Holocene displacement along the antithetic fault?
3. What is the geomorphic expression of the antithetic fault compared to the principal east-dipping fault?
4. What is the estimated dip-slip slip-rate for the antithetic fault?
5. If the antithetic fault exhibits Holocene offset, what is the possibility that displacement is transferred from the principal east-dipping fault to the antithetic fault?

Answers to these questions can be discussed in a supplemental letter report at your earliest convenience. If you have any questions, please call me at (916) 323-9672 or fax me at (916) 445-3334.

Sincerely,

William A. Bryant

William A. Bryant, CEG 1554
Alquist-Priolo Program Manager

cc: M. Reichle

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

SHN
CONSULTING ENGINEERS
& GEOLOGISTS

John D. Schuppe, PE
R. Jeff Nelson, PE
Robert S. Johnson Jr. C.E.G.

812 W Wabash
Eureka, CA 95501-2138
(707) 441-8855
FAX (707) 441-8877

480 Hemsted Drive
Redding, CA 96002-
(916) 221-5121
FAX (916) 221-0135

Reference: 094117.100

March 23, 1998

William A. Bryant, A-P Program Manager
Regional Geologic and Hazards Mapping
Division of Mines and Geology
801 K Street, MS 12-31
Sacramento, CA 95814-3531

SUBJECT: ADDITIONAL DISCUSSION OF ANTITHETIC FAULT, FAULT EVALUATION REPORT FOR THE PROPOSED SAND POINTE DEVELOPMENT PROJECT, APN 511-11-14, MCKINLEYVILLE, HUMBOLDT COUNTY, CALIFORNIA

Dear Mr. Bryant:

This letter provides the additional discussion requested in your letter of February 23, 1998, which followed your review of our January 8, 1998, supplemental fault rupture hazard investigation report. The information provided focuses on the minor west-dipping antithetic fault exposed in Trench 5 during our field investigations conducted in November 1997. Our discussion will follow the sequence of questions presented in your letter.

1. <u>What is the estimated age of the deposits offset by the antithetic fault?</u> As referenced in the November 1994 Fault Evaluation Report, evidence suggests that the McKinleyville terrace sediments were deposited no more recently than 82,000 years ago. The upper portion of the deposit has been altered by pedogenic soil development that began after the terrace emerged from the marine environment. Soil development processes have occurred over an extended period of time as evidenced by the presence of a well defined pedogenic "B" horizon. As noted on the Trench 5 profile the antithetic fault did not extend into the base of the "B" horizon.

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

SHN
CONSULTING ENGINEERS
& GEOLOGISTS

2. <u>What is the evidence for or against Holocene displacement along the antithetic fault?</u> Since development of the pedogenic soil profile has been shown to have taken substantially longer than 11,000 years, there would have to be evidence of displacement within the pedogenic soil profile to conclude that Holocene (or post Holocene) displacement occurred. As noted above, the pedogenic soil profile is intact. Therefore, we can conclude that Holocene displacement did not occur.

3. <u>What is the geomorphic expression of the antithetic fault compared to the principal east dipping fault?</u> Displacement along the principal east-dipping fault in the southern portion of the project area has resulted in a warped ground surface as demonstrated in the profiles presented with the November 1994 report. Inflection points on the warped surface become more subtle along the northern extension of the fault. Trench 5 is located approximately half way between Profile 3 and Profile 4, with Profile 3 being south of Trench 5 approximately 160 feet. The surface projection of the principal fault forms a relatively prominent inflection on Profile 3 but there is no discernible inflection to the west that could indicate the presence of an antithetic fault. Profile 4 (and also Profile 5) show no evidence of surface warping that would be consistent with antithetic fault displacement.

4. <u>What is the estimated dip-slip slip-rate for the antithetic fault?</u> If we assume that all the displacement noted occurred right before the beginning of the Holocene (a worse case assumption considering evidence discussed above), then the slip-rate would be approximately 0.003 mm per year. In our opinion, a slip-rate this low indicates that there would be no significant offset of the surface if antithetic fault displacement occurred during a major earthquake event on associated principal faults in the area.

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

CONSULTING ENGINEERS
& GEOLOGISTS

5. If the antithetic fault exhibits Holocene offset, what is the possibility that displacement is transferred from the principal east-dipping fault to the antithetic fault? As discussed above, evidence points to no Holocene offset of the antithetic fault. However, if it had then the antithetic fault would demonstrate more and more offset as it trended northward. Significant past Holocene offset would create a warped surface where the west fault block would rise above the east fault block resulting in geomorphic expression that is the opposite of what is demonstrated on site. Therefore, we conclude that there is no reasonable possibility that the principal east-dipping fault is transferring displacement to the antithetic fault.

We anticipate that this discussion focusing on lack of evidence for Holocene displacement, and demonstration that only minimal displacement is likely to occur during future major earthquake events, clearly shows our reasons for not recommending a setback from the surface extension of the antithetic fault. Please contact us at your earliest convenience if you have additional questions or require further clarification of this discussion.

Please include this information with the previous reports submitted to you when you respond to the California Coastal Commission. We appreciate your professional attention and prompt response to our previous submittals. We hope your written response can be completed soon.

Sincerely,

SHN CONSULTING ENGINEERS & GEOLOGISTS

CERTIFIED ENGINEERING GEOLOGIST
ROLAND S. JOHNSON, JR.
No. 1120
STATE OF CALIFORNIA

Roland S. Johnson, Jr., CEG 1120
Principal Engineering Geologist
RSJ:ls
cc: Steve Moser

G:\1994\094117\LTR-3.RJ

EXHIBIT NO. 17
APPLICATION NO. A-1-HUM-96-70
Mines and Geology
Letter

Melanie Kennedy
2960 Fortune St.
Mckinleyville, CA. 95519

RECEIVED
JUN 16 1997
CALIFORNIA
COASTAL COMMISSION

Re: Development #A-1-HUM-96-70

Dear Mr. Muth

June 9, 1997

We built adjacent to the 20 plus acres now known as the Sand Pointe application in 1989. The application goes beyond our understanding of the McKinleyville Area Plan and the Coastal Act as we understood as follows:

Density: *This extraordinary density bonus request appears to be a dangerous concession which sets precedent in the coastal zone. It does not appear to be supported by the McK. Area Plan because there are no extraordinary public benefits to allow it.*

View: *The proposed development effectively blocks a large piece of the coastal zone for which there is no other public view access and also violates the 18 ft. limit set in Pacific Sunset (a CDP administered by Humboldt County in 1988 and later upheld in 1994).*

Coastal Access: *The "closed, gated, private, fenced" nature of the application violates historical use of this area and certainly the general ambience of the surrounding area.*

Once again; in moving to this area, we felt these principles of coastal access would be preserved by the Coastal Commission. The application before you goes way beyond anything we could of imagined in this area and we humbly submit these items should not be allowed.

Thank you for the opportunity to voice our concerns.

Sincerely,

Melanie Kennedy

Melanie Kennedy (appellant)

EXHIBIT NO. 18
APPLICATION NO. A-1-HUM-96-70
Correspondence

COUNTY ADMINISTRATIVE OFFICE
COUNTY OF HUMBOLDT
825 5TH STREET, ROOM 111
EUREKA, CALIFORNIA 95501 PHONE (707) 445-7266

May 6, 1997

RECEIVED
MAY 08 1997
CALIFORNIA
COASTAL COMMISSION

Mr. Jim Muth
California Coastal Commission
North Coast District
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Dear Mr. Muth:

SUBJECT: SAND POINTE DEVELOPMENT, McKINLEYVILLE, CALIFORNIA, AIRPORT COMPATIBILITY

This letter is being sent in regard to the Sand Pointe Development project as approved by our Board of Supervisors in September 1996.

I am currently the Acting County Administrative Officer, and I was the County's Public Works Director at the time of the County's Planning Commission and Board of Supervisors hearings on the project. One of the operational areas for which I was responsible as Public Works Director is the Arcata-Eureka Airport (located in McKinleyville).

My department was initially very concerned about the potential effect of the project on the long-term operation and safety of the Airport.

However, after substantial discussion with our Airport Consultant (Shutt Moen Associates), coupled with the Supervisors' action to lower the density to 2.4 dwelling units per acre, our initial reservations have been satisfied.

Therefore, as the senior staff person responsible for the long-term operation and safety of the Airport, I wish to indicate that the project's impact on the Airport should not be a consideration if the project were to move forward as approved and conditioned by the Board of Supervisors.

Thank you for the opportunity to comment.

EXHIBIT NO.	19
APPLICATION NO.	A-1-HUM-96-70
Correspondence	

Sincerely,

JOHN MURRAY
Acting County Administrative Officer

A:SandPointe

June 11, 1997

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

RECEIVED
JUN 17 1997
CALIFORNIA
COASTAL COMMISSION

RE: Letter in support of Sand Pointe development, Humboldt County

Dear Commissioners,

I was the Director of Public Works for Humboldt County for 26 1/2 years. This included several years supervising county airport activities. I am a licensed Civil Engineer in the states of California, Oregon, and Washington. I am also a licensed Traffic Engineer in California.

Due to my position in the county I was not permitted to express my personal opinions on projects of this nature. It could have created a conflict of interest and ethics. Due to my recent retirement I now have the option of voicing my opinion not only as a trained professional but also as a member of the community I have lived in, and worked for, for over 30 years. This letter is to offer my support for the Sand Pointe development based upon my career experience and community concern.

In addition to the work I have done here in Humboldt County I was also a Deputy Director of Public Works in the Bay Area for 6 1/2 years, in the City of Benicia and Los Angeles County. I have a total of 41 1/2 years as a Civil Engineer. I don't have any involvement financially or otherwise with the developers or any of the consultants involved in the development.

As the Director of Public Works one of my primary responsibilities was to insure that our airport remain operational and that adjacent development be consistent with long term airport viability and public safety. The Sand Pointe project has met the criteria established in the Airport Land Use Compatibility Plan and will be a welcomed addition to our community.

In my 41 1/2 years of experience in this area I believe this to be one on the best overall developments I have seen. I hope you will look at it with favor and grant the applicants approval to proceed with the conditions imposed by our Board of Supervisors.

Very truly yours,

Guy C. Kulstad

Guy C. Kulstad, P.E.
Director of Public Works (Retired)
County of Humboldt

EXHIBIT NO. 20
APPLICATION NO. A-1-HUM-96-70
Correspondence

cc: James Muth

EXHIBIT NO. 21
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 2

RECEIVED
FEB 10 1997
CALIFORNIA
COASTAL COMMISSION

re: appeal no.:A-1-HUM-96-70

Leonard R. Shumard Jr.
2965 Fortune St.
McKinleyville, Ca 95519

January 30,1997

Greetings Ladies and Gentleman of the Commission:

I realize you have a busy agenda here today so I will briefly voice my objections to the Sand Pointe project as proposed.

1. County officials did not protect Counties interest by approving increased density within airport approach zone. This is the only commercial airport in a rapidly growing area and it is of vital concern to protect it.

2. Erosion hazards have not been adequately addressed, what an understatement!!! Right now as we speak property is being lost on both sides of the planned development. Homes and property are being threatened north and south of Sand Pointe and local officials are turning a blind eye to the problem.

3. Sand Pointe is not a P.U.D. and doesn't qualify for a bonus density. Four of six Planning Commissioners agree there are **no extra public benefits**. One of the Commissioners who disagree is on the **developers payroll** as landscape designer. Also developers are not selling homes but only building lots.

4. The Prescriptive Rights Survey was very poorly done by County Staff. The very idea that a high density, locked and gated project is a benefit to the community is a crude and sick mockery to the spirit of Prop. 20.

5. "Density inconsistent with surrounding area", another understatement. Be advised this project sets a precedent for this area. The only comparable project is Knox Cove which is approx. 1/2 mile south of Sand Pointe and consists of lots which are 3-4 times larger than those proposed for Sand Pointe.(Residents are now wanting out of Knox Cove because erosion is destroying their property .)
Surrounding neighborhoods have 18' height restrictions on some lots to protect public views. Sand Pointe has 23' height restrictions on some lots, these should be lowered to 18' to conform to surrounding developments.

6. High density development will destroy feeding habitat of Bald Eagles and other birds of prey including the Osprey. Even if Riparian Habitat is saved by Developers, eagles won't roost 30 feet from homes.

7. Since the project doesn't meet criteria for P.U.D. it does indeed exceed the **Sites Urban Plan Designation.**

Members of the Commission I ask you to find that these issues are real and that they do indeed raise substantial questions about the way this entire project has been handled by the local officials. I ask you to please preserve the spirit of Prop. 20 by preventing developers from blocking views and locking the public out of one of the last undeveloped Riparian Habitats in our area.

Please reject the project as it is presently proposed.

Thank you for allowing me to air my views.

Sincerely yours,

Leonard R. Shumard Jr.

EXHIBIT NO. 21
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 2

Post-it® Fax Note 7671	Date 1-31-97	# of pages ▶ 1
To CA Coastal Comm.	From Diane Ryerson	
Co./Dept.	Co.	
Phone #	Phone # 707-839-0159	
Fax # 415-904-5400	Fax # 707-826-5868	

1991 Baird Rd.
McKinleyville, CA 95519
January 31, 1997

RECEIVED
FEB 10 1997
CALIFORNIA
COASTAL COMMISSION

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

Commission Members:

As a resident of McKinleyville, I am writing to express my opposition to the Moser and Hunt proposed Sand Pointe subdivision APN 511-011-14. Please do not approve this subdivision as proposed for the following reasons:

1. This area of the coastline is undergoing active erosion. The changing course of the Mad River and its tributary, Widow White Creek,contribute to the erosion.
2. An earthquake fault runs through the property.
3. The property is located within the number 2 landing flight zone, and the Coast Guard helicopters fly over the property frequently at relatively low altitudes, creating a significant noise and safety hazard if more than one dwelling unit per 2.5 acres is allowed.
4. The 67 acres offered for public use in exchange for a density bonus are under water and are of no use to the public for hiking, biking, picnicking, or enjoying a broad ocean view.
5. A Gated subdivision will detract from our sense of community and friendly atmosphere and create blatant economic segregation; fences will completely block the ocean view for the public in this area; the aesthetic value (feeling of openness and connection of land and ocean) of the Hammond trail bordering the property will be significantly decreased by a fence running along one side of the trail.

I do not want my taxes and insurance premiums to pay for the losses of those who choose to build or buy homes in highly disaster prone areas. When planning commissions and boards of supervisors permit building in disaster prone areas, resources and public monies are needlessly wasted over the long term to benefit a <u>small</u> number of affluent people in the short term.

Please follow the spirit of the mission of the California Coastal Commission and protect our beautiful coastline for use by <u>all</u> the public. Thank you for your serious consideration of this issue.

Sincerely,

Diane Ryerson

Diane Ryerson

EXHIBIT NO. 22
APPLICATION NO. A-1-HUM-96-70
Correspondence

RECEIVED
FEB 10 1997
CALIFORNIA
COASTAL COMMISSION

Lewis L. Klein
1361 Azalea Ave.
McKinleyville, CA 95519
707-839-1535

Feb. 4, 1997

EXHIBIT NO.	23
APPLICATION NO. A-1-HUM-96-70	
Correspondence	
Page 1 of 3	

Attention: Steve Scholl and Coastal Commissioners
Calif. Coastal Commission
North Coast Area
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

RE: COMMENTS ON SAND POINTE STAFF REPORT FOR THE SAND POINTE PROJECT IN HUMBOLDT COUNTY. APPEAL NO: A-1-HUM-96-70
ITEM 14A

Dear Mr. Scholl and Coastal Commissioners,

The Staff Report which recommends a determination of no substantial issue on the appeal filed by Patricia Hassen et al. was not received by myself until late last week. Hence my comments have been rushed. Nevertheless, I cannot agree with staff's recommendation with respect to at least three of the issues in the appeal: 1) Significant Impacts to Coastal Views from Public Areas; 2) Airport Safety; and 3) Setbacks from earthquake faults. My comments on the issue of Coastal Views from Public Areas are similar to written ones I made in response to the DEIR, and in verbal remarks made before the Humboldt County Planning Commission and Board of Supervisors.

1) Significant Impacts to Coastal Views from Public Areas

Page 30 of the Staff report contains the following quote. "Finally, regarding issues of viewing access, the appellants do not say where vehicular viewing will be obscured. Vehicular viewing of the sea from the end of Murray Road will not be impacted since no homes are located at the end of Murray Road. Vehicular viewing of the sea a one approaches the end of Murray Road will only be partially obstructed to the north by the construction of new homes within the subdivision. In addition, vehicular viewing of the sea from the end of Wilbur Avenue will also be partly obstructed._

In my comments on this issue in the EIR and at the public hearings it was clear that was being referred to were impressive views from Murray Road across the project site to the north and north west. And these views will be eliminated both for pedestrians and vehicular passengers if the 5-6 foot solid security fencing proposed for the project and approved by the County is implemented.

The reality of the present situation is that the coastal views for the public from the south boundary of the proposed project area from Murray road to the north are outstanding. They include unobstructed views to the northwest of the Pacific ocean and to the headlands to the east of Trinidad. These public views will be significantly obstructed by the proposed project, particularly the solid security fencing that has been proposed by the developers and approved by the County bordering the south end of this project, paralleling Murray Road.

It is true, as the EIR indicates, that section 4.53(D) of the McKinleyville Area Plan (MAP) does not identify this area for specific scenic protection. But only because it is assumed that this location will "receive adequate protection through the land use designations, public ownership, etc." I think it is quite clear by the material presented in the EIR that the currently proposed security fencing if implemented will not only not protect some outstanding public scenic coastal views, but probably eliminate them entirely.

My reading of the MAP is that the security fencing as a visual non-avoidable obstruction to the general public should fall under the design standards outlined in Section 3.42(C)(2) of the MAP, and be "referred to the Design Assistance Committee" for the appropriate findings. It is not clear whether the County has designated such a committee, and thus not clear whether the MAP has been fully implemented to effectively protect the scenic and visual qualities of coastal areas as a resource of public importance, and whether this proposed development has been adequately sited and designed to protect views along the ocean and scenic coastal areas. I believe this too is a substantial issue with regard to the project's conformity with the LCP policies

It should be noted that some of language in Section 3.42(C)(2) of the MAP is not absolutely clear, but the intent of the following passage clearly indicates that "[w]here views from public roads to the coast or coastal waterways are of concern, the height, width, and setbacks from roads and parcel lines shall be considered to retain as much of the existing view as is possible". Plainly, if a solid security fence some 6 feet in height paralleling a public road had been foreseen at the time this section of the MAP had been drafted, the drafted language would have specified that its design would be such that it too would retain as much of the existing view as possible.

My belief is that the contention in the staff report (pg. 33) that "views along Murray Road towards the Mad River and the blue water areas of the ocean should not be significantly impacted where the development is no higher than the height of the vegetation along the bluffs totally misses the point. If it is impossible to look over or through the security fencing along Murray Road, the fact that the buildings are no higher than the height of the bluff vegetation has no bearing on the obstruction of coastal views to the north and northwest of the project from a public roadway. And it is those views of the Trinidad Headlands that are particularly striking from this roadway and were identified in the EIR to be significant. That the obvious visual obstruction was dealt with by Humboldt County by adopting a Statement of Overriding Consideration in the FEIR does not excuse the Coastal Commission from dealing with the issue directly as a consequence of responsibilities under the Coastal Act and as a consequence of the appeal before you. This is a substantial issue of Coastal Resource Protection despite staff's recommendation.

2) Setbacks from earthquake faults

On page 19 of the current staff report, it is recommended that the Coastal Commission accept a designated building site within 25 feet of the active trace of a surface earthquake fault. Staff's recommendation totally ignores the specifically called for 50 feet setback in the certified LCP, and the requirement (Section A315-14) that a positive finding be made on the 50 foot setback for any discretionary permits. This is tantamount to implying that the unambiguous standards in a certified LCP are meaningless and can be ignored without raising to the level of a substantial issue. If the wording in the Alquist-Priolo was meant to preempt standards in Local Coastal Plans than the legal justification for that interpretation should have been supported in the staff report. Failing that, it is very obvious that the reduction in

setbacks from the specific standard of fifty feet contained in the certified Local Coastal Program is not in conformity with the certified Local Coastal Program and by definition raises a "substantial issue" which must be addressed by the Coastal Commission.

3) Airport Safety and Development Density

On page 15 of the Staff Report, it is recommended that the Commission make a finding that despite the arguments raised by the Appellants regarding airport safety issues the certified _LCP allows a certain amount of flexibility in determining the appropriate density for this project, and therefore a project density of 2.5 residences per acre be acceptably substituted for one of 1 unit per 3 acres. The level of flexibility allowed in an LCP is a substantial issue. It could be argued that if the staff findings are adopted the Commission will be finding not that "the LCP allows a certain amount of flexibility in determining the appropriate density for this project", but that the LCP allows **unlimited** flexibility in determining the appropriate density for this project, and any other project within the approach and take off zones of the airport. Thus I believe there are actually two substantial issues here: 1. Does the project comply with the intended meaning of the LCP on airport safety matters , not just the technical procedures for waiving the requirements, and 2) was it appropriate to certify a LCP, or did the Commission actually intend to certify an LCP, which allowed for unlimited discretion on the part of a County employee to waive requirements without written findings on substantial issues of airport safety?

If the LCP is certified with unanticipated loopholes which allow the general provisions of the Coastal Plans to be evaded, it would appear that the appropriate time to consider them, would be when projects are appealed within which the issues and the ambiguous or faulty assumptions are patently important to the approval process.

Thank you for your attention to my comments.

Sincerely,

Lewis L. Klein

Lewis L. Klein

EXHIBIT NO. 23
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 3 of 3

JYME/LARRY CHAMBERS
2963 Springer Drive
Mc Kinleyville, Ca 95519
Humbolt County
Home Phone 707-839-5394

April 27, 1997

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

Re: Sand Pointe

Dear Mr. James Muth,

My letter is in regards to the above subject. We are home owners in Humbolt County and our property is located in Pacific Sunset subdivision adjacent to the Sand Pointe site. We have many concerns regarding the future of this development. We as home owners would like to express our desires such as an open area to the future development along with curbs and cutters as our subdivision currently displays. We are also very concerned about the 100 foot minimum setback from the edge of the bluffs before home construction may occur and that each home be placed on 2 1/2 acres as perscribed in the past. We would not be in favor of a "gated community" due to no access to the ocean for the public. Therefore no gates could be allowed. We are also concerned about the lighting that this development would bring. As it is now there is no lighting in our subdivision, only what our homes have to offer and we feel this would be the only method for the new Sand Pointe development. We really care to keep things as "natural" as possible and still accomodate growth for our future. We as residents of Humbolt County feel that the 67 acres found in the mad river that was declared a public benefit by the developer Mr Moser and Mr Hunt is a total wash. This propsed "public benefit" has been and will remain underwater for the past 20 years. One of our very most concerns is that of the Hammond Trail. If homes were to be built above the trail this could and would endanger the existence of the Hammond Trail due to erosion. This is a beautiful trail and we look forward to it's growth, but no growth would occur if this present subdivision is allowed to continue.
Thank you so much for your time on this very important matter. This is not only important for the present but ever so important for the future of Mc Kinleyville and the beautiful coastal structure that is enjoyed by many throughtout the state and the country as well as some visitors from abroad.

Sincerely,

Larry & Jyme Chambers

EXHIBIT NO.	24
APPLICATION NO. A-1-HUM-96-70	
Correspondence	

May 7, 1997

RECEIVED
MAY 12 1997
CALIFORNIA
COASTAL COMMISSION

TO: Mr. James Muth, Coastal Planner
California Coastal Commission, North Coast Ar...
45 Fremont Street, Suite 2000
San Francisco, Ca. 94105-2219

FROM: Donald E. and Selby J. Fermer
3767 Erlewine Circle
Sacramento, Ca. 95819-1518

RE: SAND POINTE DEVELOPMENT A-1-HUM-96-70

Mr. Muth

After reviewing the tape of comments by the Commissioners at the February meeting in San Diego, we feel the following 10 important issues must be addressed by staff prior to your preparation of a recommendation to the Coastal Commission.

As you are aware from our previous conversations, none of these are new matters. Each point is justified and, taken together, form an acceptable alternative to the current Sand Point proposal.

1. **DENSITY OF 1 UNIT/ 2 ½ ACRES**
   - required in the currently approved Airport Land Use Plan
   - consistent with the McKinleyville Area Plan (MAP) that states "No land division shall be approved within the Urban Limit that would constitute a conversion from the use identified in the area plan map, and no zoning should be approved which would allow such conversion"
   - creates compatibility with the surrounding area as the density along the Hammond trail to the South is 1/ .75 to 1 acre, and to the North it is 1/ 5+ acres
   - fits the MAP which recommends "less dense development radiating westerly"
   - does not set precedent in the coastal zone of Humboldt County for increased density

2. **ALQUIST PRIOLO SETBACK OF 50 FEET ON BOTH THE EAST AND WEST SIDES**
   - required by the State of California that "no structure for human occupancy shall be within 50 ft."
   - reduces the burden of the taxpayers of California and the resources of Humboldt County in case of an earthquake
   - increases the health, safety and welfare of the occupants

3. **BLUFF SETBACK OF 100 FEET**
   - provides for a 75 year economic life span of the development based on the recent erosion rate immediately to the north and south of this site
   - protects the environmentally sensitive coastal scrub growth at the top of the bluff
   - ensures the continued viability of the Hammond Trail

4. **18 FOOT BUILDING AND LANDSCAPING HEIGHT LIMIT**
   - would be "visually compatible with the physical scale of the surrounding development" as stated in the MAP
   - preserves the viewshed from the public roads and the existing residences
   - established by the amended Hartman CDP (see attachment) for Pacific Sunset subdivision to the east, forming the basis for a "reasonable expectation" that this practice would be upheld when the land to the west was developed
   - upheld by the Humboldt County Planning Commission August 4, 1994 on lot 8 in Pacific Sunset

5. **NO STREET LIGHTING**
   - preserves the night views since no lighting exists in ANY of the nearby neighborhoods to the ocean side of Highway 101

6. **NON-GATED, NON-WALLED DEVELOPMENT**
   - continues the set precedent along the California coast
   - compatible with the surrounding area
   - allows previously established coastal access and views to remain

7. **STANDARD STREET WIDTHS, CURBING, GUTTERS AND SIDEWALKS**
   - allows for movement of public safety vehicles in the event of an earthquake, fire, or other emergency where multiple, large or difficult to maneuver fire trucks would be required
   - meets County and Uniform Fire Code standards for public streets
   - permits easier access for school buses, RVs, and utility and construction vehicles
   - matches conditions in the adjoining subdivision

8. **REMOVAL OF THE RV STORAGE FACILITY**
   - no longer necessary with 2 ½ acre lots and standard street widths
   - eliminates an eyesore with the proposed lighting and fencing
   - removes the possibility of an unmaintained area with the passage of time

9. **PUBLIC ACCESS**
   - established by prescriptive rights over the years
   - upholds a main principle in the Coastal Act
   - required by the Humboldt County Board of Supervisors (A meeting was to take place between the developers and the Pacific Sunset Homeowners to discuss Wilbur Avenue access. That meeting has never taken place, even though it was a condition of approval.)

10. **NO DENSITY BONUS DUE TO THE LACK OF EXTRAORDINARY PUBLIC BENEFITS**
    - unjustified as most are already required as mitigation in the HCC, the MAP or the Coastal Act itself
      a. Part of the offered ~~36~~ 67- acre land dedication is under the Mad River and already in state ownership by the State Lands Commission.
      b. The sandy spit has long term previously established prescriptive rights.
      c. A proposed reduced height of certain houses provides no benefit to the public, only to the residents within the development, and is addressed by limiting the overall heights to 18 feet.
      d. Undergrounding a couple of electric power poles could hardly be described as an extraordinary public benefit.
      e. Public parking for 5 cars accessing the Hammond Trail from the end of Murray Road is already provided and appears adequate.
    - non-qualifying since most are not public, none are extraordinary, and some are not only NOT benefits at all, but may prove to be a liability to the County and/or the State.

Thank you for the opportunity to comment and feel free to contact me to discuss the justification for any of the above points.

Sincerely,

Selby J. Fermer

EXHIBIT NO. 25
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 3

ICANT: HARTMAN, June ([redacted]511-401-02 (McKinleyville) Ca[redacted]No. CDP-80(A-L)-88

EXHIBIT B

SINGLE FAMILY RESIDENTIAL DEVELOPMENT SCHEDULE

FOR TWELVE (12) SPECIFIC PARCELS WITHIN THE PACIFIC SUNSET SUBDIVISION

[CDP-80(A TO L) - 88]

Case No.	Assessor Parcel	Address	Floor Area[1]	Story[3]	Height	Yard[2]	Remarks
CDP-80(A)-88	511-401-02	2820 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(B)-88	511-401-04	2860 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(C)-88	511-401-05	2880 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(D)-88	511-401-06	2900 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(E)-88	511-401-07	2920 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(F)-88	511-401-08	2940 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(G)-88	511-401-17	2936 Fortune St.	2256 +/- 500 sq. ft.	one	not to exceed 18 ft.		—
CDP-80(H)-88	511-401-13	2999 Springer Dr.	2476 +/- 500 sq. ft.	two	not to exceed 28 ft.		non-buildable area[4]
CDP-80(I)-88	511-401-31	2983 Springer Dr.	2476 +/- 500 sq. ft.	two	not to exceed 28 ft.		non-buildable area[4]
CDP-80(J)-88	511-401-32	2979 Springer Dr.	2476 +/- 500 sq. ft.	two	not to exceed 28 ft.		non-buildable area[4]
CDP-80(K)-88	511-401-33	2973 Springer Dr.	2476 +/- 500 sq. ft.	two	not to exceed 28 ft.		non-buildable area[4]
CDP-80(L)-88	511-401-34	2963 Springer Dr.	2476 +/- 500 sq. ft.	two	not to exceed 28 ft.		non-buildable area[4]

(1) All figures include an attached two-car garage.

(2) All side yards shall be a minimum of five (5) or greater and all rear yards can vary from the approved plot plan provided they are a minimum of eighty (80) feet and also observe the recorded non-building limitations.

(3) Any change in the number of stories will require Planning Commission approval.

(4) All residential development (dwelling, garages, accessory structures) is prohibited within the recorded non-buildable area.

RECEIVED
MAY 12 1997
CALIFORNIA
COASTAL COMMISSION

Mr. James Muth
California Coastal Commission
45 Fremont Suite 2000
San Francisco, Ca 94105-2219

Dear Mr. Muth,

Re; Humboldt County-Sand Pointe

As an adjoining property owner to the proposed Sand Pointe development, I have grave concern for the existing affected neighbors and the future homeowners of Sand Pointe. The project as proposed would have a serious deteriorating property value affect on the immediate neighbors. The future homeowners of the proposed project would be very adversely affected with the proposed minimum setbacks from the Mad River and the earthquake fault. Erosion along this area of the Hammond Trail could force closure of the trail.
The density of this area is a very critical issue that has not received adequate consideration at the county level.
It is my belief that the best interests of future homeowners and the neighbors and the general public would best be served by restricting development in Sand Pointe to the established airport density rating of one dwelling unit per 2.5 buildable acres.
In summary I think long range planning should address the density, setback distances and potential erosion problems.

Sincerely,

Dale Brown

Dale Brown
2820 Fortune
McKinleyville, Ca 95519
707-839-3876

EXHIBIT NO. 26
APPLICATION NO. A-1-HUM-96-70
Correspondence

RECEIVED
MAY 13 1997
CALIFORNIA
COASTAL COMMISSION

Thomas M. & Annette C. Lesher
2993 Springer Drive
McKinleyville, CA 95519
(707) 839-4743

May 8, 1997

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

Dear Mr. Muth,

RE: Humboldt County - Sand Pointe

The established density for the area in question is 2.5 acres. It would be inconsistant with adjacent developments to allow a higher density. More houses would NOT be in the general public's best interest by any stretch of the imagination.

The Coastal Commission was originally established to prevent just such a proposed development. We are, quite frankly, incredulous that the project was not rejected on a county level; and appeal to the Commission's wisdom in considering the intent of the current laws concerning prescriptive rights and airport safety.

Thank you for your time,

Annette C. Lesher
Thomas M Lesher

EXHIBIT NO. 27
APPLICATION NO. A-1-HUM-96-70
Correspondence

Patricia Hassen
2975 Fortune Street
McKinleyville, CA 95521
(707) 839-8241 FAX #: 839-5188

May 14, 1997

RECEIVED
MAY 20 1997
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
North Coast Area Office
45 Fremont, Suite 2000
San Francisco, CA 94105-2219
Attn: James Muth, Coastal Planner

RE: Application No. 1-Hum-96-70 Steve Moser and Brian & Cindi Hunt

Dear Mr. Muth,

Since the February 5, 1997 Coastal Commission meeting in San Diego and the 6 to 3 vote of substantial issue regarding the appeal I submitted on behalf of myself and the Concerned Citizens of McKinleyville, our group has again reviewed some of the issues and would like to take this opportunity to voice our concerns on the Sand Pointe Subdivision.

BLUFF EROSION

(A)

Since displaying the slides of the bluff erosion at the Feb. Coastal meeting, there has been considerable more damage to the bluff area on this project and back south in the Knotts Cove subdivision and going north toward the Vista Point to the rock slope put there by California Dept. of Transportation to stop the Mad River from destroying Hwy. 101.

(B)

The bluff setback in some of the Sand Pointe Proposed Subdivision is as little as 15 feet. Who will be responsible to replace the very venerable Hammond Trail and the 18 homes that will be built on the already eroding bluff if this 63 home project is accepted by this Commission.

(C)

We feel there should be 100 ft. setback instead of the 75 ft. setback reserved in the Coastal Act. This would save the state from having to purchase land from the front row of homes on the bluff.

AIRPORT & DENSITY

This land was originally zoned for 1 unit per 2.5 acres before the Board of Supervisors changed hats to Airport Land Management in the Sept. 1996 meeting and in 3 minutes voted to change the zoning to 2.4 units per acre.

This 26.5 acres was zoned 2.5 acre per unit for a reason. Beside all the other sensitive reasons to leave this 2.5 acre per unit are the obvious reason. **THE AIRPORT AND THE COAST GUARD. This land is in the #2 flight landing approach.** The Coast Guard Helicopters fly lower than the commercial and private aircraft and sometimes are a lot noisier.

WE DO NOT WANT TO FORFEIT OUR AIRPORT OR COAST GUARD. THEY ARE TOO IMPORTANT TO HUMBOLDT COUNTY!!!

EXHIBIT NO. 28
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 5

MAD RIVER FAULT ZONE

(A)

The system consists of northwest trending high-angle normal & reverse faults approximately 50 miles long onshore, and perhaps extending 30 miles in length offshore (Converse Davis Dixon Associates, 1976). This system considered active and is suspected of being responsible for the magnitude 6.5 earthquake of December 21, 1954. (McKinleyville Community Plan update: February, 1993 for Humboldt County Planning Dept.)

(B)

State of California requires no structures intended for human occupancy be located no closer than 50 feet on either side of earthquake fault line.

The only road to enter or leave this proposed Sand Pointe Subdivision has been designed on the Mad River Fault Zone.

COASTAL PUBLIC ACCESS PROTECTION

(A)

The Public Access Protection Regulations shall apply to all lands located between the public road and the sea.

The first public road is Fortune Street. Therefore, the first public road between the sea and the land, will be denied public access because of a "Gated Subdivision" with 5 foot board fences and a private road.

EXTRAORDINARY PUBLIC BENEFITS

NONE

(a) Beach dedication - 67.27 acres - Underwater for over 20 years.
(b) Utilities underground - This is done in all new subdivisions.
(c) Dedication of 5000 sq.ft. - for Hammond Trail outside gated entrance. This is an insult to the PUBLIC. (The same has been dedicated less than a block away and has never been used by the public).

RECOMMENDATION FOR SUBDIVISION

1. No street lighting - same as surrounding area
2. 2.5 acre per unit - surrounding areas zoned for 1/2 to 5 acres
3. Public Roads - no gated community - open Wilbur St. to subdivision.
4. No R V storage facility - larger lots and public roads. No need for R V storage area.
5. 100 foot setback - for protection of the Hammond Trail
6. 50 foot setback - both sides of Mad River Fault Zone
7. Height restriction on buildings, trees and shrubbery as to keep within consistency of the surrounding neighborhood and viewshed.
8. Hazardous waste - new testimony on August 1996 presented to Board of Supervisors in regards to toxins used on land was ignored. (see attached pages). 1, 2, 3
9. Public use of the 26.5 acres has been documented by aerial photographs shown at the February 1997, Coastal Commission Meeting in San Diego, CA

Thank you for reading over and considering our concerns on this project.

Pat Hassen and the Concern Citizens
of McKinleyville, Westhaven, Trinidad, Dows Prairie and F

P Hassen

EXHIBIT NO. 28
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 5

6 Aug 96

To Whome It May Concern:

During the summer about (8) eight years ago I was watching a tractor with tanks on it working on what was known as the bulb farm. As I was hiking later on in the day. At the end of Fortune Street. I observed the tractor at the end of the field. It was being cleaned out so I walked toward the tractor and a fellow that was cleaning it came toward me very quickly saying stay away from here because we are using Arsnic Trixoide and it is very dangerous.

Morris Stine

Morris Stine

McKinleyville Ca.

EXHIBIT NO. 28
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 3 of 5

Attachment 2

Copy

Patricia Hassen
2975 Fortune St.
McKinleyville, CA 95519
(707) 839-8241
Fax #: (707) 938-5188

October 9, 1996

Moser Realty
Brian & Cindi Hunt Company Real Estate
1836 Central Ave.
McKinleyville, CA 95519

Re: Sand Pointe Development
775 Murray Rd.
McKinleyville, CA 95519
APN 511-011-14

We, the concerned citizens are requesting permission to take soil samples on the North-East corner of the Sand Pointe Development project.

North Coast Laboratories has been hired to take the samples. We would like you to be present at the site when these samples are taken.

Please contact me at the above telephone number or fax your reply to me by October 18, 1996 so, that we can set a time and day convenient for you. North Coast Laboratories would like to have a couple of days notice before testing.

Thank you for your co-operation in this matter.

Sincerely,

Pat Hassen
Representing Other Concern Citizens

EXHIBIT NO. 28
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 4 of 5

Moser Realty
and
Investments

October 11, 1996

Patricia Hassen
2975 Fortune Street
McKinleyville, CA 95519

RE: Response to your letter dated October 9, 1996

Dear Ms. Hassen,

The issues regarding the soils at the Sand Pointe site have been thoroughly addressed and resolved to the satisfaction of the Humboldt County Public Health Department and the North Coast Regional Water Quality Control Board.

Any request to enter upon our private property is hereby denied.

Sincerely,

Cindi Hunt

Brian Hunt

Steve Moser

cc: North Coast Laboratories

P.O. Box 2192
1836 Central Avenue
McKinleyville, CA 95521
(707) 839-3233
FAX (707) 839-3234

EXHIBIT NO. 28
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 5 of 5

RECEIVED
MAY 27 1997
CALIFORNIA
COASTAL COMMISSION

Mr. James Muth
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, Ca 94105-2219

May 21, 1997

Dear Mr. Muth,
RE: Humboldt County-Sand Pointe Subdivision

As a suppliment to my recent letter, I enclose a copy of the plans that the Humboldt County Planning Department changed requiring a greater setback from our back lot line. Our back lot line (west) adjoins the proposed Sand Pointe Subdivision.

The added setback prevents us from a view of Trinidad Head from our house. View is value, in my opinion. We were given no options.

As an added bit of information, I served on the Humboldt County Planning Commission from 1-91 thru 12-94 and served as chair of the commission for the year of 1994.

Thank you for your consideration on this project.

Sincerely,
Dale Brown

Dale Brown
2820 Fortune St
McKinleyville, Ca 95519
707-839-3876
APN 511-401-02

EXHIBIT NO. 29
APPLICATION NO. A-1-HUM-96-70
Correspondence

May 28, 1997

RECEIVED
JUN 02 1997
CALIFORNIA
COASTAL COMMISSION

Mr. James Muth
CALIFORNIA COASTAL COMMISSION
North Coast Area
45 Fremont, Suite 2000
San Francisco, CA. 94105-2219

EXHIBIT NO. 30
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 2

RE: Appeal No. A-1-HUM-96-70
Project Description: Steve Moser and Brian & Cindy Hunt

Dear Mr. Muth:

On the above referenced project, we would like to address the issue of the coastal view by the public and private residents in the vicinity.

Our contention with matter this dates back to 1993, during which time several homes were being built within the Pacific Sunset Subdivision. Frustrated by the ambiguous information given to me by the Humboldt County Planning Department, I finally appealed to you in search of a reasonable explanation. Prior to the construction of our home in 1989 the County agreed to an 18' height restriction among several homes along the west boundary of our project. It was required that these parcels adhere to this temporary 18' height restriction created by both the developer and the County as a "marketing window" in order to preserve the view shed of homeowners purchasing parcels to the east of these lots. This restriction was tied to the Coastal Development Permit (Case No. CDP 81-92) in place during that time. You had informed us that application for a Coastal Development Permit does not consider the criteria of height restriction, and that this restriction was agreed to by a Local Coastal Planning Committee who were conferred with by the planning staff. Enforcement of this restriction was, mildly speaking, poorly handled, brought to light several years later in a significant decision made by a Planning Commission hearing held August 4, 1994 (Applicant File No. APN 511-401-08; CDP 81-92) wherein a proposed project was forced to comply to the expired 18' height restriction. The evidence was overwhelming and the vote unanimous, pointing to the County's complete mishandling of this issue.

In light of the 23' height restrictions which are now being allowed in the Sand Point subdivision, we appeal to the Commission that consideration of existing residences who performed in accordance with the County's action be made. We believe the Planning Department should be held accountable for their decisions and are upset by the politics which seemingly allows major developers greater rights over those who have already invested their futures. Homes that have been built under the 18' height restrictions have set a precedence for any development which follows to the West. Continuance of the view shed agreed to originally should be preserved.

We believe that land use planning particularly as it relates to diminishing coastal property, should is a resource for the enjoyment of *all*. The Sand Point project as it is presented, promotes a feeling of "Us vs. You" with the use of fences and locked gates. We did not move to the North Coast to live in a community which creates artificial barriers and pretense but rather to reside in an area where we be an integral part of our environment. To us the Sand Point project is better suited to an urban, high density area where it's amenities can be better appreciated.

Sincerely,

Carolyn Dentler
Dennis Dentler
Carolyn and Dennis Dentler

EXHIBIT NO. 31
APPLICATION NO. A-1-HUM-96-70
Correspondence

RECEIVED
JUN 19 1997
CALIFORNIA
COASTAL COMMISSION

To: California Coastal Commissioners
From: Elizabeth Alves
2990 Fortune St
McKinleyville CA 95519
Date: 14 June 1997
Re: Sand Pointe Appeal

In considering the aspects of this proposal, I direct your attention to the new overhead photographs taken and submitted by Galen Hassen. They clearly show continuing instability of the bluffs along the eastern side of the lower reach of the Mad River. Comparison with the previous Hassen photos and earlier ones from the Humboldt County Public Works Department document the process.

The applicants and their agents have repeatedly asserted that bluff erosion and failure are unlikely along the subject parcels, even while they admit such activity immediately north and south of it. The County of Humboldt, CalTrans and property owners north of Widow White Creek are engaged in a protracted set of hearings to attempt agreement on the causes and solutions of bluff failure there. While some degree of wave action is involved in that stretch of the bluffs, there has been virtually no ocean wave action south of Sand Pointe for many years, yet property owners there are experiencing failure which decreases the size of their lots and threatens their homes.

It is important to note that those properties began with bluff set-backs much wider than those proposed for Sand Pointe. If the Sand Pointe property enjoys some immunity from the bluff failure problems associated with properties to the north and south of it, the most likely reason is not that it differs in physical geology/hydrology, but because there are no houses built on it near the bluff. A reasonable conclusion is that the forces related to subdividing and building homes on the top of the bluffs were a contributing factor in the bluff failures to the north and south.

The Hammond Trail is a spectacular coastal resource which permits the public to enjoy river and ocean views, birds and wildlife. Development near the top of the bluff would surely endanger the trail. The proposal to gate Sand Pointe and lock out the public compounds the issue of access.

Fortune Street is currently the public road closest to the sea, and it is used regularly by members of the public for the ocean views. The applicants propose to block most of those existing views, and to exclude the public from the streets inside their development, resulting in a substantial net loss of public access to ocean views. The argument that the Hammond Trail provides adequate public access depends its continued existence. The Hammond right-of-way has already been lost to bluff erosion north of Widow White Creek, where the density of development on the top of the bluff is much less than proposed for Sand Pointe.

Please consider the serious hazards of bluff failure, site failure associated with the earthquake fault, the airport approach zone, public access and neighborhood compatibility as you look at this proposal. All the hazards are exacerbated by the increased density requested. You have the authority to protect the California coastline--please exercise it.

RECEIVED
JUN 19 1997
CALIFORNIA
COASTAL COMMISSION

TESTIMONY FOR CALIFORNIA COASTAL COMMISSION, JUNE 11, 1997
BY GEORGE WALLER, MCKINLEYVILLE, CALIFORNIA

One significant issue with the proposed Sand Pointe development is that it does not fit into the surrounding area. The density is too high, and the gated access is not compatible with the neighborhood.

I am not opposed to reasonable development using existing zoned density, after taking into account the airport requirements, earthquake zones, and bluff areas, which cannot be developed anyway. My current belief is that this would allow less than 16 parcels at current density constraints, and with a 20 % planned Unit development density bonus would result in less than 20 parcels.

The project as presented will have 63 parcels and is unacceptable as compared to 16 which are allowed under current zoning (without planned unit development density bonus). Unacceptable density can be measured in its symptoms, which are unacceptable traffic safety problems, unacceptable destruction of existing neighborhood character, unacceptable degradation of public views, unacceptable degradation of public access, unacceptable reliance on public infrastructure such as roads, water, and sewer.

In an airport zone, unacceptable noise-level incompatibility (too many complaints) can be added to the list. This is significant because it inhibits the ability of the airport to serve its purpose as the area grows and flight technology changes. This was confirmed by testimony of airport officials at public hearings regarding this project.

Specific unacceptable traffic safety issues include the HWY 101 northbound off-ramp at Murray Road, where, if one wishes to turn west, one must turn left around a blind corner precisely where pedestrians are crossing the street. Between the traffic on Murray, the on and off ramps, and the pedestrians, this is *currently* a daunting place for an able and responsible driver. I would like to see the CHP response to this traffic safety issue.

Coincidentally, about two years ago, a CHP officer nearly hit me at this intersection, when he had to move the front end of his car into my lane in order to look my way to see if I was approaching (that's how this intersection works!) He slammed on his brakes just in time, and thankfully there was no contact, only a close call. I was frightened, but I am sure the CHP officer felt worse. I can easily empathize with him since I have had that exact experience several times myself, due to the fact that I live and work near that off-ramp and make that turn at least twice each day.

This precise point of blindness at this intersection is also the *only* legal place where the students can cross to the nearby high school and elementary schools, and is the *only* legal way to access the convenience store from the west side of the freeway. The closest other store on the west side of the freeway is Roger's Market, a mile away (by trail only), and the nearest other place for pedestrians to cross the freeway is at School Drive, also about a mile away by trail to the south. There is currently no other legal way to cross the freeway to the north of this precise point unless

EXHIBIT NO. 32
APPLICATION NO.
A-1-HUM-96-70
Correspondence
Page 1 of 5

one wades across widow white creek, although a trail is planned which will make connection with Airport Drive, to the north, about three quarters of a mile away, by trail only. The planned Sand Pointe development is situated in this north west direction from the Murray offramp, where *all* vehicle traffic and most pedestrian traffic to *any* school, store, or business, will need to use this intersection and cross the deadly spot where the CHP almost hit me. **This is a density issue.** The impact of the difference on this intersection alone, between developing the currently allowed 16 units and the planned 63 units should be of concern regarding traffic safety.

I can also specifically attest to how the planned development will degrade the surrounding neighborhoods, because I live in the adjoining Pacific Sunset Neighborhood, directly to the east of the site. For about six years, I have lived and worked at this location, operating a small construction and consulting business in the water treatment industry.

Let me describe my neighborhood, which is the primary adjoining neighborhood to the proposed Sand Pointe development. The parcels are spacious (over 20,000 sq ft), and laid out to form a loop circulation with one outlet to Murray Ave. There are no secondary units on the parcels, and there are very few outbuildings or trees, and we are on a bluff; consequently there are corridor views of the ocean continuously as one walks the loop of the neighborhood.

The streets are clean and wide, allowing plenty of on street parking, bicycle riding, hockey playing, and skating by the children and adults, too. The pavement and sidewalks are smooth and inviting; so many people come from outside of our neighborhood to enjoy strolling jogging, skating, and bike riding;. We get wheel chair folks, we get lots of people teaching their teenagers to drive (paradoxically, because I do not believe it is such a safe place to learn to drive) and even an occasional horse. We get lots of people walking, and on bicycles, who informally use the existing access to Widow White Creek and the Hammond Trail. I have had people from outside our neighborhood come up to me and express appreciation for our open neighborhood and open attitude towards people who "walk our loop."

The utilities are generally underground in our neighborhood, there is an undeniable open, airy feeling to the place. There are no streetlights, and so in the evening one can see the glow of the setting sun and also at night, the stars and the comets and the meteors.
It is foggy here most of the time, so on the occasional times that the night sky is clear, we feel awesomely blessed by the views and the ambiance. There is good access to the Hammond Trail and to the Mad River. People come from other parts of town to walk through this neighborhood or sit in their car and eat their lunch.

One reason the State of California mandated that Planned Unit Development (PUD)/density bonus be considered for projects, is that it would allow developers to be able to afford better planning than has often occurred. The Sand Pointe project fails this justification for PUD (and density increase) status, because it is the antithesis of good planning.

The basis of all good plans must be the setting of the project: the surrounding land uses, the topography, the climate, the neighborhood, the zoning(!). The setting for the Sand Pointe Project is very unique, as I have explained. I do not think anyone can argue that it is good planning to put into this unique setting, a development of parcels sized down to 9000 sq ft; a

EXHIBIT NO. 32
APPLICATION NO. A-1-HUM-96-70
Correspondence Page 2 of 5

walled, gated, locked enclave; a Recreational Vehicle (RV) storage area; a density increase of 300% over what the current zoning apparently calls for.

The planners also failed in another fundamental way. The PUD concept is based on the expectation of *better* planning. The purpose of residential planning is to produce housing as a place for people to live, better planning produces housing which allows better quality of living or better economy of living. Once again the planners failed to look at the setting. The existing neighborhoods into which this plan would be thrust, have a strong coherency in the existence of sharing neighborhood interests and activities, including the annual street barbecue. There is an informal, but very strong neighborhood watch organization and ethic, where one does not hesitate to be proactive in observing and thwarting those who would cause damage to neighbor's property or harm to their families. The same qualities of our neighborhood which gives it the open-sky, sunset vista character, gives us the ability to be able to closely watch each others houses and properties (if we choose to develop that relationship with each other).

The neighborhoods are linked closely in other matters also: one family can easily watch another's children when needed, and also in help each other with house maintenance skills. The coherency of our neighborhood allows mutual support, protection, and fun, which is exactly what quality neighborhood living is all about.

Again it is unbelievable to those of us living and working near the project site, that the planners are asking for bonus points for their project! Into our functioning, quality, coherent neighborhood, they are planning a walled, gated, community, which will most assuredly seriously and significantly block communication and cooperation with the new neighbors. The proposed plan would create a neighborhood divided physically by a wall, which could not help but engender feelings of separation on a social or economic level between those inside the gate and those outside the gate, and which would negatively effect the open feeling (both visually and socially)of the whole area, including neighborhoods to the east, south and north of the project site.

The proposed Sand Pointe development negatively impacts the quality of lives in our Pacific Sunset neighborhood, by unanimous agreement of *all* who live near the site (except the seller's of the parcel). Just as unfortunate, the proposed Sand Pointe would also deprive the future Sand Pointe residents the opportunity of our quality kind of experience (if they so choose to embrace it). It would construct a walled enclave within the existing setting, isolating the inhabitants on both sides of the wall and lowering the quality of the living on both sides of the wall!

A PUD density bonus must be based on the acceptance of the validity of the Extraordinary Public Benefits, and also on the acceptance that the Planned Development is an improvement on the existing plan (the current zoning, setbacks, and other existing constraints). The Sand Pointe Proposal fails on both these accounts. **The existing density and layout, the current zoning, the currently agreed-upon land use, is much more advantageous to the potential buyers of the parcels, the public, the County, and the neighbors, than the proposed PUD.**

As far as gated communities go, I have had some experience in living next to one, and it is very ugly. By some twist of fate, before I moved to my current location, I lived on Eucalyptus Street in Mckinleyville. This was during the transition time of development of Knox Cove, the

EXHIBIT NO. 32
APPLICATION NO. A-1-HUM-96-70
Correspondence Page 3 of 5

gated community given such high marks by the Humboldt County Planning commission during their deliberations on the Sand Pointe project in July, 1996. What a difference my perspective is! I lived adjacent to the Hammond trail, directly across (50 feet) from the edge of the Knox Cove development. Before Knox put the chain link fence across the access, I constantly observed people using the existing trail to walk to the river. This had been an historical route to the railroad and the ocean for over 50 years, and when the Mad River migrated north along the rail line, this became one of the very few local access routes to the river.

Most of the people using this area were senior citizens and children, but other family members and adults traditionally used this area also. During the season, families and individuals would come to this area to pick berries and to fish. There was a significant wetland on the site, where the children would gather frogs and explore the productive and diverse habitat of the undisturbed wetland. There was a truly incredible sand dune on the edge of the bluff, which created a natural park and play area for the children. It was common, at least a weekly occurrence for some families, for a parent or caretaker to take the children to go play on the "big sand dune." From the sand dune, on the edge of the bluff, one could look out over the Mad River Estuary and the Pacific Ocean. We would watch fishing boats, cruise ships, freight (log) ships, whales, etc.

Our neighborhood adjacent to Knox Cove was very mixed and quite coherent considering the diversity. We had college students, working families, and retired folks. We knew our neighbors and relied upon each other. Knox Cove destroyed the potential of expanding (and maintaining) this neighborhood cohesiveness, along with taking for ever our sand dune and our access to the river. The neighbors who eventually built on the Knox Cove side of the fence were from the start alienated from us and us from them. They were 50 feet away, but to walk to their front door was nearly a mile due to the chain link fence. This fence precluded our children from playing together, there was no opportunity to form mutual help alliances such as neighborhood watch. The wetland and the forest and the sand dune were destroyed. The Hammond Trail sported a brand new chain link fence running along side. My son was the paperboy for a short while (and was given the combination to the locked gate of the Knox Cove enclave), but he was told by Mr. Knox himself that the locked gate was dangerous and that the boy shouldn't be going through the gate without an adult.

During the deliberations on the Sande Pointe development, the Humboldt County planning commission defended Knox Cove development because they have "clients there who seem to like the place". (I was at the meeting and this was also recorded). This is a very limited perspective. I see (from behind their locked gate) many building lots and houses in Knox Cove which have had for sale signs in front of them for many months. I know there is concern about building on some of the lots there which are located directly over the destroyed wetland. Disturbed site vegetation and disturbed natural hydrology (including destruction of the wetlands) has augmented the erosion of the bluff between the development and the Mad River. From the Mad River one can see the tires and tarps and concrete and all manner of attempts of the residents to stop the bluff erosion, and it is ugly, ugly, ugly. From the beautiful Mad River Estuary, it is ugly, ugly, ugly. Knox Cove is a blight on the community fabric of Mckinleyville for everyone except those who seem to be making money in one fashion or another from it. The proposed Sand Pointe project, in nearly all respects, is simply another Knox Cove. Please come on by and see for yourself, I would be happy to walk you through these neighborhoods (or at least up to any locked gates).

EXHIBIT NO. 32
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 4 of 5

I have seen this problem before because I had four uncles (my mother's brothers) who ran a real estate business in Los Angeles in the 50s and 60s, when the place looked a little bit like Mckinleyville and was ripe for development. My uncles made a tremendous amount of money, three of them spent every penny of it and one (the one who doesn't drink) is living comfortably at 80 and is an active, happy person. All of them contributed greatly to their community and their family, and no one at that time had a clear view of what L.A. would be like 50 years later. None of us, however, and probably no one in Humboldt County, currently would chose to live in the places that these men helped develop.

Moving to places with more walls, higher density of people, and less neighborhood coherency is an option for all of us and all Americans. It is astounding to me that our county bureaucrats and local developers seem to want to bring that scene up here to us, or that they would want to leave an overdeveloped, overvalued, crowded, noisy, pit of a place for Mckinleyville's children, as my Uncles left to the children and property owners of Los Angeles. There are only a couple of reasons that come to me why developers and county bureaucrats would want to do this to us, you tell me if they are as obvious to you as they are to me!

I have since moved from the property adjacent to Knox Cove, and by some twist of fate now find myself living in the neighborhood adjacent to another locked, gated, socially destructive, and environmentally destructive proposed development, the Sand Pointe development.

It is totally within Mr. Mosher's rights to develop his property (and I support him in this), but it is way out of line for him to increase the existing density by over 300% and to participate in degrading our coastal and cultural resources. I believe the Coastal Commission was created to make the best decision on cases just like this. Please help us protect our coast and protect developer's rights to *appropriately* develop their lands. Thank you for your consideration in this matter, and feel free to give me a call if I can help clarify any of this. (707) 839-8167 or WALLERGM@aol.com.

George Waller, Mckinleyville, CA.

ps-about the author of this letter. I own and operate a business which helps public sector and private clients utilize constructed natural systems (such as wetlands) to clean polluted water. I live and work out of my home in the Pacific Sunset subdivision, which is directly adjacent (to the east) to the proposed Sand Pointe Development. The ocean view value of my property will not be greatly affected by Sand Pointe development because I live on the east side of the Pacific Sunset subdivision, closer to the freeway and farther from the ocean side of the neighborhood. I have enclosed a company brochure to help you understand from where I come. Thanks again-

EXHIBIT NO. 3
APPLICATION NO. A-1-HUM-96-70
Correspondence Page 5 of 5
California Coastal Commission

RECEIVED
JUN 19 1997
CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO.	33
APPLICATION NO. A-1-HUM-96-70	
Correspondence	
Page 1 of 2	

Date: June 14, 1997

To: Mr. James Muth, Coastal Planner
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

From: Barbara Morrison
2740 Kelly Ave.
McKinleyville, CA 95519

Re: Sand Pointe Development A-1-HUM-96-70

Mr. Muth,

As I have expressed to you in previous correspondence regarding this development, I hope that your staff will address the number of problems that this ill-conceived project presents.

When my husband and I bought our property along this bluff 18 years ago, we did so because it offered a 160 degree unobstructed view of the Pacific Ocean, and every time we turn of Highway 101 and immediately see the surf, we appreciate the unique coastal quality of this area: it is the first place north of San Francisco that the Ocean can be viewed from Highway 101. So the proposal of Sand Pointe developers to erect a walled obstruction to that view for all who exit 101 to access the Hammond Coastal Trail or just to view the Pacific is inconceivable. To create a sense of "exclusivity" for a few with glaring street lights, walls, and gates, at the expense of the general public, appears as ill-conceived as placing the P.G.E. Nuclear Power Plant at the entrance to the city of Eureka was. At least 20 years later we have the sense to remove the lights and fences and stacks of the power facility, especially, of course, because we're sitting on major earthquake faults, another problem with this development's request to increase density and height of structures.

But most glaring among this project's problems is the issue of bluff erosion. My neighbors and I along Kelly Ave. can speak to this first-hand. As I mentioned to you before, when the mouth of the Mad River was in front of us a number of years ago, the Army Corps of Engineers told all of us homeowners along here that we would have to move our homes. Mr. Steve Moser was one of those bluff homeowners who chose to sell his home rather than deal with the ongoing erosion. Fortunately for those of us who remained, the river moved farther north and threatened the public entity of Highway 101, so the State became involved in attempting to contain the erosion and movement. But what an irony that now Mr. Moser argues the stability of this area for development profits.

In fact, Mr. Moser would have you think this was a problem of the past, but as a specific example of this being an ongoing problem, I have watched dump trucks delivering fill and stabilizing materials to a lot 8 houses down the street from me for the last two

months--sometimes almost daily. When I inquired about the cost and duration of this bluff restoration project, I was told that it was a $60,000 plus "complicated" project. Obviously, erosion is something we deal with daily.

I would therefore urge the Coastal Commision to return the density of development to its original 1 unit for 2.5 acres in consideration of fragile bluff erosion and earthquake faults, insist upon removal of the obstructing walls and gates, and ignore the ludicrous suggestion by the developers that they should be granted these special concessions because they're giving the community "extraordinary benefits" of underwater land that creates a liability for the county/state.

This is a beautiful coastal area that should and will be developed. What is hoped is that this commission will have the foresight to recognize this area as a gateway to the coast and its trails, not a series of gates obstructing the coast.

Thank you,

Barbara Morrison

EXHIBIT NO. 33
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 2

June 30, 1997

RECEIVED
JUL 03 1997
CALIFORNIA
COASTAL COMMISSION

Mr. James Muth, Coastal Planner
California Coastal Commission
North Coast Area Office
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Permit #A-1-HUM-96-070

Enclosed is a copy of a memorandum dated 9/2/79 which was initiated by your office to the Humboldt County Planning Department. This memo refers to the same parcel of land referenced in the above-numbered action. All of the questions raised in this memo remain unresolved and are a portion of the same Sand Pointe issues now before the Commission.

As stated in your Staff Report, 1/24/97, p.31, the applicable policies in the Coastal Act Section 30251 and MAP Policy 3.42 and MAP Text 4.23, address issue of compatibility with surrounding areas. This is of particular significance to the adjacent subdivision residents as well as to the public at large. This is a popular view access area. The proposed development, in its county-approved form, would alter in a major way the natural landform.

As you are aware, there are other equally significant issues such as bluff erosion, prior use soil contamination, seismic sensitivity, aerial impact concerns, to name a few. All of these issues have been brought to your attention by several of the appellants, so rather than bore you with repitition, I will simply concur with their positions.

Prohibiting the gated concept, the high density and the unlimited height construction would serve to be in compliance with the Coastal Act and MAP policies. We urge the Commission to keep the spirit of the Coastal Act alive by not approving the Sand Pointe proposal in its original form.

Sincerely,

Sylvia Jeppson

Neal S. Jeppson

Neal S. Jeppson
2900 Fortune Street
McKinleyville, CA 95519
(707) 839-4672

Encl.

EXHIBIT NO. 34
APPLICATION NO. A-1-HUM-96-70
Correspondence

EXHIBIT NO. 35
APPLICATION NO. A-1-HUM-96-70
Correspondence

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

July 10, 19
Re: Sand Pointe
Attn: James Muth

Dear Members of the California Coastal Commission:

The Sand Pointe Subdivision plan is not compatible with the surrounding area because of the proposed density bonus, bluff instability and the locked gate. None of the surrounding areas have homes in excess of two per acre.

Density and the proposed locked gate are relevant coastal issues because of natural hazards and the adjacent segment of the Hammond coastal trail. The Hammond Trail lies immediately west of the proposed subdivision, between the subdivision and the Mad River. The trail segment which was to have been built this year immediately north of the subdivision was delayed because of concerns about the environmental sensitivity of the mouth of Widow White Creek and the patch of shore pine forest next to it.

Creating a populous subdivision here with a locked gate would endanger prospects for that as yet unbuilt trail segment immediately to the north. I ask you to minimize the negative impacts of this subdivision upon the Hammond Trail by removing the front row of homes from the proposal and replacing them with landscaping that does not require summer irrigation.

I also ask you to deny the request for a locked gate, because a locked gate is not compatible with heavy public use along the Hammond Trail. People who choose to live behind a locked gate can be expected to try to obstruct heavy public use in the immediate vicinity of their homes. We do not want anybody to block public use and enjoyment of that trail. Many of us have been waiting for years for this segment of the coastal trail to allow us to walk to Clam Beach about a mile to the north.

The Franciscan soil type at this site is nothing more than an ancient sand dune. All that is needed to trigger bluff erosion is to increase runoff with excessively dense development and to permit people to plant lawns and water them heavily in the immediate vicinity of the bluff. Several nearby homeowners have lost a large percentage of their back yards when the bluff started to go, and once it starts, it's exremely difficult to stop it. If the bluff in front of this subdivision fails, it will destroy the Hammond Trail and public access to this highly popular and scenic area.

Mary Gearhart, the landscape architect working with this subdivison, is an expert at designing low-maintenence perennial gardens. She designed a beautiful one for a small front yard in nearby Sunnybrae subdivision, and she could design one for the strip above the bluff which has to be left as a setback. We recommend you require at least a 150-foot setback, and allow the developer to use that strip for the park he plans to have within the subdivision. As a member of the Califonia Native Plant Society, I recommend planting natives. Local natives require no summer watering and support birds and wildlife. Low-growing varieties which will not obstruct views could be used.

Please protect this beautiful but fragile coastal parcel.

Sincerely,
Barbara Kelly
2670 Kelly Ave.
McKinleyville, CA 95519
phone: (707) 839-5356

HUMBOLDT COASTAL COALITION

P.O. BOX 714
EUREKA, CA 95502

Attn: James Muth
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

RE: Sand Pointe Subdivision

July 10, 1997

Dear Coastal Commission Members:

The most urgent coastal issue related to this subdivision proposal is its potential to interfere with the public's use of the adjacent Hammond Coastal Trail. The segment of that trail with the most spectacular coastal views, where seals, cormorants and ducks can first be seen in the river and where the river mouth and Trinidad head first come into view, is the segment in front this subdivision. That trail is part of the coastal trail which will eventually extend all the way from Canada to Mexico.

The nearby landslides from the bluff which stands between this subdivision and the Hammond Trail demonstrate the danger this subdivision poses. The builders of that trail segment filled in some severe erosion gullies and planted native plants on them but, as you know, the more dense this subdivision, the greater the increase in runoff; and the more runoff, the higher the chance of bluff failure. There is already a great deal of seepage flowing into the Mad River from the base of the bluff below the proposed subdivision, even in summer. If the bluff fails, it will block and destroy the trail. We ask you to (1) deny the proposed density bonus, and (2) remove the front row of homes from the plans in order to ensure an adequate setback and prevent excessive irrigation which could trigger slides.

Coastal trails have priority in the Coastal Act over coastal subdivisions. One worrisome aspect of the timing of this subdivision is the fact that the Hammond Trail segment immediately north of this subdivision has recently been delayed because of environmental concerns about the sensitivity of Widow White Creek. The more lots sold in the subdivision, the greater the probability that one or more of the buyers will try to throw a monkey wrench into the building of that trail segment. People who choose to live behind a locked gate are more likely than the average home buyer to object strenuously to a public trail next to their home, even though that popular trail enhances real estate values.

We who have worked and lobbied so long for trails and public open space in our area do not want this subdivision to obstruct hard-won public coastal access. We would like to see that trail segment completed before Sand Pointe subdivision is built. However, we understand that the trail builders had to wait four years before they were able to obtain funding for the trail segment in front of Sand Pointe, and the next segment needs to overcome some other obstacles before the trail builders will be permitted to seek funding. If it is unrealistic or unfair to ask the developer to wait until the trail is built, we can at least insist that he lessen the potential for trouble by omitting the locked gate and greatly reducing the proposed housing density.

Aryay Kalaki
(707)442-1538
Co-chair

Frances Ferguson
(707)822-5079
Co-chair

Barbara Kelly
(707)839-5356
Secretary

EXHIBIT NO. 36
APPLICATION NO. A-1-HUM-96-70
Correspondence Page 1 of 2
California Coastal Commission

In conclusion, we ask you to require:

1. No more than one house per acre on this site, preferably fewer because of earthquake and slide hazards.

2. Romoval of the front row of homes from the subdivision and the planting of drought-tolerant natives within 150 feet of the bluff edge.

3. Removal of the locked gate and replacement of the high fences with shrubs to retain coastal views and mitigate inevitable negative impacts on birds and wildlife.

4. Whatever measures are possible to protect the adjacent segments of the Hammond Trail and full public access to it and to the Mad River.

Sincerely,
Barbara Kelly, for the Humboldt Coastal Coalition

JUL 14 1997

Michael and Kathryn Willett
2840 Fortune St.
McKinleyville, CA
95519
July 6, 1997

Jim Muth
Coastal Planner for the North Coast District
45 Fremont
Suite 2000
San Francisco, California
94105-2219

Dear Mr. Muth

We are writing with respect to the proposed Sand Point Subdivision In McKinleyville, CA

We would like to bring the following points to the attention of the Coastal Commission:

The applicants have requested variances from the existing zoning regulations on the grounds that their project provides extraordinary benefits to the community.

Yet their proposed plan in fact represents a significant negative deviation from the standards of development already in place - standards that were set after a long process of public debate.

Their proposal for a walled and gated high density suburb is clearly an obvious change in the character of local development which would be much more suitable in an urban environment.

Their proposed density increases in a seismically and geologically unstable zone would not only create very real liability for the local governments - but would also set a precedent for overuse of the rest of our beautiful coast.

They have declared that land that they cannot build on because of bluff instability and because of the presence of a seismic fault are to be donated to the local community as "parks". Not a bad idea on the surface - but - the community will not have access to these areas. This is an outrageous hypocrisy.

EXHIBIT NO. 37
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 2

Their proposal restricts traditional access to coastal areas - both for their neighbors and for the public as a whole.

The safety of their proposal is based on a patently absurd assertion that the bluffs on which the plan to build will be in their present location for fifty years - these bluffs have in fact had significant erosion in the three years since the project was proposed. The mouths of the Northern California rivers are some of the most hydraulically active areas in the world. They shift with alarming regularity.

The increased density they propose also occurs in proximity to our one local commercial airport. High density development in such areas only puts our County at risk for suits over noise and safety issues - as well as jeopardizes federal funds for its future operations.

The developers personal gain would result in significant decline rather than enhancement of surrounding property values.

In short, the developers are not asking that they be permitted to exercise their property rights, but rather that the community grant them an extraordinary opportunity for profit.

The irony in these events is that they would have had very little, if any, local opposition if they had proceeded along the lines of the current zoning restrictions.

The potential tragedy is that exceptions to balanced, environmentally and community-sensitive growth could become the rule.

Thank you for your time and attention in these matters.

Sincerely yours,

Michael W Willett MD

Kathryn Willett

Michael and Kathryn Willett

EXHIBIT NO. 37
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 2

JUL 14 1997

Michael W. Willett, MD
2840 Fortune St.
McKinleyville, CA
95519
Sunday, July 6, 1997

Mr. Peter M. Douglas
Executive Director
California Coastal Commission
c/o North Coast Area
45 Fremont, Suite 2000
San Francisco, CA
94105-2219

Dear Mr. Douglas:

I am writing to request that consideration of the application for the Sand Point Subdivision in McKinleyville, CA be postponed from your August to your September meeting in Eureka so that local opinion regarding the project can be more effectively voiced.

I am sensitive to the right that the applicants have to speedy resolution of their request, but a one month deferral would represent an insignificant delay in a process that has already lasted three years.

I am a local physician who has already testified on three occasions on local hearings held regarding this project. I would like to have the opportunity to bring my opinions before you in person - but the restraints of my professional schedule would not permit travel to southern California to testify.

I believe that my situation is not unusual. Most of the participants in the local public discussions have many other demands on their time.

Thank you for your time and attention in these matters.

Sincerely yours,

Michael W. Willett MD

Michael W. Willett, MD

EXHIBIT NO. 38
APPLICATION NO. A-1-HUM-96-70
Correspondence

No. Coast

RECEIVED
JUL 28 1997
CALIFORNIA
COASTAL COMMISSION

July 25, 1997

Dear California Coastal Commission:

I have a couple of comments regarding the "Exceptional Public Benefit" that the proposed Sand Pointe development is said to provide to the community of McKinleyville. I am a resident of the Hiller Road/McKinleyville Avenue area, however my son and I take frequent walks long the Hammond Trail.

1. A Gated Community does not constitute an Exceptional Public Benefit. A gated community only accomplishes a mind set of US versus THEM. McKinleyville already possesses one gated community towards the end of Kelly Road, and the public is actively discouraged from entering its confines. It must be pointed out that the Knox Cove Gated Community still has parcels that are available.

2. The proposed four parks are contained within the confines of Sand Points proposed gates. If the general public is unable to enter the confines of this gated community, I fail to understand how members of McKinleyville will benefit from the creation of these parks. It would be far more beneficial to the community of McKinleyville if the developer were required, through the Quimby Act, to contribute towards the existing parks of McKinleyville.

3. The general public's view of the coast will be impaired. The proposed 64 home subdivision, with homes arranged in four rows deep, will be surrounded by a six foot tall fence.

4. Dedication of 67.27 acres of beach front property valued at over $100,000. Once upon a time, (20 years ago) it was true, this parcel had beach front property. However, the mouth of the Mad River has since migrated from its previous site of School Road area, to just south of Vista Point. In 1975 there was a public access road to the beach from Murray Road, and extremely large sand dunes upon which my sister's and I used to play when we were children. That entire area has disappeared due to the migration of the Mad River. The only beach front property is located on the other side of the Mad River, and accessible only by using Mad River Beach or Clam Beach access.

Additionally, there has been a public prescriptive right of way along the river front which has been used by countless numbers of people, myself included.

In closure, the subdivision of Pacific Sunset was required to meet a minimum of 1/2 acre lots, abide by a maximum building height, and meet standard road widths. In order to provide for continuity of the surrounding neighborhoods, I encourage the Board to consider these comments during your decision making.

Sincerely,

Jill K. Geist
1069 Fritz Road
McKinleyville, CA 95519

EXHIBIT NO.	39
APPLICATION NO.	A-1-HUM-96-70
Correspondence	

LAW OFFICE OF
LAWRENCE O. EITZEN

RECEIVED
JUL 28 1997
CALIFORNIA
COASTAL COMMISSION

July 23, 1997

California Coastal Commission
North Coast Area, Attention: J. Muth
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Sandpointe - Commission Appeal No.: A-1-HUM-96-70

Dear Mr. Muth:

While I served on the Humboldt County Planning Commission, the Sandpointe Planned Unit Development Project came before us. I voted against the project for the following reasons:

The increased density was requested based on the Planned Unit Development's offering of benefits to the community at large. Four out of seven commissioners felt the public benefits were inadequate and only benefited the people within the future subdivision. The density increase in relation to the airport plan seemed bogus.

The fence to protect the riparian corridor between the houses closest to the bluff and the public trail, would do a better job of protection if located at the top of the bluff instead of at the bottom beside the public trail. Most of the houses closest to the bluff will not have a view of the ocean without lowering the trees between them and the view. The temptation to have an ocean view is too great for most of us to resist when we could just go out in our back yards and cut a few trees.

The removal of trees and bushes will undermine any protection the roots give the bluff against erosion. The bluff is eroding both to the north and south of this property and has, in the past, eroded on this property and been filled. I did not feel the setback from the bluff was adequate considering the history and present state of erosion in the area.

With gated communities along our ocean frontage the access to the ocean will only be for those physically strong enough to hike down to the trail. The rest of us will be locked out, in this case, a quarter of a mile away.

I thank you for your consideration.

Sincerely,

Kitch Eitzen

EXHIBIT NO.	40
APPLICATION NO. A-1-HUM-96-70	
Correspondence	

816 THIRD STREET P.O. BOX 75 EUREKA CA 95501 (707) 443-2209

RECEIVED
AUG 19 1997
CALIFORNIA
COASTAL COMMISSION

1991 Baird Rd.
McKinleyville, CA 95519
August 18, 1997

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

Commission Members:

As a resident of McKinleyville, I am writing to express my opposition to the Moser and Hunt proposed Sand Pointe subdivision APN 511-011-14. Please do not approve this subdivision as proposed for the following reasons:

1. This area of the coastline is undergoing active erosion. The changing course of the Mad River and its tributary, Widow White Creek contribute to the erosion.
2. An earthquake fault runs through the property.
3. The property is located within the number 2 landing flight zone, and the Coast Guard helicopters fly over the property frequently at relatively low altitudes, creating a significant noise and safety hazard if more than one dwelling unit per 2.5 acres is allowed.
4. The 67 acres offered for public use in exchange for a density bonus are under water and are of no use to the public for hiking, biking, picnicking, or enjoying a broad ocean view.
5. A Gated subdivision will detract from our sense of community and friendly atmosphere and create blatant economic segregation; fences will completely block the ocean view for the public in this area; the aesthetic value (feeling of openness and connection of land and ocean) of the Hammond trail bordering the property will be significantly decreased by a fence running along one side of the trail.

I do not want my taxes and insurance premiums to pay for the losses of those who choose to build or buy homes in highly disaster prone areas. When planning commissions and boards of supervisors permit building in disaster prone areas, resources and public monies are needlessly wasted over the long term to benefit a small number of affluent people in the short term.

Please follow the spirit of the mission of the California Coastal Commission and protect our beautiful coastline for use by all the public. Thank you for your serious consideration of this issue.

Sincerely,

Diane Ryerson

EXHIBIT NO. 41
APPLICATION NO. A-1-HUM-96-70
Correspondence

EXHIBIT NO. 42
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 2

Donald E. & Selby J. Fermer

3767 Erlewine Circle • Sacramento, CA 95819-1518

September 3,1997

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: SAND POINTE A-1-HUM-96-70

Dear Commissioner:

We are writing in support of the staff recommendation for denial of this Coastal Permit Application. These property owners have every right to develop their land, and we have acknowledged that from the first Planning Commission meeting in May 1996. But this proposal has been granted virtually every waver, variance, and exemption possible and is not in compliance with the certified Local Coastal Plan.

Any approved development on this land should include the following:

- Alquist Priolo set back of 50 feet on both sides of the fault line
- bluff set back of at least 100 feet
- riparian corridor protection at the bluff top
- no fencing along the Hammond Trail
- density in accordance with the Humboldt County Code (1 unit/3 acres)
- 18 foot building and landscaping height limit
- no street lighting
- non-gated and non walled to allow for coastal access and views
- standard street widths, corner turning radius, cul-de-sac diameters, and sidewalks
- no recreational vehicle storage facility
- soil testing at the location of the RV lot for Arsenic Tri-Oxide
- no density bonus for "extraordinary public benefits"
- maximum lot coverage of 35%
- standard building set backs from streets, corners and alleys
- adequate storm water drainage for a 10 minute time of concentration
- continuation of the existing Wilbur Avenue into the project site
- permit extension time limit of 2 years to allow for adequate review of monitoring program and mitigation measures.

All of the above would comply with the LCP and minimize risks to life and property. They would, we believe, require no special or discretionary exemptions and certainly would blend with the character of the surrounding community.

We thank your staff for taking the considerable time it has taken to research each of the issues related to this project. We thank you also for scheduling this hearing in Eureka so all of those interested, and able to attend, can observe or participate.

We urge your denial of the Sand Pointe Coastal Permit Application for this particular project. Thank you!

Sincerely,

Donald E. Fermer

Selby J. Fermer

EXHIBIT NO. 42
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 2

EXHIBIT NO. 43
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 2

Hartman Family
P. O. Box 3592
Eureka, CA 95502

June 16, 1997

RECEIVED
SEP 03 1997
CALIFORNIA
COASTAL COMMISSION

Mr. James Muth
North Coast Area
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Sand Pointe Subdivision
Moser/Hunt Application
File No.: APN 551-011-14

Dear Mr. Muth:

We, the Hartman Family, are owners of the remaining undeveloped lots in the subdivision adjacent to the subject. Our subdivision is know as Pacific Sunset. Because of our location and ownership, we feel that we are stakeholders in the development of Sand Pointe.

We respect the owner's right to develop their property. We, too, went through the same process. We started in 1977 and didn't get the final until 1984. We sympathize with Hunt and Moser and the challenges they are facing in this process. However, we feel that they should have to meet the same standards and make the same commitments we were obligated to make.

We wish to make the following points regarding the planning of this subdivision:

***The design of Sand Pointe should be fully integrated with Pacific Sunset.**

All during the planning and design of Pacific Sunset we had to take into consideration the future development of what has become the Sand Pointe Subdivision. The roads that we developed, Fortune and Wilbur, were designed to accommodate this future growth. It appears that none of the planning that we went through is being taken into consideration here in the Sand Pointe plan. No access is being planned through Fortune and Wilber Streets despite the extra expense we went through to prepare for this. We feel this needs to be corrected in their design.

***The density of development should be more in conformance to the density that Pacific Sunset had to meet.**

We were told from every corner; the planning staff, the Coastal Commission, Fish and Game, and from public comments, that Pacific Sunset should not exceed one half acre per dwelling density. There was a strong sentiment in favor of keeping as much space open as was possible. This included minimum use of fencing, underground utilities, and single story restrictions in several areas. We had to make every attempt to have Pacific Sunset look open and uncluttered; almost rural, as much as possible. We expected that the adjacent parcel would also have to meet this standard, so that the two would be homogeneous; i.e., low density, few fences, lots of room

between houses, wide expanses that could work as view corridors, an overall feeling of openness and a connection to the natural environment and ocean vistas adjacent to the site.

Instead, the design of Sand Pointe calls for much higher densities than we worked so hard to provide, and at a significant cost. The cost we paid includes obtaining fewer saleable lots, construction of underground utilities, extra wide roads, and additional roads, like Wilbur.

We feel strongly that Sand Pointe should blend into the type and style of design that Pacific Sunset was made to be. These shouldn't be two distinct developments, one ignoring the fact that the other is there. The community would benefit by seeking conformance to the density standards and open space requirements we had to meet. We think that Sand Pointe needs to be re-designed to reconcile it to the design of Pacific Sunset.

***Sand Point should provide views and access to coastal resources like Pacific Sunset did.**

Included in the many conditions that Pacific sunset had to meet were these: Single story height limits on some locations of 18 feet, depositing monies to be set aside for a public park, maintenance of view corridors by restricting placement of future houses, and access on the streets being developed for public use.

It does not appear that Sand Pointe is meeting these same conditions. Height limits on single story homes is to be 22 feet. The "parks" being proposed will be locked out from the public by the fact that this is to be a gated community. No consideration appears to have been made to maintain the views as much as possible with the existing homes and remaining lots of Pacific Sunset. And, finally, the public will not be allowed to access the coastal resources as they are through Pacific Sunset. We feel that Sand Pointe ought to meet the same conditions we had to meet.

In conclusion, we think that changes could be made that would fulfill the design ideas and extensive planning that Pacific Sunset started 19 years ago. Much time and money went into those concepts from, not only the Hartman Family, but also the planning staffs of several agencies, including Humboldt County, and the public.

Shouldn't planning efforts have continuity? Are not the benefits of low density at this coastal site important now as they were then? Aren't the views preserved by design important to be preserved as much as possible in future development? Shouldn't the residents of Pacific Sunset, who have expected development to occur on the Sand Points site, be entitled to the fulfillment of the design concepts and plans they were told to expect when they purchased their properties?

We hope that changes can be make to take these considerations into account. We have made a large commitment to this area and feel that, as stakeholders, we should be heard. Thank you for your consideration.

Sincerely,

Judith G. Hartman

The Hartman Family

May 3, 1997

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

Attention: James Muth

We have the following concerns regarding the proposed Sand Pointe subdivision in McKinleyville Ca.

1. The density is entirely inappropriate for this coastal area and not consistent with any other neighborhood areas.

2. A gated development in this location would be a slap in the face to all present community members. All roads in this project should be open to the public .

3. The minimum building setback from the bluff above the Hammond Trail should be restricted to 100 ft. We are primarily concerned with the bluff erosion and believe the trail would be in jeopardy if this setback is not mandated.

4. Furthermore, a 50 ft. seismic setback as per A.P. study zone should be required.

5. A fence built along the east side of the Hammond Trail would be especially distasteful. This is a pristine nature area and would only be an insult to the surroundings.

6. We also object to the proposed RV park . This would be an entirely unnecessary and unsightly use of this land.

7. Standard county roads and widths, with no streetlights should be required so that everyone can continue to enjoy this coastal area.

Thank-you.

Sincerely,

Ted Carignan
Kay Carignan

Ted and Kay Carignan
2940 Fortune St.
McKinleyville CA95519

RECEIVED
SEP 03 1997
CALIFORNIA
CO

EXHIBIT NO. 44
APPLICATION NO. A-1-HUM-96-70
Correspondence

Sierra Club
North Group, Redwood Chapter

P.O. Box 238
Arcata, CA 95518

September 11, 1997,

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

RE: Public hearing on the Sand Pointe project (Moser/Hunt)
A-1-HUM- 97-070 – Eureka, California

Members of the Commission:

Thank you for allowing this time today. I am Lucille Vinyard, 68 Metsko Lane, Trinidad, one of the appelllants (Redwood Chapter, Sierra Club).

The Sierra Club fully supports the staff recommendation for denial of this coastal bluff subdivision. The location is totally inappropriate for the current proposal. We noted the drawbacks such as known fault zones; inadequate set backs from the bluff edge above Mad River; interference with the Hammond Trail; the airport approach zone; loss of open space and the character of the community; the visual impacts of a gated development with high density occupancy, and other issues.

The Sierra Club has monitored coastal zone developments for 25 years and believe this project would be a step backward for coastal protection which voters expected with the passage of the Coastal Act.

In its conclusion (addendum to staff report, August 29, 1997), we noted a provision for project re-design which, if done, could meet Coastal Act policies and the County LCP.

Thank you for your consideration.

Lucille Vinyard

EXHIBIT NO. 45
APPLICATION NO. A-1-HUM-96-70
Correspondence

RECEIVED
APR 17 1998
CALIFORNIA
COASTAL COMMISSION

April 15, 1998

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

Attention: James Muth, Coastal Planner
Re: Sand Pointe Subdivision

Dear Mr. Muth and Members of the Coastal Commission:

Please deny the current Sand Pointe subdivision proposal and ask the developer to come back with a better plan, with lower densities, larger lot sizes and without a six-foot wall and locked gate.

We already have one locked-gate coastal subdivision nearby in McKinleyville, the Knox Cove subdivision, which has many undeveloped lots in spite of having been available for years. I am certain it is developing more slowly than it would have without the locked gate. We neighbors are concerned about the negative impacts of locked-gate subdivisions on community cohesiveness and civic mindedness. Such a subdivision is particularly inappropriate right next to the most popular trail segment in McKinleyville and one of the most heavily used trails in Humboldt County.

The density and small lot size proposed are particularly unsuitable next to the edge of an erosive bluff edge. If you permit homes to be built too close to the bluff edge, all California taxpayers will be affected when the houses fall over onto the Hammond Trail.

I have been waiting for years for the Hammond Trail to be completed as far as Clam Beach, about a mile north of Murray Road. I want to be able to walk to Clam Beach from my home, as I used to before the Mad River cut north and left an impassably steep bluff edge. I fear that if Sand Pointe sells lots before the trail is built, buyers of lots in a locked-gate subdivision are likely to try to obstruct completion of that trail, even though the existence of the trail raises property values. (Many people, especially people who are worried about security, hold the erroneous notion that public trails increase the threat of theft or vandalism.)

Because the subdivision could interfere with the completion of the next segment of the Hammond Trail, it should not be allowed to go forward until that trail segment is completed.

No fence is needed between the subdivision and the trail, but if a fence is wanted, it should be at the top of the bluff and not right next to the trail where it will spoil views of the native vegetation. Such a fence would have no public benefit. I have seen hundreds of people on the trail, and I have never seen anybody climb the eastern bluff, although many people go westward down to the river. Please do whatever you can to insure the protection of the vegetation on the bluff, which is bound to disappear if it interferes with anybody's view.

The proposed "Resting Park" would not be a public benefit because nobody would want to picnic next to a locked gate. What is needed is enough parking for the seven or eight trucks and other

large vehicles which park there on any sunny day to use the Hammond Trail.

The estimate of $45,000 to $60,000 as the cost of undergrounding two power and phone lines seems inflated. My husband is in the process of undergrounding our power and phone lines for about $500, plus his own labor in digging the trench.

Removing the front row of houses and replacing them with a public park with low-growing non-irrigated native plants would benefit wildlife and birds and would be a public benefit, if the public were permitted to make use of it.

Thank you for providing this opportunity to comment on the Sand Pointe subdivision plan.

Sincerely,

Barbara Kelly

Barbara Kelly
2670 Kelly Ave.
McKinleyville, CA 95519

EXHIBIT NO. 46
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 2

SEP 0 8 1997
CALIFORNIA
COASTAL COMMISSION

FORBUSCO LUMBER

P.O. Box 866 • West end of Smith Lane • Fortuna, California 95540 • (707) 725-5111

September 5, 1997

To: California Coastal Commission

Re: Sand Point Subdivision, McKinleyville, CA (PH-6A)

I have watched with some interest the controversies concerning this proposed project. I have three concerns:

1. That politics, not reason, may be governing decisions.
2. That private property owners' rights may being discarded.
3. Finally (and least important) that progress and jobs may be lost.

First, it is my understanding that the project has obtained local approvals and that initially your internal staff reports were in favor of approval. I also understand that many studies have been made on the proposed development. My impression is that nearby residents of the project have an "I've got mine, the heck with you" approach because they might lose something that they like, or that they think they own (but may not). Are you being presented all sorts of arguments that put political pressure on you to reject approval while studies do not support denial?

Second, it is my opinion that if approval from you is denied that private property rights may be being "taken" unnecessarily (assuming that prior local approvals were given).

Finally, well thought out progress is necessary for any economy (local or otherwise) to exist. Our firm does not stand to gain much from approval of this project but many families in the McKinleyville area will be negatively influenced if you indeed deny approval.

If this is a well designed project, why not let our economic system let future potential homeowners make their choice as to it's benefits? If the project is a good one, it will succeed; if it is unsatisfactory, it will fail.

Sincerely,

Craig Berry

Craig Berry

EXHIBIT NO. 47
APPLICATION NO. A-1-HUM-96-70
Correspondence

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

RECEIVED
SEP 0 9 1997
CALIFORNIA
COASTAL COMMISSION

Sep. 4, 1997

We are in favor of the proposed Murray Road, Sand Point development. We live on 5 acres north of the proposed development along the Mad River at 3282 Letz Avenue and also operate a small business in Arcata with 8 employees. We have known Steve Mosier for seven years and agree with others that he is highly respected in his field and interested in the preservation of our Humboldt lifestyle. He is not a big city developer interested only in high profits and making a "fast buck". This proposed development is good for our local business, it is good for the local work force, it is good for the entire county. Just think of the potential tax revenues that these homes would bring into the county. Think of the local businesses that would participate and profit from the building of these homes. This is positive growth that would benefit everyone.

We have seen such developments in Oregon, with walking trails and green belt areas that are very pleasing to the eye, a benefit for wildlife, and a detriment to the blight of run down areas that breed vandalism and crime. McKinleyville needs this kind of progress, encouraging more professional working families and less welfare. This certainly has the potential to rival anything yet built in this area, a real positive factor that would encourage more people to move here, a boost for the local economy. This is paradise on earth and we can't keep it a secret forever. Why not share it with a sensible plan for development that would make us all proud in saying that we had a part in the foresight of our neighbors, to make this area more attractive and certainly more productive. Progress is a tricky situation. We all want a piece of the pie, and some will have to share and compromise. It is for the "common good" of the people and the community. This development, with the increase in jobs, tax revenue, and local participation, will benefit all of us. It will also distinguish us, as a community, willing to step ahead into the next century with a positive outlook for responsible growth. We are in favor of this Sand Point development!

Sincerely,
Del & Dagmar Huber
D. Huber

EXHIBIT NO. 48
APPLICATION NO. A-1-HUM-96-70
Correspondence

Donald E. & Selby J. Fermer
3767 Erlewine Circle • Sacramento, CA 95819-1518
property owners: 2915 Fortune Street • McKinleyville, CA 95519

RECEIVED
FEB 23 1998
CALIFORNIA
COASTAL COMMISSION

February 20, 1998

James Muth, Coastal Planner
North Coast District
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: ARTICLES FROM *THE PORTLAND OREGONIAN* AND *THE McKINLEYVILLE PRESS*

Dear Jim:

Please include these articles as correspondence in the Sand Pointe staff report. We feel they are relevant, even though it is occurring in Oregon (see "Oregonian" articles), as this could easily be the situation along the Hammond Trail in the area of this proposed subdivision here in Humboldt County.

Part of the original Hammond Railroad bed (now the Hammond Trail) was lost due to bluff erosion in front of the homes on Letz Avenue in the 1980's - immediately to the north of the proposed Sand Pointe project. Over these past two winters, 50 feet of the 100 foot setbacks have eroded away from the blufftop of the Knox Cove subdivision - south of Sand Pointe. And currently, erosion is occurring on this same bluff even further to the south, along the public access at the end of School Road. (see "Press" article)

The similarities are striking between the Oregon situation and the Sand Pointe proposal--small county staffing problems, inadequate setbacks, and threats to coastal access!

Thank you in advance for including these.

Donald E. Fermer

Selby J. Fermer

enclosures

EXHIBIT NO. 49
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 14

The Portland Oregonian...

February 4, 1998

"The Capes' request to bolster dune nixed"

State officials, citing land-use laws, say the exclusive housing project can't lay down rock to support land crumbling beneath it

By Hal Bernton and Peter Sleeth of The Oregonian staff

OCEANSIDE -- State officials on Tuesday turned down an emergency request to lay down rock to stabilize a collapsing dune below one of the Oregon Coast's most exclusive developments. As many as 15 duplex townhouses valued at nearly $400,000 each in The Capes development are in imminent danger of sliding off the dune as high tides, big storms and water-saturated sand trigger landslides and earthquake-like fissures that spread farther each day.

State officials said, however, a homeowners association can begin pumping groundwater out of the bluff immediately. But state land-use laws forbid any rock work on beaches to protect developments built after 1977. That ban extends to The Capes because development did not begin until the 1990s. State officials said the only way around the law is through a special exemption process, which normally takes about 45 days and requires approval from Tillamook County.

"We want to make sure we do a real careful job here and send the appropriate message," said Paul Cleary, director of the state Lands Division. "This is a really dynamic environment and not an area where you want to be pushing the envelope." Capes representative Chuck Holliman said if the emergency permit isn't granted, "we're going to have houses on the beach, no ifs, ands or buts."

The Pacific Ocean packs a notorious winter punch, and this year's wallop has been increased by the El Nin CSI-PI-CHAR-o warming trend, which has raised sea levels by at least a foot and helped brew fierce storms. California got battered Tuesday, and in recent weeks, erosion hot spots have appeared at several areas along the Oregon coast. The erosion at The Capes poses the biggest threat to homes. It has been exacerbated by the outflow from Netarts Bay, which has shifted course and is biting away at the dune.

The Capes homeowners association on Sunday approved launching a $650,000 emergency project to stabilize the dune that supports the182-lot development. The homeowners' plight drew the attention of Gov. John Kitzhaber on Tuesday. During

the afternoon, he met with state land and park officials, directing them to work closely with county officials and the homeowners as they seek to gain a special exemption. But he nixed the idea of giving the project an immediate green light. "We're disappointed," Holliman said. "We think that the emergency provision allows for an exception, and our attorneys will be discussing this with state attorneys" this week.

Cleary said the decision to block the emergency riprapping is based on Goal18 of the state land-use law. The law came as '70s beach development triggered a tide of beachside riprapping that armored coastal stretches along Lincoln City and other towns. Riprapping can protect an area by deflecting the ocean's power. But that sometimes shifts erosion problems, forcing another round of riprapping in new areas.

The law allowed old developments to continue the practice but sought to force new developments into areas where beach riprapping would not be needed. William Ternyik, a consultant to The Capes, said he served on the commission that helped develop the coastal law. But he said riprapping at The Capes would not harm any other shore areas and that homeowners should have the right to protect their property. The Capes' homeowners may have a hard time convincing people in Tillamook County, however.

Many residents have long opposed the development and are leery of pouring rock on or near public beaches. "I think the general consensus is it would be a waste of time, a waste of money, and it would be ugly," said Jim Mundell of Netarts. Kathie Norris, president of the Oceanside Neighborhood Association, said many residents have opposed The Capes from the beginning and remain opposed to further work on the dune the development sits on. Some early opposition centered on the dune's stability for homes. "People now are saying, 'I told you so,' " she said.

In the months ahead, more high tides and erosion are expected along the Oregon coast. Aside from The Capes, erosion also threatens a sewage system in Port Orford and prompted emergency riprapping to save a bathroom at Cape Lookout State Park. Erosion also has eaten away sand on a 1960s development at Bayshore near Waldport. And near The Capes, Ternyik thinks it could threaten parts of Oceanside. Then residents there also might want to launch a riprapping effort, Ternyik said.

c1998 Oregon Live LLC

February 11, 1998

"Capes hearing pits neighbors, state laws"

Tillamook County will decide today whether to seek emergency action to bolster town homes on an eroding dune

By Peter D. Sleeth of The Oregonian staff

TILLAMOOK -- County commissioners say they will make a decision today on whether to seek emergency authority from the governor to dump 3,000 truckloads of boulders on the beach to save luxury town homes threatened by erosion.

A public meeting Tuesday to gather information on such a move produced little consensus. Instead, neighbor argued against neighbor about the wisdom of placing temporary riprap along a 1,000-foot stretch of the publicly owned beach at Oceanside. "I walk on the beach because it lifts my spirits," said Ron Hofman, a retiree living in adjacent Netarts. "If you put that riprap in, it's going to harm my property -- I own that beach!"

The Capes subdivision has a well-organized group of homeowners, including former U.S. Sen. Mark Hatfield. One homeowner, Tom Hendrickson, pleaded with a crowd of more than 200 at Tuesday's meeting for understanding and sympathy. "The homeowners are innocent people," he said. "Don't punish us for the mistakes of the developer."

About 32 town homes built on an active landslide atop a sand dune are faced with possible collapse. The 170-foot-high dune is sitting on soft clay that is tilted toward the ocean, geologists said. El Nin CSI-PI-CHAR o-fostered storms have removed a supporting dune on the beach, causing the dune to begin collapsing.

Behind the sometimes emotional debate on Tuesday hung the larger question: Should Oregon's prized land-use rules be bent to accommodate poorly planned development? Oregon land-use laws say no, but Gov. John Kitzhaber says he is willing to grant emergency authority for temporary rescue measures at The Capes if the county asks him to. A provision known as Goal 18 of state land-use law forbids riprapping to save buildings built after 1977, when the laws were passed. The law came as growing beach development triggered a tide of riprapping that armored coastal stretches along Lincoln City and other towns.

Kitzhaber says he is willing to grant emergency authority for a temporary

riprap buttress while a more permanent solution is found. Tillamook County's three commissioners will vote on the matter today. Preliminary plans call for a buttress 15 to 20 feet high and 1,000 feet long built on the public beach at the base of the dune where the town homes sit. But no one seemed sure Tuesday what was meant by "temporary."

Bob Applegate, a spokesman for the governor, said from Salem that he thought it meant a period of months. But Paul Komar, an oceanographer from Oregon State University, said the temporary structure probably would be needed for two years or more". You shouldn't be looking to next summer as a time for yanking this thing," Komar said.

Further, neighbors of the development fret that the buttress could force erosion onto their properties. They raised the possibility of a public bailout for any erosion caused by the riprap meant to save The Capes development. Homeowners at The Capes say they will pay for their riprap wall, although lawsuits over the matter are sure to be in the courts for years.

On Friday, county officials posted evacuation notices on 32 town homes most imperiled by the collapsing dune. About 120 town homes are in the development.

c1998 Oregon Live LLC

February 12, 1998

"*Decision disallows placement of riprap*"

Gov. John Kitzhaber may get the last say after Tillamook County refuses to grant emergency relief to beachfront luxury homes

By Peter D. Sleeth of The Oregonian staff

TILLAMOOK -- County officials Wednesday rejected an emergency plan to build a rock barrier against a crumbling cliff to save dozens of luxury town houses. Instead, they threw the decision into the lap of Gov. John Kitzhaber. The unanimous decision by the three-member Tillamook County Board of Commissioners leaves Kitzhaber with a political hot potato: Should he save townhomes at The Capes subdivision at Oceanside or the sanctity of Oregon beach and land use law?

Four homeowners from The Capes -- including former U.S. Sen. Mark Hatfield -- will meet today with the governor to ask him to allow a temporary 1,000-foot-long, 20-foot-high wall of boulders on the beach, said Tom Hendrickson, one of the homeowners. The hope is the riprap would stem the collapse of a sand dune on which the subdivision sits until a permanent solution is found.

By opting to forsake the luxury townhomes for the sake of public beaches, county officials kept intact Oregon's popular laws designed to protect the coastline and beaches from development. The governor, who agreed to meet with the group today in Salem, indicated he had reservations about granting an emergency exception to allow the riprap buttress to be built. "If you dump 1,000 Volkswagen-sized boulders here, you'd be putting yourself in a position to have to do it everywhere," Kitzhaber said Wednesday. "The beach doesn't just belong to the people of Netarts or Oceanside. It belongs to everybody in Oregon." Dazed homeowners said the county commissioners' decision all but dooms their homes.

"Unfortunately, the political ball has been thrown back and forth between the state and the county," Hendrickson said. He allowed that the governor still could save some townhomes. "He has a chance to be a hero. ... The tough decision is in his court."

Neighbors of the development were elated by the decision. The battle over The Capes has taken on tense tones, as opponents have come forward to say the development never should have been built and should not be saved. Some fear that any buttress on the beach might cause erosion of other beachfront homes on both sides of The Capes. "I'm incredibly proud of my commissioners," said Kathie Norris of the Oceanside Neighborhood Association. "I think they made the right decision for the community and the entire state.

Most homeowners are facing near-total losses for the town houses that are most endangered on the edge of the dune. They were unable to get insurance that would protect them from the sliding sand dune. Prices for the homes ranged from $250,000 to $400,000. The gated community mostly has vacation residences, although about six owners live there year-round.

About 32 townhomes sit on an active landslide atop the sand dune and face possible collapse. Tillamook County has ordered those homes evacuated. The 170-foot-high sand dune is sitting on soft clay that is tilted toward the ocean, geologists said. El Nin CSI-PI-CHAR o-fostered storms have removed a supporting dune on the beach, hastening the possible collapse of the townhomes.

The state prides itself on its protection of beaches. In the late 1970s, a provision known as Goal 18 of state land use law forbids riprapping to save buildings built after 1977. The law came as rapid oceanside development in questionable locations triggered an avalanche of riprap that armored coastal stretches along Lincoln City and other towns. While many people object to the visual intrusions of riprap, it also interrupts the natural process of beach erosion. Sand dunes constantly are collapsing on the coast, then being spread and rebuilt up and down the beach.

Last weekend, Kitzhaber's office had said if county commissioners asked him, he would grant emergency authority to pile the riprap on the beach below the dune. But on Wednesday, Bob Applegate, Kitzhaber's spokesman, said the governor had not meant to say he would grant permission, only that he would consider granting permission. Whether Kitzhaber has the authority to grant an emergency exception to Goal 18 without a request from the county is unclear, Applegate said.

Nena Baker of The Oregonian staff contributed to this report.

c1998 Oregon Live LLC

February 13, 1998

"*Kitzhaber rejects Capes rescue*"

The governor cites Oregon's strict beach-protection laws in his refusal to allow a riprap buttress at imperiled townhomes in Oceanside

By Peter D. Sleeth of The Oregonian staff

SALEM -- Gov. John Kitzhaber refused on Thursday to bend state rules to save dozens of luxury townhomes at the coast, declaring that his first duty"was to protect Oregon's public beach law."

Kitzhaber -- after a strained 90-minute meeting with homeowners -- suggested they consider bringing in sand to rebuild a protective beach dune washed away by storms or begin moving houses at The Capes development back from the edge of the collapsing dune. He nixed the idea of building a 1,000-foot-long, 20-foot-high rock buttress on public beaches to stop the 170-foot-high dune from continuing its slide.

"I told them I would under no circumstances issue them an emergency declaration," Kitzhaber said. "I would have to do that for people up and down the coast and put a blemish on our public beaches." Stunned homeowners left the governor's office and began trying to find a way to save at least 32 homes threatened by an active landslide at The Capes, in the town of Oceanside. "We're just extremely disappointed," said Chuck Holliman of The Capes Homeowners Association.

Oregon has strict beach protection and land-use laws designed to retain the rugged beauty of the state's coastline. As Oregon's population grows, more developments are crowding the coast. Controversies such as the one at The Capes are an emerging focus of land-use planners, who complain that county planning departments are underfinanced and overmatched by developers. Homeowners might have a valid complaint with the developers of The Capes, Kitzhaber said Thursday. "I think the county was relying on the geologists' report from the developers," the governor said.

The Capes was built in the early 1990s by Portland developers catering to upper-income clients. Townhomes there sold for as much as $400,000 before the calamity began last month. The sand dune below the townhomes sits on soft clay that is tilted toward the ocean, geologists said. El Nin CSI-PI-CHAR o-fostered storms have removed a supporting dune on the beach, causing the dune to begin collapsing. Homeowners had hoped to build a riprap buttress on the beach to slow the landslide while they figured out a permanent way to save homes in the subdivision.

However, a provision known as Goal 18 of state land-use law forbids riprapping to save buildings built after 1977, when the protections were passed. The law came as growing beach development triggered a tide of beachside riprapping that armored coastal stretches along Lincoln City and other towns.

Former Sen. Mark Hatfield, who owns property at The Capes, was expected at the meeting with Kitzhaber, but he did not show up. "I think he judiciously decided not to come," said Bob Applegate, Kitzhaber's spokesman. Kitzhaber later said he never spoke to Hatfield about the problems at The Capes. Hatfield's long and highly regarded service in Oregon politics has left him with substantial influence, but he apparently exercised little on behalf of his beach home.

Capes homeowner Tom Madison said he did not know what could happen next for him and his wife, who own one of the most imperiled townhomes. The Portland couple paid $362,000 for their beach home two years ago. "It's pretty dismal, really," Madison said. "I'm not happy."

On Wednesday, Tillamook County commissioners declined to ask the governor to declare an emergency. The commissioners worried that a riprap buttress could cause erosion problems at neighboring properties or damage the Netarts estuary south of The Capes. The three-member board also said the buttress probably would have to stay in place for two or three years on the public beach, which the commissioners considered an unacceptable length of time.

c1998 Oregon Live LLC

February 15, 1998

"Rural planners often left high, dry"

The Capes project shows the problems when departments have limited time, resources and experience

By Foster Church of The Oregonian staff

Rural planning departments, particularly in high-growth counties, are often understaffed and underfunded, lacking critical technical expertise and able to keep up only with the day-to-day process of issuing permits.

The 32 townhomes at The Capes in Oceanside built too close to a bluff and now in danger of collapsing toward the beach are a symptom of a statewide problem of planners ill equipped to handle increasingly complicated developments. Budget-cutting initiatives have caused many counties to slash their planning staffs to the minimum number needed to process permits. As a result, long-range planning often is not being done.

And in some small towns, often the city recorder and other people with little experience become de facto planning directors. They are forced to use-the-job training to learn an immensely technical and complex field. Usually they are assisted by hired consultants. The result is a planning process that reacts rather than foresees and often is dominated by consultants working for developers.

Gov. John Kitzhaber acknowledges the dangers. "That's a very real problem - the lack of resources at a county level," he said late last week. "And it's going to get worse under Measure 47 and Measure 50. I think it is something the Legislature should look at." The experience at The Capes is a dramatic example of problems that can arise when a budget-strapped county is unable to hire experienced, technically knowledgeable staff to critique developments, particularly in hazardous areas.

For the moment, there are two problems that come together in a powerful way," says Vic Affolter, Tillamook County planning director, whose department reviewed The Capes' application in the 1980s and again in the early 1990s.

"The extent to which we have been compelled to rely on the expert advice provided by the developer and then not having the staff resource to critique that."

When The Capes was proposed in 1982, the consultant, Charles R. Lane of Braun Intertec Northwest Inc., recommended locating all buildings at least 60 feet from the bluff. In June 1991, Lane modified this setback distance to as little as 20 feet, and months later to 10 feet - provided proper foundations were built. Other consultants hired by the developer included the late Herbert Schlicker, a well-known engineering geologist who had inventoried geologic hazards on the coast. "We relied on the expertise provided by the developer," Affolter says. "At that time, we did not have technical staff that was in any sense capable of challenging the experts who had signed off on those geohazard reports."

Tillamook County is not the only jursidiction with more on its planning plate than it can handle. "You respond to applications is what you basically do," says Alan Rappleyea, who served dual roles as planning director and county counsel for Crook County from 1992 to 1996. He is senior assistant county counsel for Washington County. "It is very difficult to take the time to do any long-range planning."

Most of Oregon's highest-growth counties have suffered sharp cutbacks in timber taxes and revenues from O&C lands funds. At the same time, city and county budgets have been sharply cut back as a result of tax- cutting initiatives. These money losses have meant shrinking staffs and increasing workloads. Inevitably, immediate, pressing concerns take precedence.

Curry County, which has added almost 6,000 residents since 1980 (most of them since 1986), has cut its planning staff almost in half. Douglas County, which is envied by many county planners for the size of its staff, cut its budget 40 percent in the early '90s and went from 32 employees to 21 today. Lincoln County, which has experienced 9 percent permanent population growth since 1990 and is under intense pressure from developers building vacation homes, has lost two full-time planning positions. Linn County lost one planner who was responsible for its long-range planning. "Over the last few years, given the budget difficulties counties have had, it has been hold the line at best," says Art Schlack, who is comprehensive planning coordinator for the Association of Oregon Counties. Local planning agencies get some money from the state, but it is spread thin.

Since statewide land-use planning was initiated in 1973, the Department of Land Conservation and Development has distributed an average of about $1.8 million a year in assistance to local governments for planning. This money can allow financially strapped counties and cities to hire consultants for special projects, but it must serve the needs of 36 counties and 240 cities

Since 1991, local governments also have received grants from the Oregon Department of Transportation for transportation planning and growth management.

In 1993-95, $4.8 million in grants were issued. "We just don't have the revenue sources that we had 10 years ago," says Matt Spangler, Lincoln County planning director. "That is a problem all over the state."

Under Oregon's system, long-range planning is critical. Planners must make sure their comprehensive plan reflects the growth and development pressures in their areas and is consistent with new laws passed by the Legislature and with rules imposed by the Department of Land Conservation and Development. When Linn County lost one of its five planners, it was "the person who kept up with long-range planning," says Steve Michaels, Linn County planning director. "The customers who come in and want a building permit - they get served right away. But nothing else beyond the basics gets done."

The system becomes more complex by the year, but few departments can keep up with it. Says Charles Nordstrom, Curry County planning director: "The issues have gotten a lot more complicated. The amount of statutory law, the amount of administrative law and judicial court decisions that deal with land-use planning have probably quadrupled. I have a file that is at least five inches thick of just court decisions, and there is always statutory law coming out of the Legislature."

And their duties often go well beyond land-use planning to encompass transportation, water and other issues. For example, interest in protecting endangered salmon has placed greater scrutiny on water runoff associated with development, and local planners and engineers must monitor this now to a greater degree. This responsibility can fall heavily on a small city planning department. Even if rural planners can stay abreast of day-to-day problems, they are often unable to assess highly technical geologic, engineering and transportation studies that developers present to support their proposals. Usually, the reports are prepared by highly trained professionals. And if a county is going to critique these studies and turn down a development, it must be prepared to defend its findings or face a possible lawsuit.

Often the consultants' work is valuable and objective. But if the county finds fault with all or part of it, the county needs time, money and expertise to pick it apart. Often, the county has none of these. "You do an initial investigation, and someone comes back and points out your errors," Rappleyea says. "You have 120 days to get all this done in, and you have limited staff and limited budget. It's just difficult to get all these together."

Planning departments in large counties such as Clackamas, Multnomah and Washington can hire specialists or use the expertise of other departments. But most smaller counties do not employ specialized experts. Best for a county is to have someone on the staff with the engineering or technical background that can allow the study to be critiqued and potential problems identified.

In 1996, The Capes' developers came back to Tillamook County with a proposal to build a similar development with similar setbacks just north of The Capes that they called Spindrift. The county by then had a more experienced staff and more technical expertise. After reviewing the development, the county turned it down, largely due to the stability of the sand dunes the development would sit upon.

Valerie Smart is community development director in Reedsport, a community of about 5,000 on the Oregon coast. She is the town's only planner, and half her time is also taken up with economic and social development issues. "The regulations are ever evolving, so there seems to be no end," she says. "When I am confronted with issues like these, I sit there wondering when I am going to find the time to learn it, and then when I am going to have the time to get it done, and who is going to implement it and who is going to monitor it. So it is a real daunting task to contemplate".

Peter Sleeth of The Oregonian contributed to this story.

c1998 Oregon Live LLC

River eats away at MCSD property

By JACK DURHAM

The McKinleyville Community Services District needs to take action to prevent its property at School and Fischer roads from washing away into the Mad River, the MCSD board was told last week.

School Road resident Jack Bentley, addressing the board at its Feb. 12 meeting, said this winter "has brought an unprecedented rate of erosion to the bluffs at the proposed river access at the Fischer Disposal Site."

In some areas, it appears that 12 to 20 feet of bluff has washed away, according to Bentley.

To prevent further erosion, the district should consider placing rip-rap (large rocks) along the bluffs, he said.

MCSD Manager Bruce Buel responded by saying that such a project would be expensive, complicated and may not even work.

"Mother Nature is pretty powerful," Buel said. The manager said he has seen other agencies spends hundreds of thousands of dollars on similar projects, only to watch them fail.

"There's a very serious question whether anything we do can protect that land," Buel said.

There's also a concern about liability, he said. If downstream properties begin to erode after the district installs rip-rap, a court could find the district liable.

"It's a very difficult subject," Buel said.

Bentley, however, said he's worried about future of the property.

Bentley told the board that he discussed the idea with MCSD Manager Bruce Buel on Feb. 4. "He responded that the district's policy is to do nothing, to let Mother Nature run her course. He is justifiably concerned about the district being liable for edge effects which could cause erosion on private property downstream. However, Mr. Buel's concerns may also be colored by the political ramifications of yet another added expense to the project," Bentley said.

The rip-rap, Bentley said, was recommended in a January 1996 Geological and Hydrological Status Report prepared by Bob Busch of Busch Geotechnical Consultants.

That recommendation, however, was never adopted.

Bentley said he talked to Bob Busch Feb. 9 about the erosion.

"Mr. Busch said he still thought that the bluff should be protected. He told me that the lead engineer (Winzler & Kelly) killed his recommendation before it was ever fully evaluated. As a subconsultant, he was not in a position to push his position," Bentley said.

Busch's recommendation is to place rip-rap along the bluff with "biomechanical treatments" at either end. These "biomechanical treatments" would be plantings of alders, willows and other native species. According to Bentley, the plantings would slow down the water and prevent downstream erosion.

"In light of Mr. Busch's opinion, I don't believe that the District's position of doing nothing is defensible. The district should be acting in a proactive fashion, with due diligence as the steward of land acquired with our tax dollars, to protect our investment from literally washing away," Bentley said.

The district acquired the land for the disposal of treated wastewater. Rather than install the rip-rap, the board previously agreed to set aside a larger area near the river where no irrigation would be allowed. With less water being applied, there would be less erosion, stated a consultant.

Director Jill Geist suggested that district hold a future meeting with officials representing the county of Humboldt, the Army Corps of Engineers, California Department of Transportation and Fish and Game.

McKinleyville Press

TUESDAY
Feb. 17, 1998

EXHIBIT NO. 49
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 14 of 14

HUMBOLDT COASTAL COALITION

P.O. BOX 714
EUREKA, CA 95502

EXHIBIT NO. 50
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 1 of 2

RECEIVED
APR 17 1998
CALIFORNIA COASTAL COMMISSION

April 14, 1998

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

Re: Sand Pointe Subdivision
Attn: Coastal Planner James Muth

Dear Mr. Muth and members of the California Coastal Commission:

The Humboldt Coastal Coalition favors the maintenance of appropriate historic public access to the coast and the development, completion and protection of environmentally sound, well-sited public coastal trails. Therefore, we recommend denial of the Sand Pointe subdivision as presently proposed because it would imperil the Hammond Trail, a section of the coastal trail which will eventually run all the way from Canada to Mexico.

If the bluff on the coastal side of the subdivision fails, it would fall onto the Hammond Trail. That recent expensive trail construction project required extensive repair of several severe erosion gullies which had developed and worsened during the last few decades, even without irrigation. Trail builders filled the gullies and planted native trees such as shore pine and willow, and the restored areas appear to be stabilized so far, although there is continuous seepage at the toe of the bluff, even during summer months.

Construction of the trail segment immediately north of the subdivision has been postponed because of environmental concerns. If building a mere trail could cause environmental damage, how much worse damage can we expect from a dense subdivision, with all its attendant runoff into Widow White Creek and the easily unstabilized bluff? Construction of the subdivision should also be postponed until that trail segment is completed, because coastal trails have priority over coastal subdivisions in the Coastal Act. The definition of priority in Webster's dictionary begins, "The state or quality of being earlier in time, occurrence, etc. The right to precede others in order, rank, privilege, etc; precedence" and finally, "Highest or higher in importance, rank, privilege."

We ask you to require the developers to propose a project with far lower density, without a locked gate and a high, visually obnoxious fence which would obstruct existing views of Trinidad Head and the ocean. We ask that you require appropriate bluff setbacks with a non-irrigated public park immediately next to the bluff edge, and lot sizes consistent with the 1-acre minimums to

Aryay Kalaki (707)442-1538 Co-chair
Frances Ferguson (707)822-5079 Co-chair
Barbara Kelly (707)839-5356 Secretary

the immediate south, lots large enough to allow houses to be moved back if the bluff fails. We also ask that you do everything possible to protect the native vegetation on the west side of the bluff, including preventing the construction of a fence beside the trail.

There is a major error on page 5 of the SHN geologic report, which asserts:

> No evidence of active, large-scale or deep-seated slope failure was observed in or on the immediate area surrounding the project site."

Was the massive gully repair at the end of Murray Road and the other one about 50 yards north immediately west of the site conducted for no reason? Or do the developers consider those and the other repaired gullies permanently fixed and therefore no longer an issue? The bluff continues to erode, and new gullies are to be expected during the next decade even if the old gullies do not reappear.

There have been no proposals made so far to mitigate the worsening of traffic hazards which already exist and will be made far worse by the addition of all those automobiles. The blind freeway turnoff at Murray Road causes several near misses each day, and somebody ran into and dislodged the extremely solid railroad tie fence of the house at the corner of Murray Road and Kelly Ave., in the last month. A minimum of eight parking spaces large enough for trucks need to be provided at the end of Murray Road to accommodate an ever-increasing throng of trail users.

To summarize our concerns,

* This proposed subdivision threatens the Hammond Trail.
* This proposed subdivision would block important public views.
* This proposed subdivision is unsafe and threatens the safety of people who live nearby.
* This proposed subdivision is inappropriate to its community.
* This proposed subdivision, far from providing substantial public benefits, would substantially interfere with public enjoyment of the area.

Thank you for this opportunity to comment on the Sand Pointe subdivision proposal.

Sincerely,

Barbara Kelly

Barbara Kelly,

Correspondence Secretary
for the Humboldt Coastal Coalition.

EXHIBIT NO. 50
APPLICATION NO. A-1-HUM-96-70
Correspondence
Page 2 of 2

RECEIVED
APR 20 1998
CALIFORNIA
COASTAL COMMISSION

april 16

Dear Coastal Commission Members:

Here are some photos I forgot to send along with my letter. These photos document the bluff instability below the proposed Sand Pointe subdivision, and the fact that the spit gets washed over by the highest tides of winter.

Barbara Kelly
2670 Kelly Ave.
McKinleyville, CA 95519

EXHIBIT NO. 51
APPLICATION NO. A-1-HUM-96-70
Correspondence

PLANNING DIVISION
OF THE PLANNING AND BUILDING DEPARTMENT

COUNTY OF HUMBOLDT

3015 H STREET
EUREKA CA 95501-4484 PHONE (707) 445-7541 FAX (707) 445-7446

RECEIVED
OCT 0 1 1996
CALIFORNIA
COASTAL COMMISSION

September 25, 1996

CALIFORNIA COASTAL COMMISSION
Attn. North Coast District
45 Sansome Street Suite 2000
San Francisco, CA 94105-2219

SUBJECT: Zoning Reclassication, Tentative Subdivision Map, Coastal Development Permit, Conditional Use Permit

NOTICE OF ACTION TAKEN

CONTACT: Jim Baskin, Planner II

Applicants: Steve Moser, Brian Hunt, Cindi Hunt

Address: 1836 Central Avenue
McKinleyville, CA 95519

Case Nos. ZR-18-94
FMS-11-94
CDP-39-94
CUP-22-94

File No. APN 511-011-14

Following a noticed hearing, the Humboldt County Board of Supervisors approved the referenced application on September 3, 1996.

Sincerely,

HUMBOLDT COUNTY PLANNING & BUILDING DEPARTMENT
Thomas D. Conlon, Planning Director

Jim Baskin

Jim Baskin, Planner II

Attachments: Board Order No. N-1 + N-1(a)
Staff Report
Exhibit "A" - Conditions of Approval
Tentative Subdivision Map
Location Map
Coastal Access Surveys

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Notice of Action, Tentative Map
Conditions, and Mitigation Measures

(PLAN40 C:\JRB\NOTICING\SANDPT.NLA) TDC:JRB/jrb Date: 9/18/96

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of Tuesday, September 3, 1996

SUBJECT: **BOARD ACTION ON ZONING RECLASSIFICATION/APPEAL OF PLANNING COMMISSION'S DENIAL BY NON-ACTION OF MOSER-HUNT *SAND POINTE* MAJOR SUBDIVISION, CONDITIONAL USE, AND COASTAL DEVELOPMENT PERMITS; FILE NO. APN 511-011-14; CASE NOS. ZR-18-94, FMS-11-94, CDP-39-94, CUP-22-94; STEVE MOSER, BRIAN HUNT, AND CINDI HUNT, APPLICANTS; MCKINLEYVILLE AREA (CONTINUED FROM the MEETINGS OF AUGUST 13, 20 AND 27, 1996)**

ACTION:

1. Considered all testimony received, letters, staff reports, and related information.

2. Approved the Airports Land Use Commission's finding of August 20, 1996, that a 0 to 2.4-dwelling-unit-per-acre density designation for the subject area is compatible with the adopted airport master plan.

Adopted on motion by Supervisor Kirk, second by Supervisor Neely, and the following vote:

AYES: Supervisors Dixon, Heider, Fulkerson, Neely, and Kirk
NAYS: None
ABSENT: None
ABSTAIN: None

STATE OF CALIFORNIA)
County of Humboldt) s.s.

I, LORA FREDIANI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

LORA FREDIANI

Clerk of the Board of Supervisors of the County of Humboldt, State of California

Lora Frediani

September 25, 1996

(N-1a)

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Page 2 of 22

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of Tuesday, September 3, 1996

SUBJECT: **BOARD ACTION ON ZONING RECLASSIFICATION/APPEAL OF PLANNING COMMISSION'S DENIAL BY NON-ACTION OF MOSER-HUNT *SAND POINTE* MAJOR SUBDIVISION, CONDITIONAL USE, AND COASTAL DEVELOPMENT PERMITS; FILE NO. APN 511-011-14; CASE NOS. ZR-18-94, FMS-11-94, CDP-39-94, CUP-22-94; STEVE MOSER, BRIAN HUNT, AND CINDI HUNT, APPLICANTS; MCKINLEYVILLE AREA (CONTINUED FROM the MEETINGS OF AUGUST 13, 20 AND 27, 1996)**

ACTION:

1. Approved a resolution to certify the Environmental Impact Report and to adopt Findings, the Mitigation Monitoring Plan, and Statement of Overriding Considerations (to be brought back for final adoption as a consent item on September 17, 1996).

2. Found the amenities and dedications offered constitute "extraordinary public benefits", and granted the requested density bonus.

3. Found that no substantial evidence of historical prescriptive public access has been presented.

4. Found that it is in the public interest to grant a 50% credit to Parkland In-Lieu fees based on the provision of private recreational facilities.

5. Approved the zoning reclassification, and scheduled the adoption of the applicable ordinance as a consent item on September 17, 1996).

6. Approved the tentative subdivision map as conditioned in Exhibit "A" (attached).

7. Directed the applicants and the County to look into the possibility of a fence at the lower portion of the bluff (east side of the Hammond Trail).

8. Directed that the fence on the east side of the project site be of a five-foot height with open style (except for the portion fencing the RV storage area).

9. Directed that an open space easement encompassing vegetation that currently exists be dedicated to the McKinleyville Community Services District for maintenance and management.

10. Directed that the County be held harmless as to the maintenance and liability of the 67-acre park area that is to be dedicated as a public benefit.

11. Approved the conditional use and coastal development permits as conditioned in Exhibit "A".

12. Directed the Clerk of the Board to give notice of the decision to interested parties, and to publish a summary of the Ordinance within fifteen (15) days after adoption by the Board of Supervisors.

13. Directed the Planning Division to prepare and file a Notice of Determination pursuant to the California Environmental Quality Act.

Adopted on motion by Supervisor Kirk, second by Supervisor Neely, and the following vote:

AYES: Supervisors Dixon, Heider, Neely, and Kirk
NAYS: Supervisor Fulkerson
ABSENT: None
ABSTAIN: None

STATE OF CALIFORNIA)
County of Humboldt) s.s.

I, LORA FREDIANI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

attachments

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

LORA FREDIANI

Clerk of the Board of Supervisors of the County of Humboldt, State of California

Lora Frediani
September 25, 1996

(N-1)

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Page 4 of 22

REVISED EXHIBIT "A-1" *

SECTION 1: TENTATIVE MAP CONDITIONS OF APPROVAL

APPROVAL OF THE TENTATIVE MAP IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PARCEL OR FINAL MAP MAY BE RECORDED:

1. All taxes to which the property is subject shall be paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the parcel or final map to satisfy this condition. This requirement will be administered by the Department of Public Works.

2. The applicants shall secure from the Board of Supervisors an ordinance rezoning the project site from Residential Single-Family - 20,000 Square Foot Minimum Parcel Size with Airport Protection, Geologic Hazard, Archaeologic Resource Protection, Flood Hazard, Noise Impact, and Coastal Streams and Riparian Corridor Protection Combining Zones, (RS-20/AP,G,A,F,N,R) to Residential Single-Family - 20,000 Square Foot Minimum Parcel Size with Airport Protection, Geologic Hazard, Archaeologic Resource Protection, Planned Development, Coastal Streams and Riparian Corridor Protection, and Qualified Combining Zones (RS-20/AP,G,A,P,R,Q) or other zoning designation(s) consistent with a comprehensive view of the General Plan.

3. The phase-specific conditions on the enclosed Department of Public Works referral dated March 6, 1996 (Exhibit "B"), shall be completed or secured to the satisfaction of that department. Prior to performing any work on the improvements, contact the Department of Public Works.

4. The frontage street "Murray Road " shall appear on the final map. Additionally, the applicants shall obtain approval from the Planning Division's Cartographic Systems Section for the names of the private interior roads. The precise spelling of the names as approved shall appear on the final map.

5. The phase-specific conditions on the enclosed McKinleyville Community Services District referral dated May 9, 1996 (Exhibit "C"), shall be completed or secured to the satisfaction of that agency. Prior to performing any work on the improvements, contact the MCSD. (Note: The MCSD facilities extended to the parcel north of the project site (APN 511-011-12) shall be limited in size to service a single (1) dwelling.)

6. Sewer, water, street lights, and available utilities shall be extended onto each lot to the specifications of the affected agencies providing the facilities and utilities and to the satisfaction of the Department of Public Works. The improvements shall be inspected by the affected agency and a certificate of acceptance of the improvements from the agency shall be filed with the County Public Works Department prior to the recordation of the map. Streetlighting shall be installed as may be required by MCSD. (Note: See Condition No. 9.A.(12), below, regarding streetlighting requirements.)

7. ~~The applicants shall make an irrevocable offer of dedication to the McKinleyville Community Service District for the "resting park". The term of the dedication offer shall be for a period of not less than 21 years from the date of project approval. The offer of dedication shall appear on the final map. The applicants may also enter into an agreement with the MCSD for the operation and maintenance of the park as proposed in the planned development proposal.~~ (Note: See Section II, No. 2, below)

8. Accessways, fire hydrants, cul-de-sac striping and emergency vehicle turn-arounds as may be required by the Arcata Fire Protection District shall be installed to the satisfaction of the AFPD, McKinleyville Community Services District, and the Department of Public Works.

9. The applicant shall submit three (3) copies of a Development Plan for the specifically approved Planned Development to the Planning Division for review and approval. Approval of the Development Plan shall be obtained prior to the commencement of site preparation work and/or the construction of any improvements on the project site. The map shall be drawn to scale and give detailed specifications as to the development and improvement of the site, and shall include the following site development details:

A. Plot Plan Elements

(1) Topography of the land in 1-foot contour intervals.

(2) Proposed access, traffic, pedestrian ways and related easements, as detailed in the "Traffic and Circulation Plan", Permit Application Exhibit "G"., as modified by the Department of Public Works and "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B" pp. 1-16).

(3) Location of waterline and sewer easements in favor of McKinleyville Community Services District.

(4) Off-street parking area detail and improvement for two (2) vehicles on each residential lot. Off-street parking area detail for five (5) spaces --- 4 standard, 1 handicapped --- along the north side of Murray Road adjacent to the "resting park".

(5) On-street (pocket) parking area detail and improvement for a total of forty (40) vehicles along the interior access roads, as illustrated in the "Off-Street Parking Information Plan", Permit Application Exhibit "E".

(6) Building "envelopes" (dwelling site locations with applicable yard setback standards as designated on the "Planned Unit Development 'P' Overlay Justification", Permit Application Exhibit "D", "view corridors" and 10-foot setbacks for lots accesssing from alleys, as detailed in the "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B" pp. 1-16).

(7) Building height limitations for each lot, as designated in the "Planned Unit Development 'P' Overlay Justification", Permit Application Exhibit "D", Figure D-7, and "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B" pp. 1-16).

(8) All non-residential lot components, including "open-space", "resting" parks, "view parks", recreational vehicle parking areas, and coastal access corridors,

(9) Project phasing, as detailed in the "Development Phasing Plan", Permit Application Exhibit "F".

(10) Location of project entry signage, as detailed in the "Signage Plan", Permit Application Exhibit "I".

(11) Location and "typical" improvement standard for fencing, screening, and gating as detailed in the "Security Plan", Permit Application Exhibit "J" and "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B"

pp. 1-16), as modified by the Board of Supervisors. (Note: Fencing height along the eastern property line was subsequently limited to five (5) feet as part of the approval motions of the project by the Board of Supervisors on September 3, 1996).

(12) Exterior lighting~~, including location and "typical" improvement standards~~ as ~~required by the McKinleyville Community Services District and~~ detailed in the "Outdoor Lighting Design Specifications for Sand Pointe", DEIR, Volume 1 Appendix "B" pp. 1-16).

(13) Location of ~~unstable~~ slope stability hazard areas as identified by the geotechnical report (SHN, 1994).

(14) Location of thrust ~~and reverse~~ fault traces, and building exclusion zones as identified in the fault evaluation report (SHN, 1994).

B. Landscaping Plan Elements

(1) Delineation of landscaped areas along streets, pathways, RV parking lot, within parks, and at the entrance to the development, and related improvements typicals (i.e., irrigation lines, trelliswork, bedding construction).

(2) Planting Schematic showing the location and extent of mature landscape vegetation, coded by reference numbers, letters, or species acronym (e.g., "Bp" for *Baccharis pusillus)*

(3) Planting Schedule indicating the common and scientific plant names, mapping code, type, habit, planting size, mature size, and special maintenance and upkeep information as applicable (integrated pest management techniques, exclusion of the use of inorganic fertilizers, phenoxyacetic defoliants, and other biocidal compounds).

(4) Itemized provisions for landscaping maintenance (e.g., frequency of watering, fertilizing, pruning) by the owners association.

C. Notations

(1) "Construction of site improvements are subject to the recommendations of the approved preliminary geotechnical report and the fault evaluation report (SHN, 1994) for the subdivision. Contact the Planning Division for specific information."

(2) "All road construction shall be subject to the following mandatory mitigation measures:

- Limitation of soil exposure time and the extent of the disturbed area;
- Minimizing uninterrupted slope length through surface roughening and the use of serrated slopes;
- Grading operations shall not occur during the rainy season (November through April).
- Disturbed slopes once at final grade shall be immediately replanted with vegetation native to the surrounding area;

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Page 7 of 22

- Control of runoff through controlled water and drainage systems with dissipated discharges and receiving streambank protection shall be utilized as needed;

- Runoff shall be diverted away from graded areas and areas traveled during project development; and

- Temporary and permanent sediment control will be pursued through the use of dikes, filter beams, and sediment basins, as needed.

(3) "All new development on the parcels are subject to the following coastal natural drainage mitigation measures:

- Dissipation and, where feasible, screening of the discharges from storm water outfalls, culverts, gutters, and the like; and

- Except for removal as provided consistent with the Streams and Riparian Corridors Protection Regulations, natural vegetation within and immediately adjacent to the bankfull channel shall be maintained.

(4) "The project site is not located within an area where known cultural resources have been located. However, as there exists the possibility that undiscovered cultural resources may be encountered during construction activities, the following mitigation measures are required under state and federal law:

- If cultural resources are encountered, all work must cease and a qualified cultural resources specialist contacted to analyze the significance of the find and formulate further mitigation (e.g., project relocation, excavation plan, protective cover).

- Pursuant to California Health and Safety Code §7050.5, if human remains are encountered, all work must cease and the County Coroner contacted."

(5) "The McKinleyville Union School District have indicated that "curbside" pick-up and drop-off of school children will not be provided within the gated bounds of the development. A centralized bus stop will be made on Murray Road, near the front gate of the site."

D. Other Elements

(1) A zoning compliance table, as follows:

Standard Criterion	RS Zone	Project
Minimum Lot Area	20,000 sq. ft.	9,900 sq. ft. (Lot C4)
Minimum Lot Width	75 ft.	≈55 ft. (Lot D3)
Maximum Density	1 d.u./lot +1 DU w/ SP	~~22~~ 63 lots w/ 1 d.u./lot; no SDUs.; ~~41 lots w/ 2 d.u. (locations unspecified)~~
Maximum Lot Depth	3 • Lot Width	3.14 • Lot Width (Lot B1)
Minimum Front Yard	20 ft.	20 ft.

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Page 8 of 22

Standard Category	RS Zone	Project
Minimum Rear Yard	10 ft.	10 ft.
Minimum Ext. Side Yard	20 ft., or 10 ft. if main bldg. >= 25 ft. rear line	20 ft.
Minimum Int. Side Yard	5 ft.	5 ft. Note variable side yards
Double Frontage Lots	20 ft.; 10 ft. if abutting an alley	20 ft.; 10 ft. for lots abutting alleys
Flaglots	As determined by Planning Director & Dept. Public Works	Not Applicable
Maximum Ground Coverage	35%	35% per lot
Maximum Building Height	35 ft.	≈23 ft. (Lots A1-A4, A7-A10, B7, C1-C24); 35 ft. (all other lots)
Main Building Types	Residential Single Detached, Limited Mixed Residential - Nonresidential, Nonresidential detached or Multiple/Group	Residential Single Detached

(2) Four (4) authorizing signature blocks for the Humboldt County Planning & Building Department, McKinleyville Community Services District, Arcata Fire Protection District, Sheriffs Office approvals.

10. The applicant will cause to be recorded a *Notice of Development Plan* on forms provided by the Humboldt County Planning and Building Department. The Development Plan will also be noticed on the Final Map.

11. The recommendations set forth in the fault evaluation report and preliminary "R-1" geologic and geotechnical report (SHN, 1994) for the residential structural improvements on parcels to be created shall be implemented as a condition to the issuance of permits or other grants of approval for the development or improvement of the site(s). The referenced parcels shall not be created unless the report concludes that each individual parcel is suitable for conventional residential purposes.

12. The applicant shall cause to be record a *Notice of Geologic Report* for Lots 1 through 63 on forms provided by the Humboldt County Planning and Building Department. Document processing, notary, legal description review fees (presently $109), recording fees (variable), and copies of applicable deeds must accompany the Notice. The Geologic Report shall also be noticed on the Final Map. Contact the Department of Public Works concerning the wording of the statement. This condition may be satisfied in conjunction with Condition #10 with a combined Notice.

13. A fee of $875.00 must be paid to the County Recorders Office at 825 Fifth Street, Room 108 in Eureka. This fee is required by state law for processing the environmental document through the Department of Fish & Game. A copy of your receipt must be submitted to the Planning Division to satisfy this condition. (Note: Notice of Determination and associated CDFG fees recorded/paid on 9/12/96).

14. A Parkland In-lieu fee pursuant to formulas established under HCC §314-29 shall be paid to the County Planning & Building Department, 3015 H Street, Eureka, CA.

15. The applicant shall remit a land value assessment fee in the amount of $30 to cover the Assessor's Office cost in making the fair market value determination required for the Parkland In-Lieu Fee. This fee may be paid to the Planning and Building Department, 3015 H Street, Eureka, CA . The fund shall be deposited in Assessor's Revenue Account No. 1100-602-060 (Assessor's Fees).

16. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently $2,520.00) as required by the County Assessor's Office shall be paid to the County Planning & Building Department, 3015 H Street, Eureka, CA. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's costs in updating the parcel boundaries.

17. The applicant shall reimburse the Planning Division for any processing costs that exceed the application deposit. ~~The excess processing costs accrued and projected to date (May 30, 1996)~~ are ~~$5,500.00~~.

18. The applicant shall submit three (3) copies of a fencing plan prepared by a licensed civil engineer for the improvements to be made to the Hammond Trail corridor. The report will specifically address design and mitigation features necessary to install the fencing without causing adverse environmental impacts to the coastal bluff.

19. All construction plans shall bear the following note: "The work to be performed under these plans shall be subject to the required mitigation measures detailed on the project Development Plan and Mitigation Monitoring Plan on file with the Humboldt County Department of Planning & Building."

20. The applicants shall secure from the Airport Land Use Commission a resolution stating that the requested increased land use density to 2.4 dwellings per acre is compatible with the Eureka-Arcata Airport. (Note: This condition was satisfied on August 20, 1996 by the 3-2 affirming vote of the ALUC.)

21. The final map shall show an easement over the westerly portion of the project site (APN 511-011-14) in favor of the County of Humboldt for protection of vegetation.

22. The subdivision is subject to the required environmental impact mitigation measures adopted by the Board of Supervisors.

SECTION II: DENSITY BONUS JUSTIFICATIONS

THE GRANTING OF THE 20% DENSITY BONUS TO ALLOW FOR 2.4 DWELLING UNITS PER ACRE IS CONTINGENT UPON THE FOLLOWING OFFERS OF DEDICATION AND SITE IMPROVEMENTS LISTED BELOW:

1. An offer of fee-simple ownership to a public agency or suitable private not-for-profit entity of the approximately 67.27 acre parcel known as Assessors Parcel Number (APN) 511-011-05, located in Section 25, Township 7 North, Range 1East, Humboldt Base & Meridian.

2. An offer of dedication of an easement to the McKinleyville Community Services District for the creation of an Open Space Management Zone of the approximate 5,000 square foot "resting park" along the southwestern side of APN 511-011-14, and associated site improvements (split rail fencing, benches, sodded turf, etc.) as detailed within the project description.

3. The removal of two westerly existing combined electrical power / telephone / cable television poles along the Murray Road frontage of the project site and their replacement with undergrounded equivalents.

4. The offer of dedication of an easement for public access from the end of Wilber Street along the east side of APN 511-011-14 northward to the revised Hammond Trail alignment on APN 511-011-12. (Note: Applicants have stated their agreement to include neighboring owners/residents of the adjacent *Pacific Sunset* subdivision in the review of the final design of this access facility.)

5. A self-imposed 23-foot height limit (from average grade to roof peak) on Lots A-1 through A-4, A-7 through A-10, B-7, and C-1 through C-24.

6. An offer to install a fence located adjacent to the improved portion of the Hammond Trail.

SECTION III: INFORMATIONAL NOTES

~~Informational Notes:~~

1. To reduce costs the applicant is encouraged to bring in written evidence* of compliance with **all** of the items listed as conditions of approval in this Exhibit that are administered by the Planning Division (Namely: Conditions 2, 4-19) for review **as a package** as early as possible before the desired date for final map checking and recordation. Post application assistance by the Planner on Duty, or by the Assigned Planner, with prior appointment will be subject to a Special Services Fee for planning services billed at the County's current burdened hourly rate. There is a **$60** charge for the first post project approval meeting. Please contact the Planning Division at (707) 445-7541 for copies of all required forms and written instructions.

   * Each item evidencing compliance should note in the upper right hand corner:

   Assessor's Parcel No. _____, *Exhibit "A", Condition* _____.
   (Specify) *(Specify)*

2. Before any grading work may be initiated, the applicant must obtain all necessary permits under the National Pollution Discharge Elimination System (NPDES) for mitigation of stormwater runoff. Contact the North Coast Regional Water Quality Control Board for appropriate application forms and details.

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Page 11 of 22

EXHIBIT "A-2"

APPROVAL OF THE COASTAL DEVELOPMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS:

1. All recommendations set forth in the "R-1" geotechnical and geologic evaluation (SHN, 1994) shall be implemented as a condition to the issuance of permits or other grants of approval for the development or improvement of the site(s).

2. All exterior lighting shall be shielded such that it is not directed off of the parcel.

3. Connection to McKinleyville Community Services District water and sewer service shall be required before the building permit is finaled.

4. All development pursued under the coastal development and conditional use permits is subject to the environmental impact mitigation measures adopted by the Board of Supervisors.

Informational Notes:

1. The Coastal Development Permit (CDP) for development of a single family dwelling on each of Lots 1 through 63, inclusive, of this subdivision shall be valid for ~~24~~ 60 months following the recordation of the final map for ~~that~~ each phase. Construction of a single dwelling on any one lot within a given map phase shall vest the CDP for all dwellings under that phase. If construction of a residence in reliance upon the permit has not commenced within this period, the CDP for that ~~lot~~ phase shall expire and become null and void; provided, however, that the period within which such construction or use must be commenced may be extended as provided by H.C.C. Section A315-24.

2. The applicant shall be responsible for all staff costs involved in carrying out responsibilities for mitigation monitoring set forth in Exhibit "E", "Mitigation Monitoring and Reporting Program." These costs shall be charged using the most current County burdened hourly rate. A deposit may be collected to cover anticipated costs, if required by the Planning Director.

3. This permit does not authorize the development of second dwelling units on any lot in the subdivision.

* **These Exhibits reflect changes made to the conditions of project approval made by the Board of Supervisors on September 3, 1996. Added text is underlined, deleted text is shown in ~~strikethrough~~.**

EXHIBIT NO. 52
APPLICATION NO. A-1-HUM-96-70
Page 12 of 22

RESOLUTION NO. 96-76

ATTACHMENT C

STATEMENT OF MITIGATION MEASURES AND MONITORING PROGRAMS

SAND POINTE DEVELOPMENT PROJECT

SCH No. 95033058

The following mitigation measures are adopted by the County of Humboldt (County) as conditions of approval for this project, together with the monitoring programs specified. These measures were identified, or are based on measures identified, in the Final Environmental Impact Report for the project, and are within the jurisdiction of Humboldt County for implementation.

The measures identified in this statement reflect the interests of the County in ensuring a project which meets the legal obligations of the County. Other mitigation measures may legitimately be required for this project by other responsible agencies with regulatory or trustee authority for the proposed project; any such measures are not within the jurisdiction of the County for implementation, but such measures can be, and should be, implemented by the responsible agencies.

The proposed project incorporates a number of voluntarily included features which have the effect of reducing potential environmental effects. These voluntary features are described fully in the Final EIR, and are specifically identified here as functioning in the manner of mitigation measures, by allowing the project to avoid or reduce significant environmental effects. Should any of those voluntarily included features not be reflected in the Final Map for the project, then the County shall, prior to approving the recordation of the Final Map, incorporate alternative or additional measures (and monitoring programs) which have the same degree of effectiveness in reducing environmental effects as do the voluntarily proposed project components described in the Final EIR.

I. PHYSICAL ENVIRONMENT

A. Geology, Seismicity, and Tsunami

1. Mitigation Measures

a. The consulting geologists' recommendations for foundation design and grading in preparation for project roadways, buildings, and other components shall be implemented as part of any grading and building permits issued by the County for this project.

b. The major utility systems to be placed under the jurisdiction of the McKinleyville Community Services District (water and sewer) shall be designed so that the pipelines which cross the fault are capable of being

isolated following rupture by fault movement. (This measure was modified in the Final EIR, in response to a comment, to include the natural gas pipelines in the project site.)

2. Monitoring Program

a. The County Department of Planning and Building Services shall monitor construction documents and subsequent building and grading permit applications to verify that the requirements of the mitigation measures are incorporated into project construction plans; the requirements of the mitigation measures also shall be incorporated into all subsequent building and grading permits.

B. Soils, Stability, and Erosion

1. Mitigation Measures

a. No grading shall occur in the "high" or "moderate" bluff slope failure hazard areas.

b. The roots of the vegetation growing in the "high" and "moderate" bluff slope failure hazard areas shall be protected from disturbance. Vegetation removal on the bluff face shall not occur as part of this project, for any reason.

c. Runoff on the project site shall not be concentrated in a manner which would cause it to be directed onto the "high" or "moderate" bluff slope failure hazard areas. Runoff which might be concentrated to flow over the bluff edge and down the bluff face shall not occur.

2. Monitoring Program

a. The requirements of the mitigation measures shall be incorporated as deed restrictions into the title documents for all parcels along the western margin of the project site; the County Planning Division shall verify the presence of the restrictions in the title documents prior to recordation of the Final Map for the project.

b. The County Department of Planning and Building Services shall monitor construction documents and subsequent building and grading permit applications to verify that the requirements of the mitigation measures are incorporated into project construction plans; the requirements of the

mitigation measures also shall be incorporated into all subsequent building and grading permits.

c. County building inspectors shall inspect the project construction phases as necessary to verify that the requirements of the mitigation measures are enacted when the project's construction phase is carried out.

C. Air Quality (PM10)

1. Mitigation Measures

a. Water shall be applied to disturbed land surfaces during construction, at a frequency high enough to maintain soil cohesion and to reduce blowing dust to the extent practicable.

b. Construction waste or debris, or vegetation waste, shall not be burned except on "permissive burn days" designated by the North Coast Unified Air Quality Management District.

c. Wood-burning appliances (such as stoves) installed on this site shall meet EPA and/or State of California requirements for particulate emissions. (This measure was modified in the Final EIR to incorporate a definition of "wood-burning appliances," as defined in the comment letter from the North Coast Unified Air Quality Management District in the Final EIR.)

2. Monitoring Program

a. The applicant's construction manager shall include the first and second mitigation measures into the contract with the construction contractor. The construction manager shall verify contractor compliance with these measures.

b. The third mitigation measure shall be included in the CC&Rs for each parcel created by the project; this inclusion shall be verified before recordation of the Final Map.

c. The County Building Division shall verify that all three mitigation measures are reflected in any building or grading permits issued for the project.

D. Hydrology, Drainage, and Water Quality

1. Mitigation Measures

a. The applicant shall provide for approval by the County Planning Department and the Department of Fish & Game a construction-period sediment control plan, identifying the specific Best Management Practices to be implemented to avoid sedimentation-related impacts. The plan shall be revised no less frequently than once per year, and may be revised sooner if changes in circumstances indicate a need for alternative BMPs.

b. The applicant shall submit erosion and sediment control monitoring reports, no less frequently than once per quarter during the active construction season, to the County Planning Department and the (California) Department of Fish & Game. These reports shall identify any failures to control erosion and sedimentation which occurred during the previous quarter, shall identify remedial actions taken, and shall indicate steps which are being included in the project construction process to avoid future failures. The construction process may be halted by the County if satisfactory reports are not provided, or if suitable measures are not implemented.

c. Onsite detention swales shall be included in the project design, in order to reduce the percentage of incident rainfall running off the site, increase infiltration, trap sediments mobilized during site occupancy, and provide for biological treatment of biological and some chemical wastes resulting from project site occupancy.

d. An energy-dissipation device shall be constructed at the end of the existing Murray Road storm drain. The device's design shall be approved by the County Public Works Department.

e. Segments of the existing storm drain system in Murray Road near the project site shall be augmented or replaced with larger components. Specific design elements shall be approved by the County Public Works Department.

Monitoring Program

a. The Building Division shall not issue any grading or building permits for the project until an acceptable sediment control plan is submitted for the project; initially, the state-required Storm Water Pollution Prevention Plan may be accepted. The Building Division shall verify that the submitted plan is

acceptable to the Planning Division. If the submitted plan is not acceptable, no permits shall be issued. If necessary updates and revisions are not provided, the Building Division may suspend any issued permits and shall not issue additional permits until a satisfactorily updated plan is submitted.

b. The satisfactory completion of the quarterly monitoring reports shall be verified by Planning Division personnel, who shall request that the Building Department issue a notice to suspend construction activities on the project site if adequate reports are not submitted. In addition, the Building Division shall refrain from issuing any new permits until quarterly reports satisfactory to the Planning Division are provided.

c. The design for a system of onsite detention swales shall be submitted to the Planning Division, which shall verify its inclusion into the project design and construction documents. The Planning Division shall verify the inclusion of the third mitigation measure into the project design prior to recordation of the Final Map. The Building Division shall issue no grading or building permit which does not specifically include the onsite detention swale system, pursuant to the approved design.

d. The Public Works Department shall approve the specific design for the storm drain facilities constructed with the project, including the design for the Murray Road drainage facilities and the energy dissipation device to be constructed at the Murray Road storm drain outfall.

e. Construction of the Murray Road facilities shall be verified as complying with the mitigation measures by inspection by Public Works Department personnel, prior to acceptance by the County. No Final Map shall be recorded prior to the acceptance of these facilities by the County.

II. BIOLOGICAL ENVIRONMENT

A. Plants, Animals, Biological Associations, and Biodiversity

Mitigation Measure

a. Cats owned by residents in and visitors to the Sand Pointe project site shall not be permitted to roam freely outside of their owners' yards under any circumstances. In addition, owners and visitors shall not provide food for free-roaming domesticated or feral cats.

2. Monitoring Program

a. This mitigation measure shall be incorporated as a restriction into the deed for any parcel created by the project, and it shall also be incorporated into the CC&Rs for each parcel created, and the Planning Division shall verify its inclusion prior to recordation of the Final Map.

b. The Compliance Division of the Planning and Building Department shall promptly notify both the Planning Division and the Building Division upon receiving any valid complaints that the mitigation measure is not being met. The Planning and Building Department shall act promptly to suspend any active grading or building permits, and shall refrain from issuing new permits, until compliance with the mitigation measure is achieved.

B. Aquatic Resources, Wetlands, and Water Quality

1. Mitigation Measures

a. The applicant shall provide for approval by the County Planning Department and the Department of Fish & Game a construction-period sediment control plan, identifying the specific Best Management Practices to be implemented to avoid sedimentation-related impacts. The plan shall be revised no less frequently than once per year, and may be revised sooner if changes in circumstances indicate a need for alternative BMPs. (This is the same mitigation measure as measure 3.4.4.1.)

b. The applicant shall submit erosion and sediment control monitoring reports, no less frequently than once per quarter during the active construction season, to the County Planning Department and the Department of Fish & Game. These reports shall identify any failures to control erosion and sedimentation which occurred during the previous quarter, shall identify remedial actions taken, and shall indicate steps which are being included in the project construction process to avoid future failures. The construction process may be halted by the County if satisfactory reports are not provided, or if suitable measures are not implemented. (This is the same mitigation measure as measure 3.4.4.2.)

c. Onsite detention swales shall be included in the project design, in order to reduce the percentage of incident rainfall running off the site, (to) increase infiltration, (to) trap sediments mobilized during site occupancy, and (to) provide for biological treatment of biological and some chemical wastes

resulting from project site occupancy. (This is the same mitigation measure as measure 3.4.4.3.)

2. Monitoring Program

a. The Building Division shall not issue any grading or building permits for the project until an acceptable sediment control plan is submitted for the project; initially, the state-required Storm Water Pollution Prevention Plan may be accepted. The Building Division shall verify that the submitted plan is acceptable to the Planning Division. If the submitted plan is not acceptable, no permits shall be issued. If necessary updates and revisions are not provided, the Building Division may suspend any issued permits and shall not issue additional permits until a satisfactorily updated plan is submitted.

b. The satisfactory completion of the quarterly monitoring reports shall be verified by Planning Division personnel, who shall request that the Building Department issue a notice to suspend construction activities on the project site if adequate reports are not submitted. In addition, the Building Division shall refrain from issuing any new permits until quarterly reports satisfactory to the Planning Division are provided.

c. The design for a system of onsite detention swales shall be submitted to the Planning Division, which shall verify its inclusion into the project design and construction documents. The Planning Division shall verify the inclusion of the third mitigation measure into the project design prior to recordation of the Final Map. The Building Division shall issue no grading or building permit which does not specifically include the onsite detention swale system, pursuant to the approved design.

III. HUMAN ENVIRONMENT

A. Utilities and Public Services

1. Mitigation Measures

a. An energy-dissipation device shall be constructed at the end of the existing Murray Road storm drain. The device's design shall be approved by the County Public Works Department. (This is the same mitigation measure as measure 3.4.4.4.)

b. Segments of the existing storm drain system in Murray Road near the project site shall be augmented or replaced with larger components. Specific design elements shall be approved by the County Public Works Department. (This is the same mitigation measure as measure 3.4.4.5.)

c. The project owners/developers shall provide access cards, access codes, or appropriate devices necessary to provide access to each emergency service (fire, sheriff, and ambulance) serving the project site; the access codes or devices shall be kept current, and if the means of gaining ingress should change, the revised codes or devices shall be provided to emergency service providers.

2. Monitoring Program

a. The Public Works Department shall approve the specific design for the storm drain facilities constructed with the project, including the design for the Murray Road facilities and the energy dissipation device to be constructed at the Murray Road storm drain outfall.

b. Construction of the Murray Road facilities shall be verified as complying with the mitigation measures by inspection by Public Works Department personnel, prior to acceptance by the County. No Final Map shall be recorded prior to the acceptance of these facilities by the County.

c. The County Planning Division shall verify the inclusion of the third measure as a CC&R prior to recordation of the Final Map for the project. In addition, the Planning Division shall verify the construction of the access provisions called for by this measure prior to the acceptance of the County-required improvements. The Planning and Building Department shall verify the provision of updated access codes or devices for emergency service providers throughout the life of the project, and shall withhold building permits for individual parcels until updated codes or devices are provided.

B. Transportation and Circulation

1. Mitigation Measures

a. The applicant shall construct a parking lot, associated with the proposed "resting park" near the Murray Road entrance to the Hammond Trail, to be located in line with the right-of-way of Kelly Avenue; the design for the

parking area shall be approved by the County Public Works Department (Added in response to a comment from the Department of Public Works.)

b. The Wilbur Street right-of-way shall be posted with "no parking" signs, and may (subject to the approval of the County Public Works Department) be reduced in width consistent with allowing only emergency vehicle access to the Sand Pointe project site and pedestrian/equestrian access to the Wilbur Street trailhead of the Hammond Trail (Added in response to a public comment in the Final EIR.)

2. Monitoring Program

a. The Planning Division shall verify the inclusion of the Murray Road parking lot in the approved design prior to the recordation of the Final Map. The parking lot design shall be approved by the Department of Public Works, and the constructed lot shall be inspected by Department of Public Works staff prior to acceptance of project improvements by the County.

b. The sign posting in the second measure shall be completed prior to the acceptance of project improvements by the County. The design to carry out the right-of-way reduction (if this is approved by decision-makers) shall be approved by the Department of Public Works, and any construction needed to carry out the width reduction shall be inspected by Department of Public Works staff prior to acceptance of the Sand Pointe improvements by the County.

C. Recreation and Coastal Access

1. Mitigation Measures

a. The applicant shall construct a parking lot, associated with the proposed "resting park" near the Murray Road entrance to the Hammond Trail, to be located in line with the right-of-way of Kelly Avenue; the design for the parking area shall be approved by the County Public Works Department (added in response to a comment from the Department of Public Works).

b. The Wilbur Street right-of-way shall be posted with "no parking" signs, and may (subject to the approval of the County Public Works Department) be reduced in width consistent with allowing only emergency vehicle access to the Sand Pointe project site and pedestrian/equestrian access to the Wilbur

Street trailhead of the Hammond Trail (added in response to a public comment in the Final EIR).

2. Monitoring Program

a. The Planning Division shall verify the inclusion of the Murray Road parking lot in the approved design prior to the recordation of the Final Map. The parking lot design shall be approved by the Department of Public Works, and the constructed lot shall be inspected by Department of Public Works staff prior to acceptance of project improvements by the County.

b. The sign posting in the second measure shall be completed prior to the acceptance of project improvements by the County. The design to carry out the right-of-way reduction (if this is approved by decision-makers) shall be approved by the Department of Public Works, and any construction needed to carry out the width reduction shall be inspected by Department of Public Works staff prior to acceptance of the Sand Pointe improvements by the County.

D. Construction Noise

1. Mitigation Measures

a. Limit the period during which construction equipment may be operated to daytime hours (7:00 AM to 5:00 PM), weekdays.

b. Construction personnel shall conduct their work activities in a manner which minimizes noise generation.

c. Notify neighbors adjacent to the parts of the project site subject to heavy equipment use prior to initiating such use.

2. Monitoring Program

a. The owner's construction supervisor shall verify compliance with these measures during the construction process. If the Building Division receives evidence that the measures are not being complied with, the Division shall suspend issued permits until contractor compliance with the measures is verified.

SAND POINTE DEVELOPMENT
PERMIT #A-1-HUM-96-70
(STEVE MOSER)

EXHIBIT NO.	53
APPLICATION NO.	A-1-HUM-96-70
Submittal By	
Appellant	

TABLE OF CONTENT

Page

Correspondence

Letter (from G. Hassen for 9/11/97 meeting) 1-2

List of Figures

California Division of Mines and Geology as required by the Alquist-Priolo Special Studies Zone Act. 3

New Proposal (minus 5 lots) 4

Old Proposal 5

Old Proposal + Easements 6

(Green-75 ft. set back)
(Orange-50 ft. set back fault line)
(Blue-10 ft. Utility easement)
between subdivision

Old Assessor's Maps (1974-1977) 7

(67.27 acres gift)

PACKET 1997

Aerial Photographs 1-7
(self explanatory)

PHOTOGRAPHS

BIRDS 1-2

AIRCRAFT 1-5

PUBLIC ACCESS 1-8

MAD RIVER SPIT 1-3

MAD RIVER BANK 1-2

BREACHING 1-4

Note: This packet contains only a very small number of photographs compiled on this project site and surrounding area with in the last 8 (eight) years.

G.M. HASSEN
2975 FORTUNE STREET
McKINLEYVILLE, CA 95519
PHONE (707) 839-8241

May 20, 1997

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 2 of 38

California Coastal Commission
North Coast Area Office
45 Fremont, suite 2000
Attn: James Muth, Coastal Planner

RE: Sand Pointe Sub Division.

Dear Mr. Muth,

The response of the overwhelming majority of the appellants and concerned citizens and the logical answers of what should be the building regulations and requirements on this property is as follows, for the reasons following the list.

1. Lot size 2.5 acres.
2. Bluff set back 100 feet from edge.
3. Earth quake fault setback 50 Ft.
4. Wilber Ave. completed as originally intended.
5. No fenced or gated community.

The purpose for establishing each of the above, four, listed requirements can be one or all of the following reasons.

Most of these are or can be hazardous conditions.

FIRE HAZARD. With high density housing and strong winds, which are common to this area, a fire could sweep through the development from any direction and affect the neighboring areas before the fire department could be properly deployed.

AIRPORT SAFETY. There is no such thing as a secondary runway as indicated in the E.I.R.. Many of the commercial and private aircraft are just as loud as the Coast Guard helicopters (80 dB+) and they are not required to fly at or above 500 ft. over this area.

There are many birds and wild life some rare to the area that nest near by and constantly hunt the field. (Section 30240 P.R.C.).

BLUFF SETBACK. this area of the coast line is well known by the geologists & seismic geologists at Humboldt State University. All of whom I have spoken to, claim no structure should be built West of the freeway in this area. As stated in the Alquist-Priolo criteria, this is UNCONSOLIDATED SEDIMENTS & SAND. It is common knowledge to the people that regularly walked or boated the river bank, that there are several tiny streams coming out of the bluff that run year around. Visual inspection and logic tells me that this is one of the major causes of bluff failure and cave off of the bluffs above and away from the river, due to undermining and

MODERN DAY MUDS, FILL, RIVER CHANNEL SEDIMENTS AND BEACH SAND: Ground shaking is strongly increased, most prone to ground failure and liquifaction.

LANDSLIDES: Unstable areas generally on steep slope which have failed in the past and may fail again during strong ground shaking.

UNCONSOLIDATED SEDIMENTS: Moderate to poorly consolidated youthful marine and river deposits, shaking increased, especially if thick and water saturated.

UNSTABLE BEDROCK: Ground shaking may be slightly increased. Susceptible to landsliding, especially if on steep slopes or water saturated.

MODERATELY STABLE BEDROCK: Gound shaking is not increased, landsliding is considerably less likely except along steep slopes and duringtimes of high water saturation.

INTRUSIONS: Ground shaking not increased, landsliding not likely.

THRUST FAULTS classified as active under Alquist-Priolo criteria

OTHER FAULTS

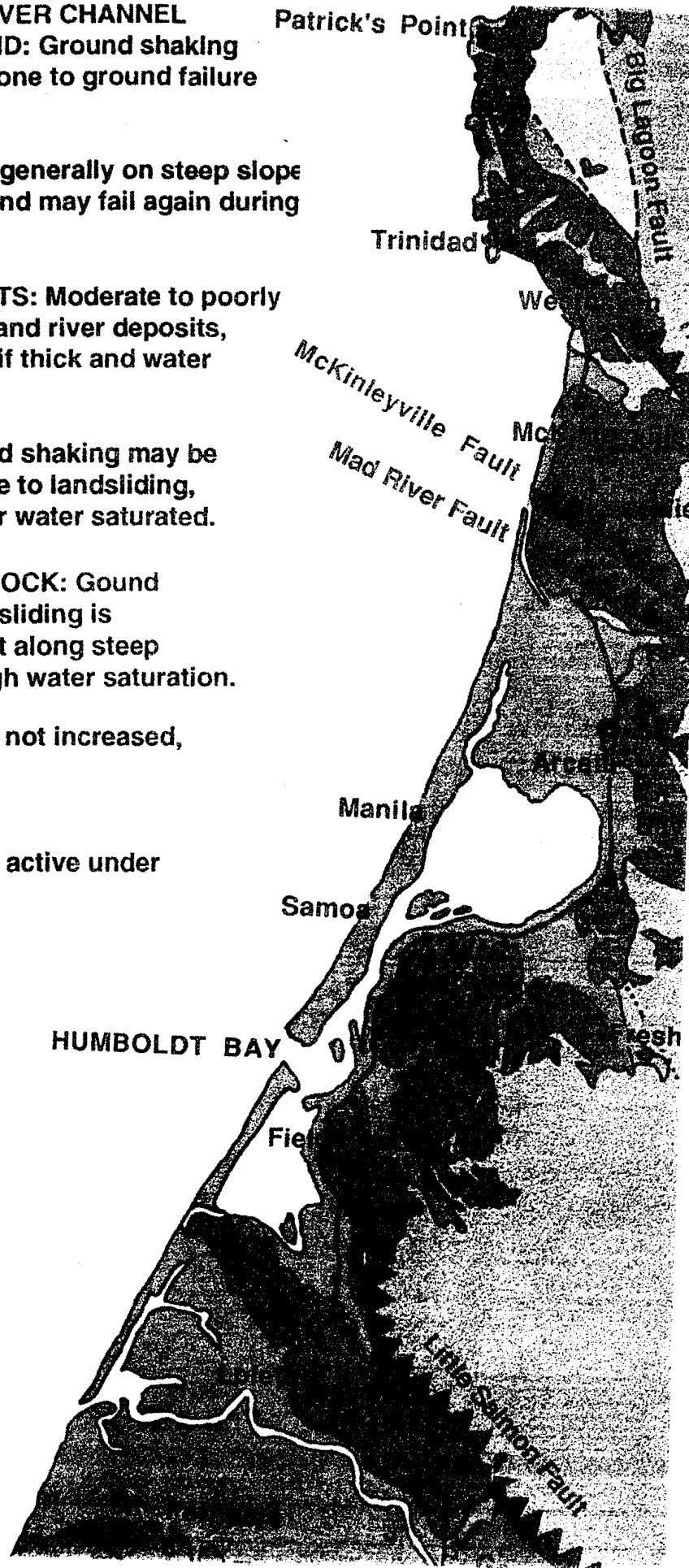


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 3 of 38

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 4 of 38

Proposed Mews Greenhouses

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 5 of 38

old proposal

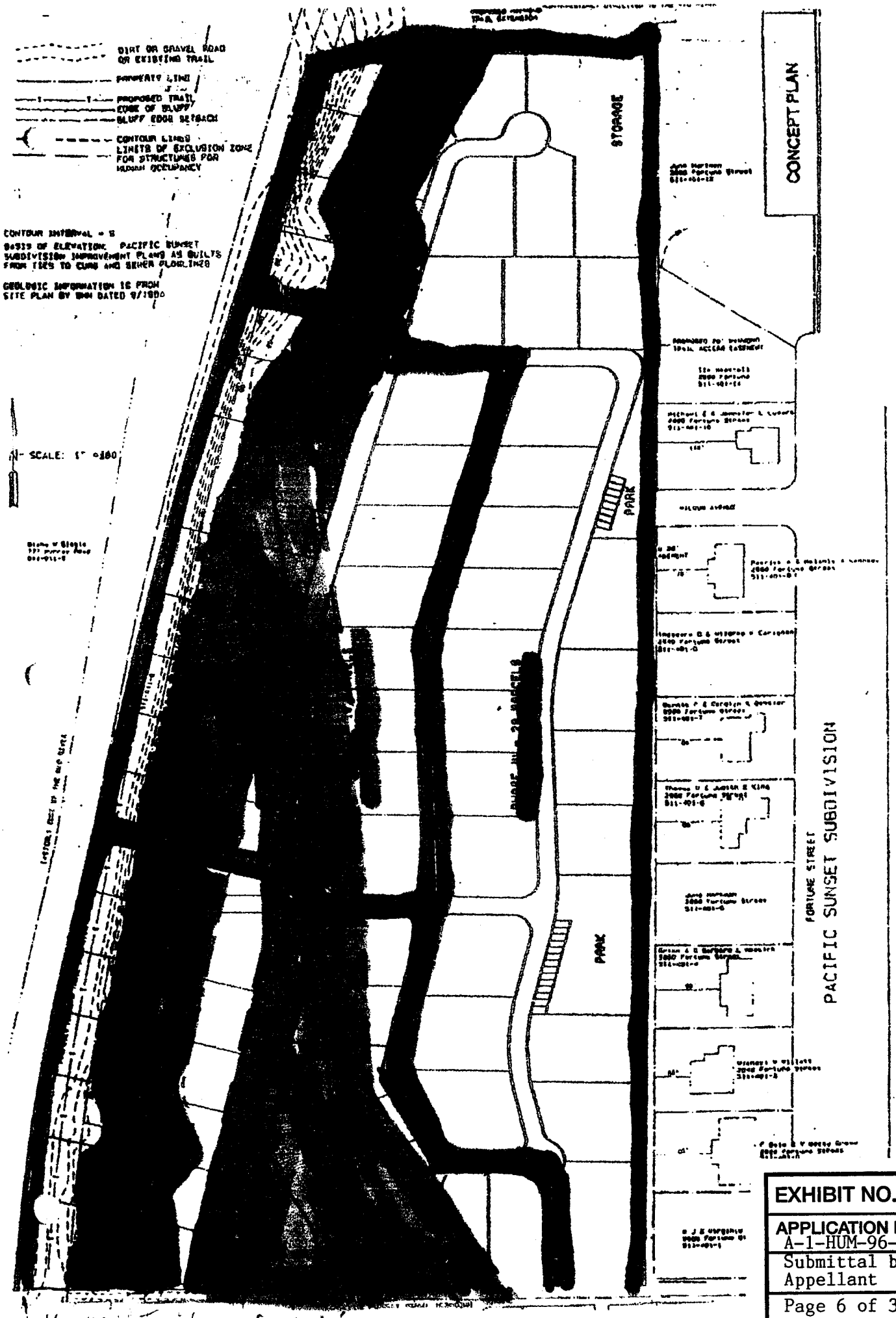


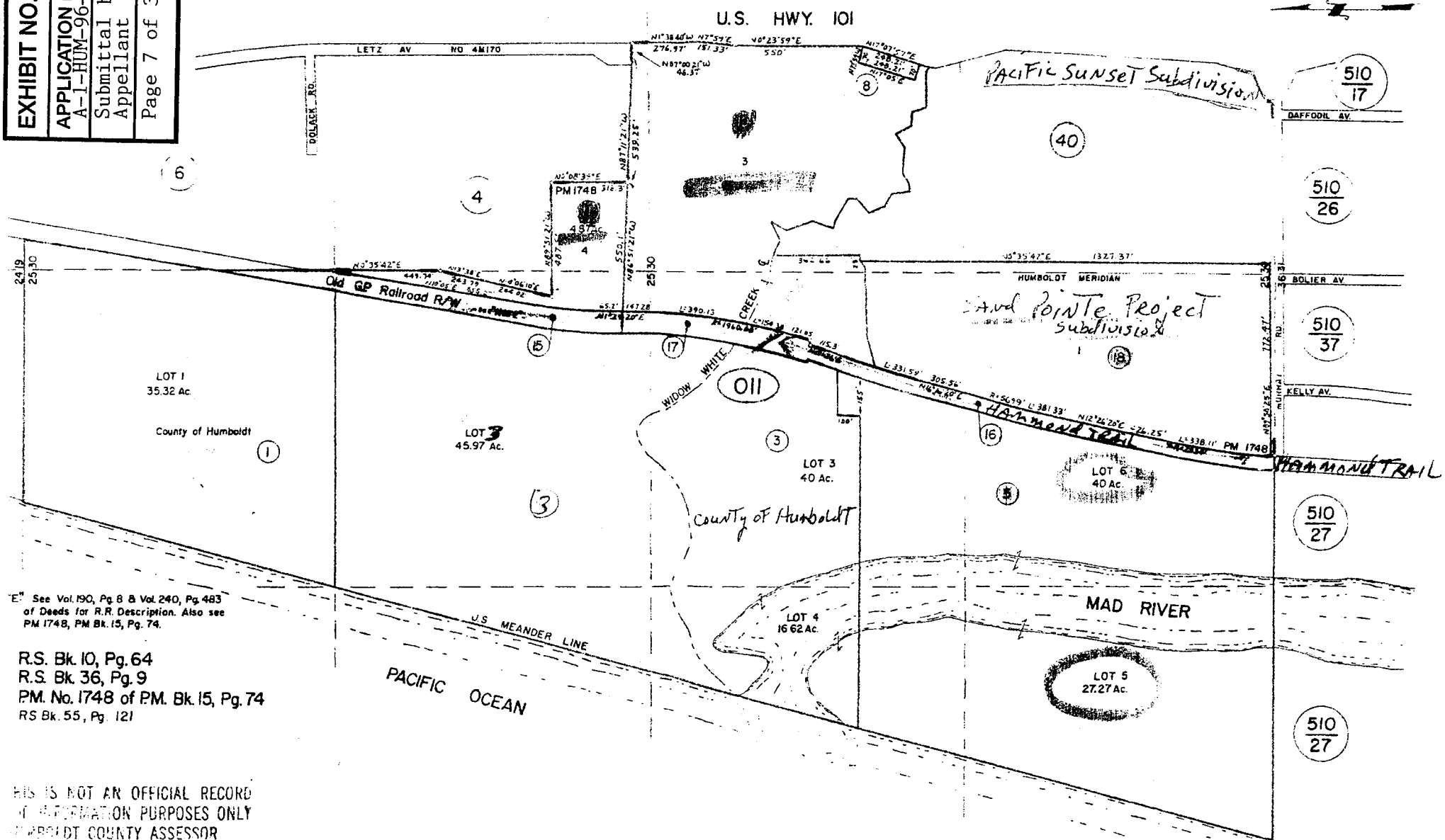
EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 6 of 38

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 7 of 38

SEC. 25, T.7N, R.1W, & POR. SEC. 30, T.7N, R.1E, H.B.&M.

511-01

1"=400'



"E" See Vol. 190, Pg. 8 & Vol. 240, Pg. 483 of Deeds for R.R. Description. Also see PM 1748, PM Bk. 15, Pg. 74.

R.S. Bk. 10, Pg. 64
R.S. Bk. 36, Pg. 9
P.M. No. 1748 of P.M. Bk. 15, Pg. 74
RS Bk. 55, Pg. 121

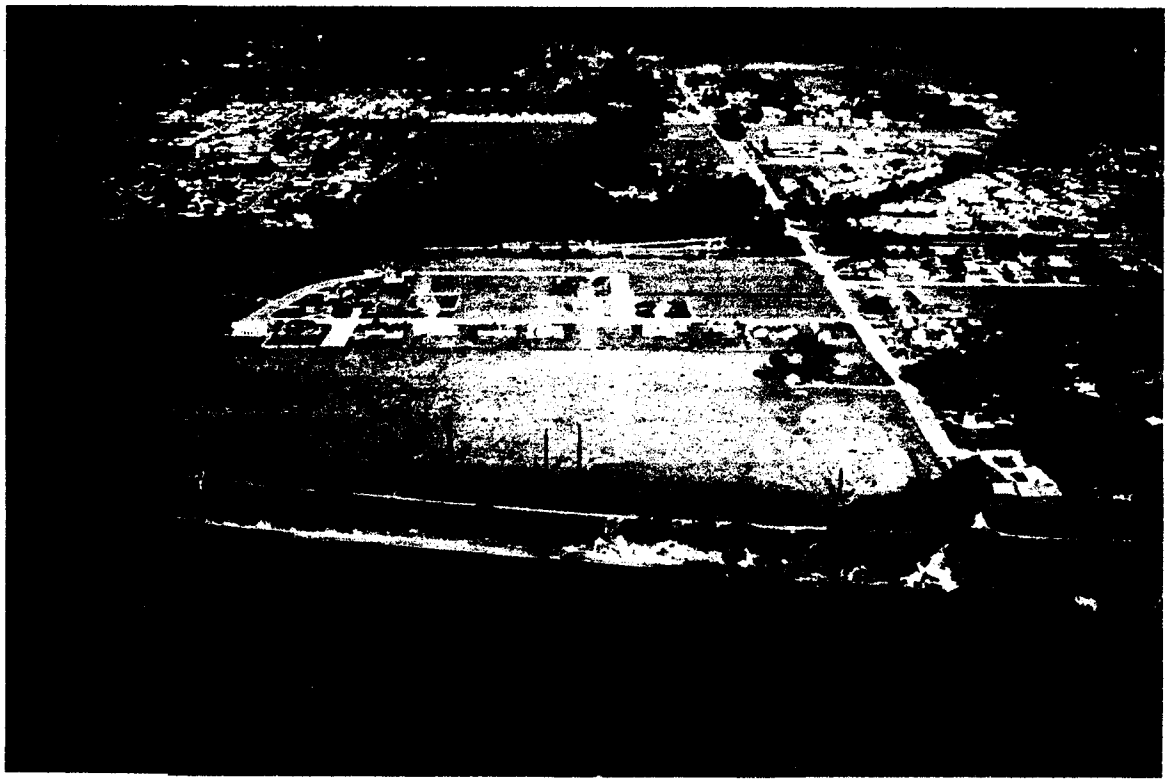
THIS IS NOT AN OFFICIAL RECORD
FOR INFORMATION PURPOSES ONLY
HUMBOLDT COUNTY ASSESSOR

1974-1977

MAP OUT OF DATE

Assessor's ~~Maps~~ Bk. 511 - Pg. 01
County of Humboldt, Calif.

Wind can and does blow quite strongly from most all directions. Trees and brush lean towards the South. Again note bluff failure red lines showing indicated [illegible] ordinary [illegible] [illegible] duration of bluff times. [illegible] see the river [illegible] erosion.



Tide going out. Note: Red arrows above Hammond Trail indicated point of bluff failure, tide going out. Washing by river and bluff failure.

EXHIBIT NO.	53
APPLICATION NO. A-1-HUM-96-70	
Submittal by Appellant	
Page 8 of 38	

Water [illegible] on
property [illegible] public use.

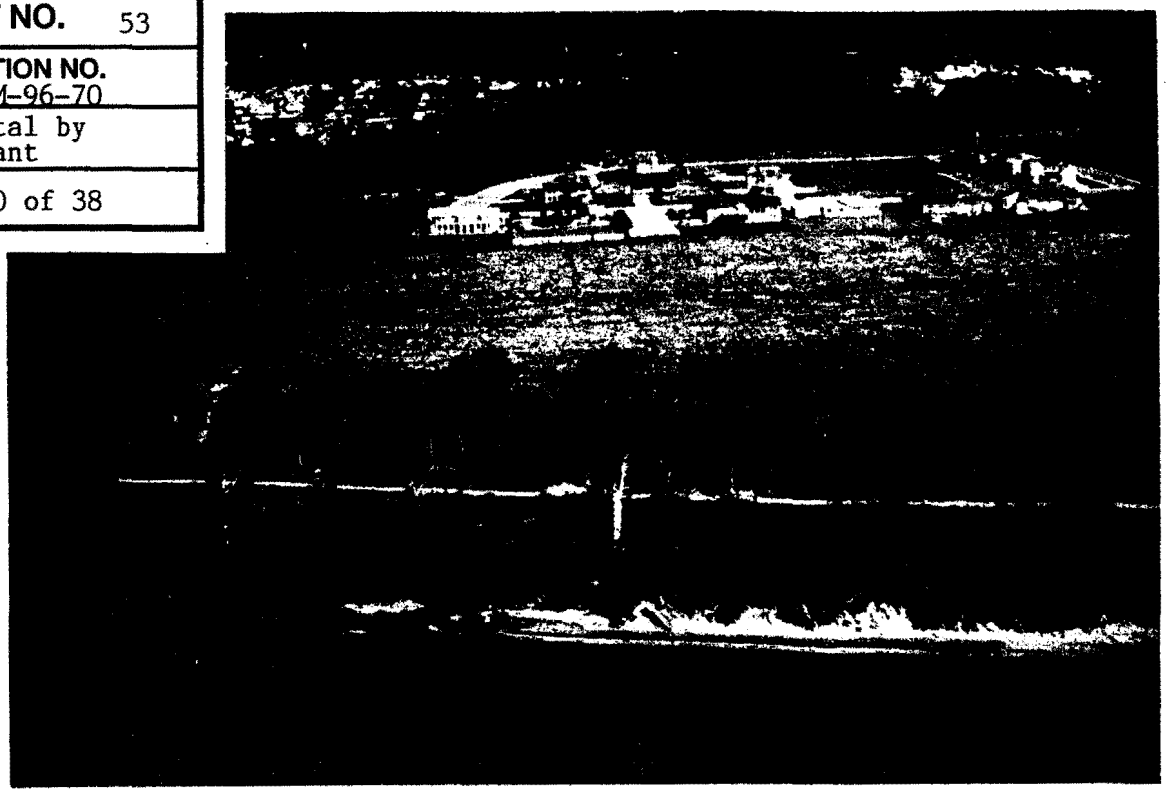
Water [illegible] action from the [illegible] on the Mad River.
This photo was made [illegible] You can see visible changes
the [illegible] and river [illegible] it to the rest of the print
which were photographed on [illegible] 7.

EXHIBIT NO. 53

APPLICATION NO. A-1-HUM-96-70

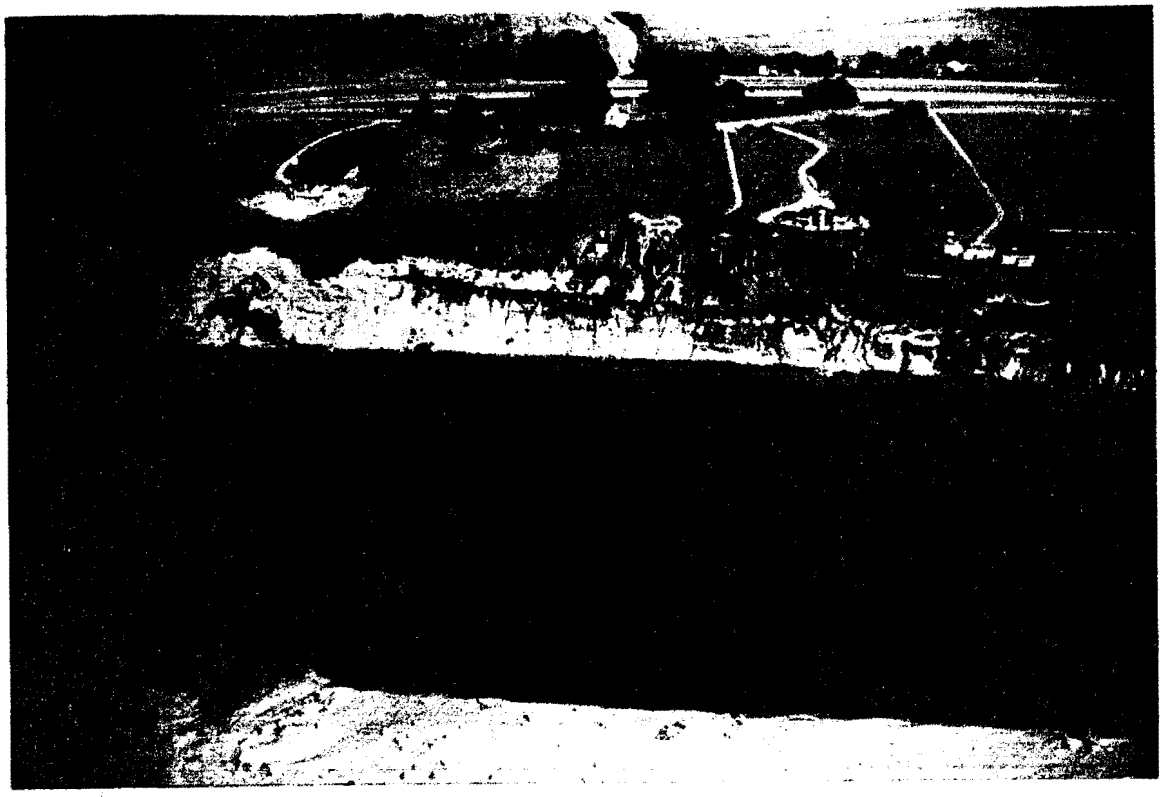
Submittal by Appellant

Page 9 of 38



Visible erosion on Bluff above and below the Hammond Trail. You can see the water line, where the water was about two [illegible] ago. The Hammond Trail is about 2/3 up the bluff. It is extremely [illegible] see but the Mad River Fault line can be seen in the low altitude oblique shots.

Erosion at Sand Pointe Subdivision site.



[illegible] Seismic [illegible] North [illegible] Project. [illegible] located at [illegible] mouth of the Mad River. Note the [illegible] erosion [illegible] unstable [illegible], the [illegible] and [illegible].

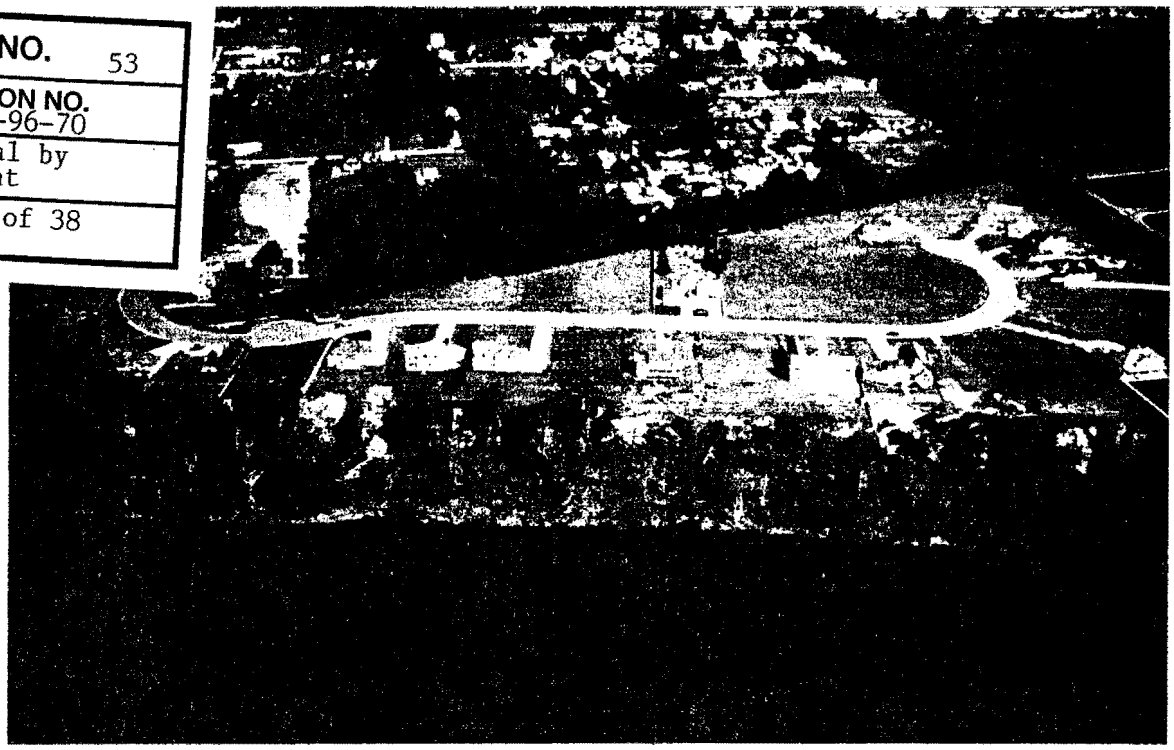
Right [illegible] seismic fault North of Sand Pointe Project.

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 11 of 38

4

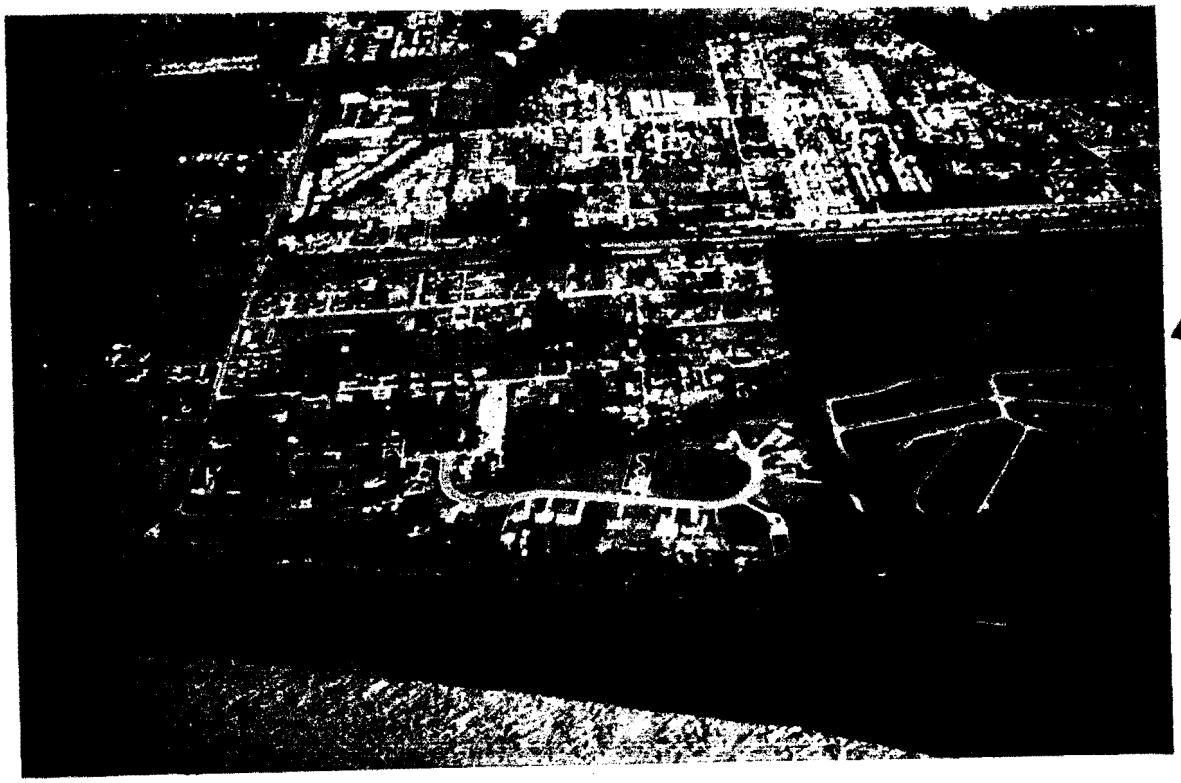
Tree [illegible] the river Bank [illegible].

Erosion along east bank of The Mad River and Widow White Creek.



[illegible] and slide failure at Buck's Cove, one block south of Sand [illegible]

Photo taken in back yards of Buck's Cove subdivision. [illegible] metable soil.



Hammond Trail

Gang Pointe Project

NOTE EROSION

Fault line visible on cliff near the mouth of Mad River.

Gang Pointe Subdivision Project.

EXHIBIT NO.	53
APPLICATION NO.	A-1-HUM-96-70
Submittal by Appellant	
Page 14 of 38	

7

These four (4) photographs of a Blue Heron, Bald Eagle and Osprey, cannot really detail the Red Tailed Hawk, Turkey Vultures, Owls and other birds we see on a daily basis.

EXHIBIT NO. 53

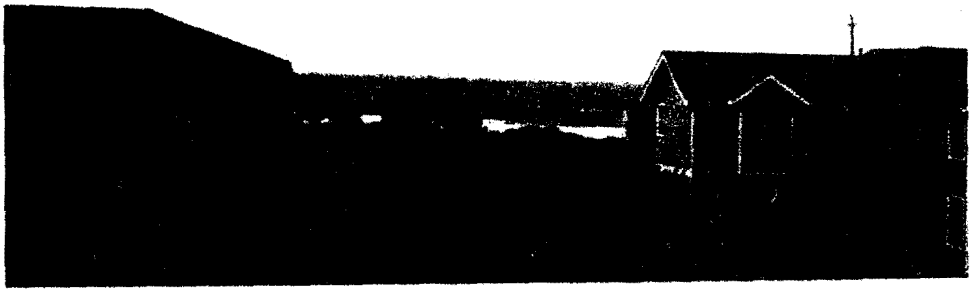
APPLICATION NO. A-1-HUM-96-70

Submittal by Appellant

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 16 of 38

2

These eleven (11) photographs show only some of the helicopters from the Coast Guard that fly over the project site and Pacific Sunset Subdivision on a daily basis. Not only do we have our local aircraft from the Arcata-Eureka Airport flying over as you can see there are Blimps and all types of Military helicopters. (HUEY).



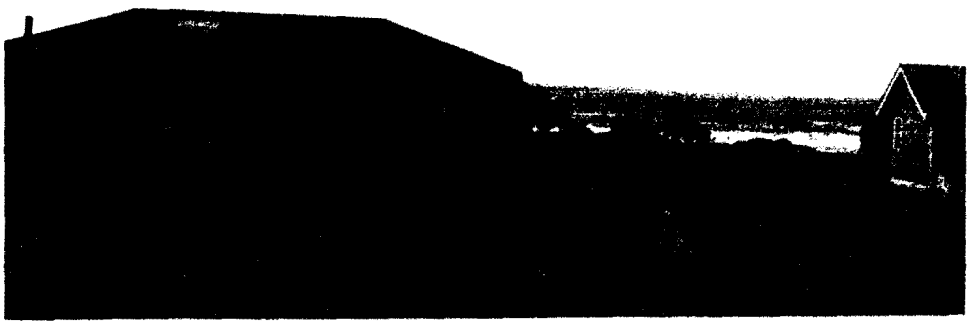
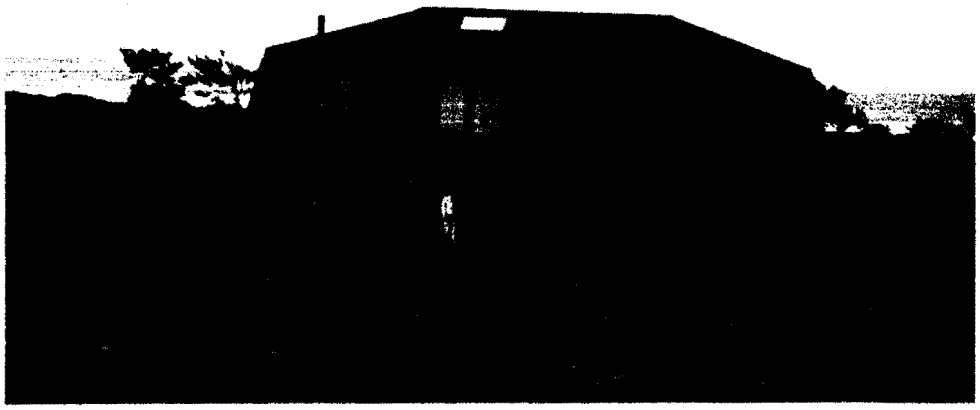


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 17 of 38



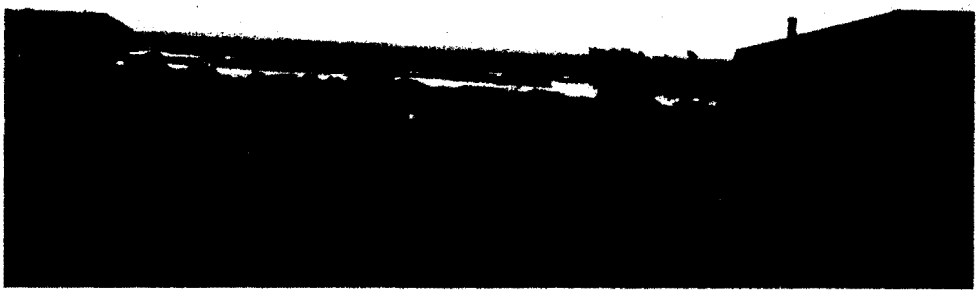
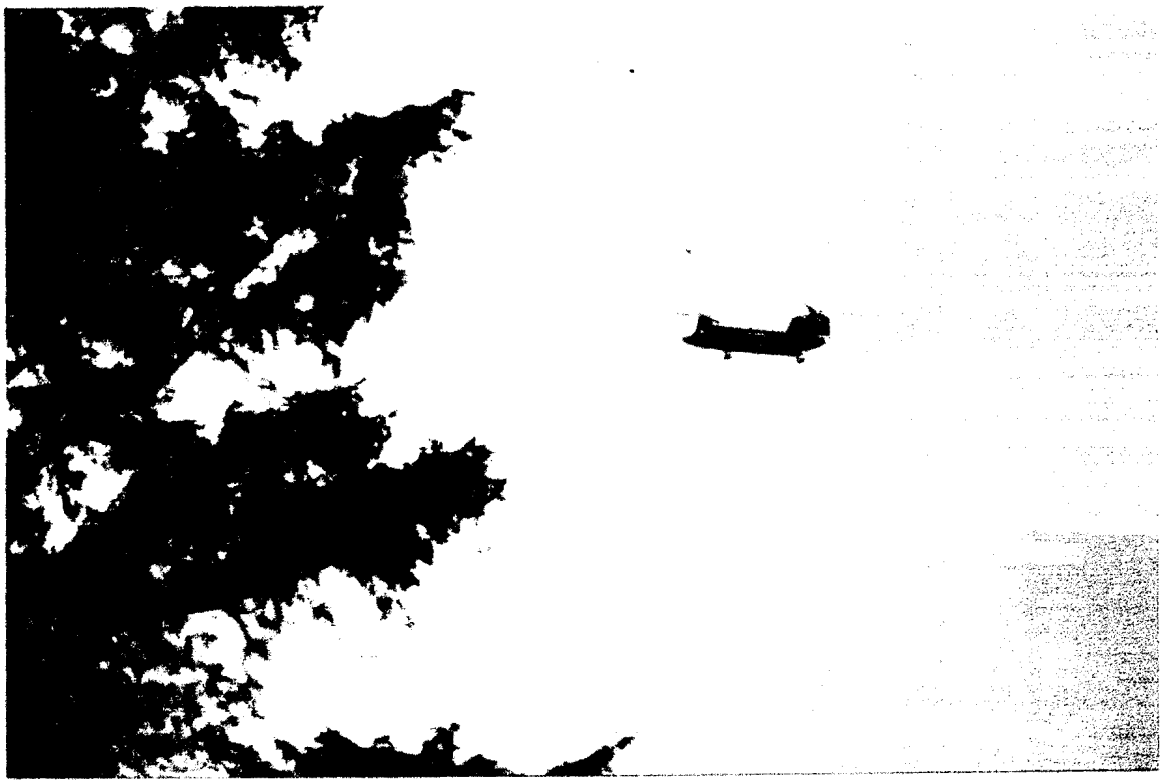


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 18 of 38



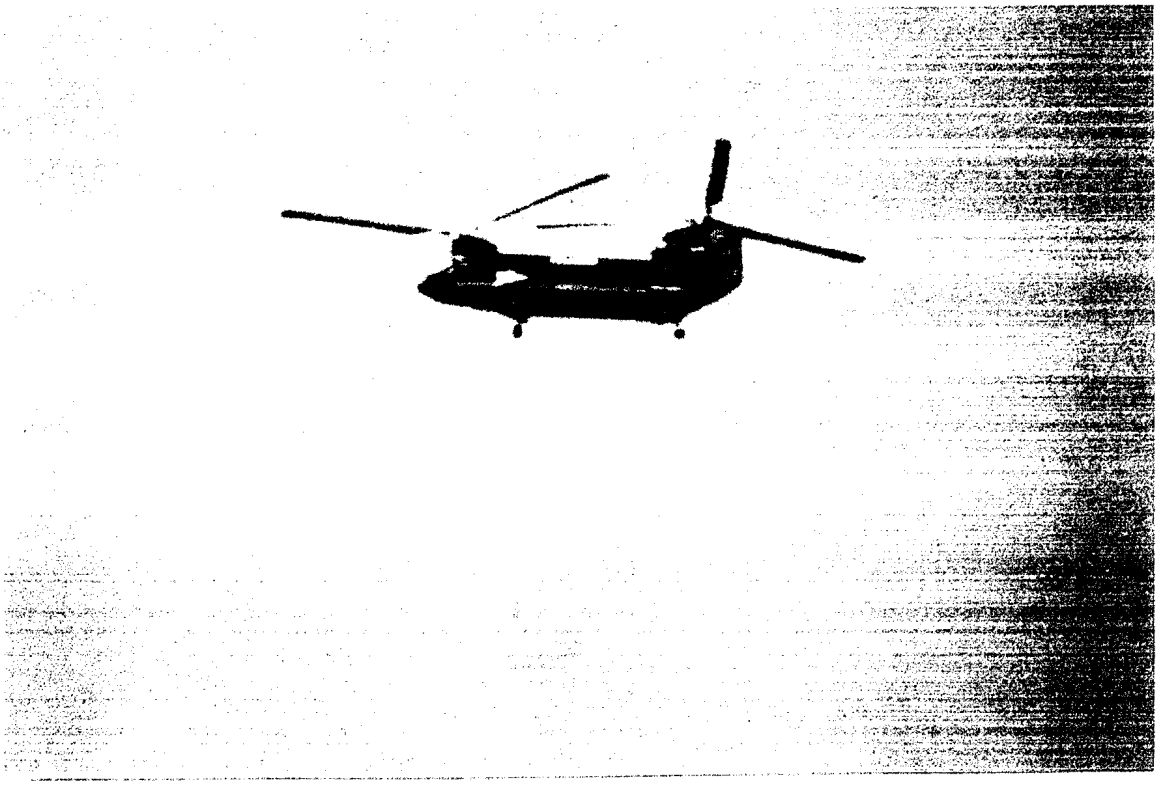


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 19 of 38

3

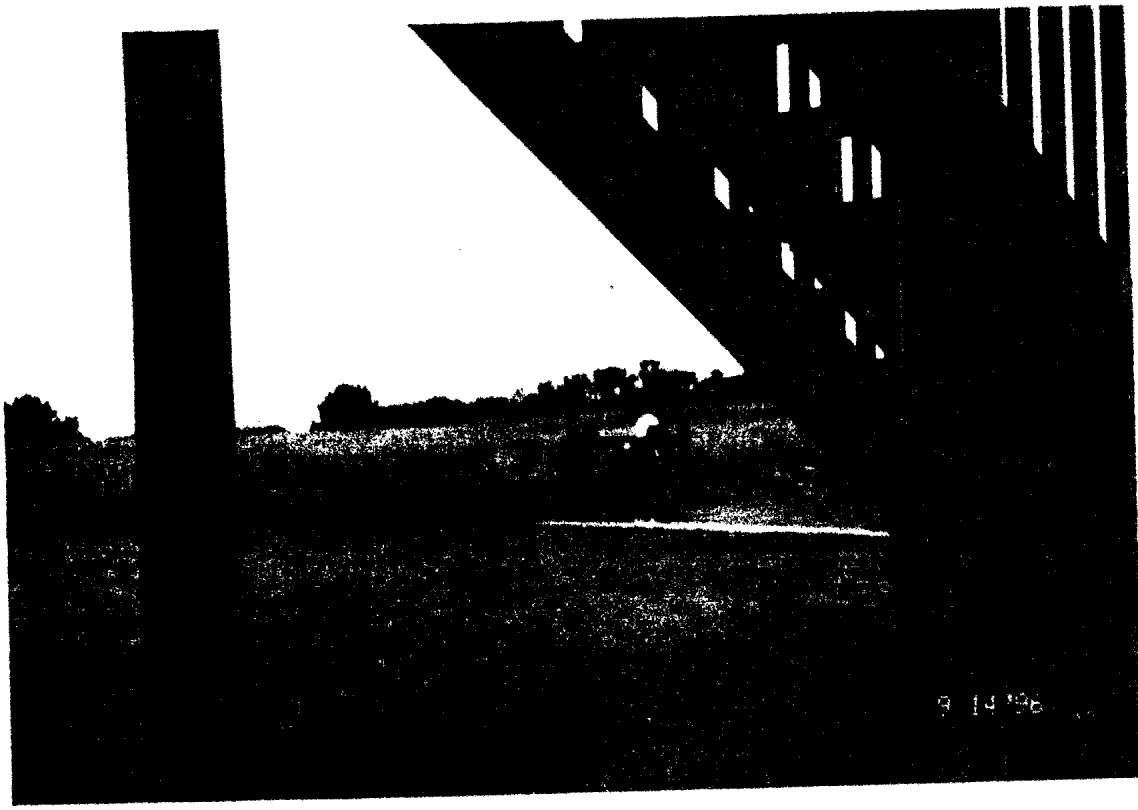
EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 20 of 38

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 21 of 38

5

The next series of photographs depict only a few views of the public accessing the project site. The average of 12 to 20 persons on a daily basis of jogging, leisurely walking, bike riding, fly miniature planes, horseback riding, kite flying, ATVs, people picking mushrooms and berries.

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 22 of 38
California Coastal Commission



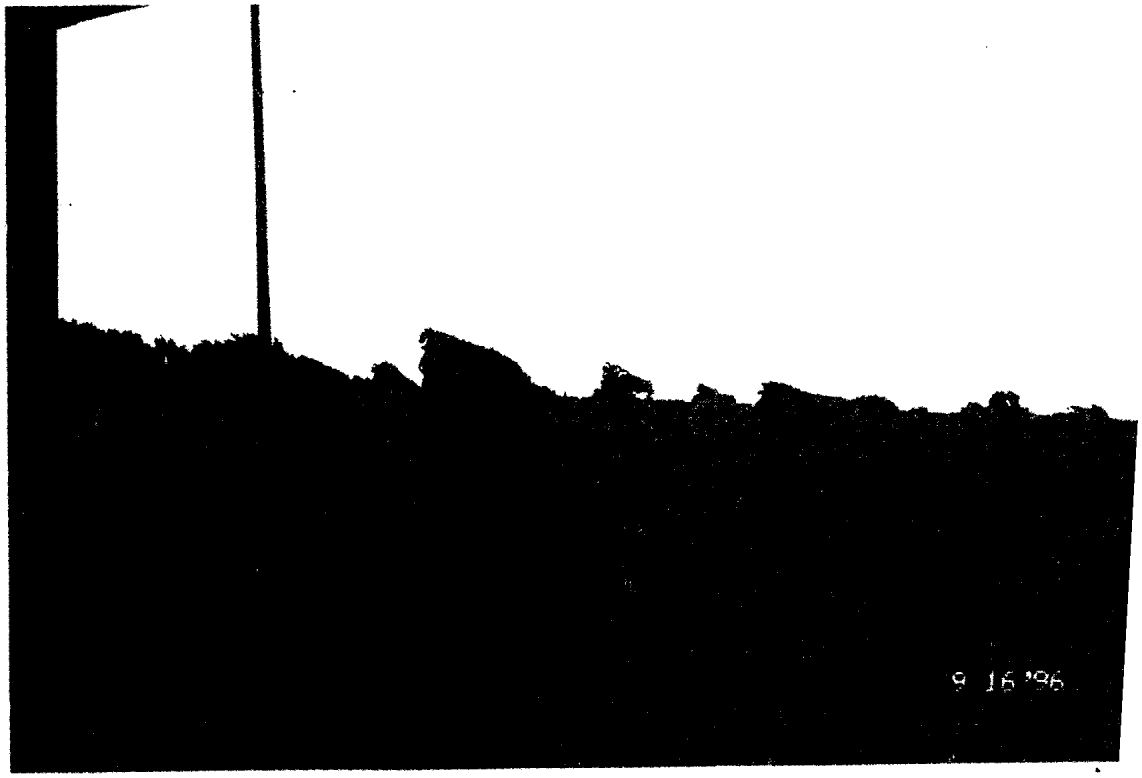


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 23 of 38
California Coastal Commission

2

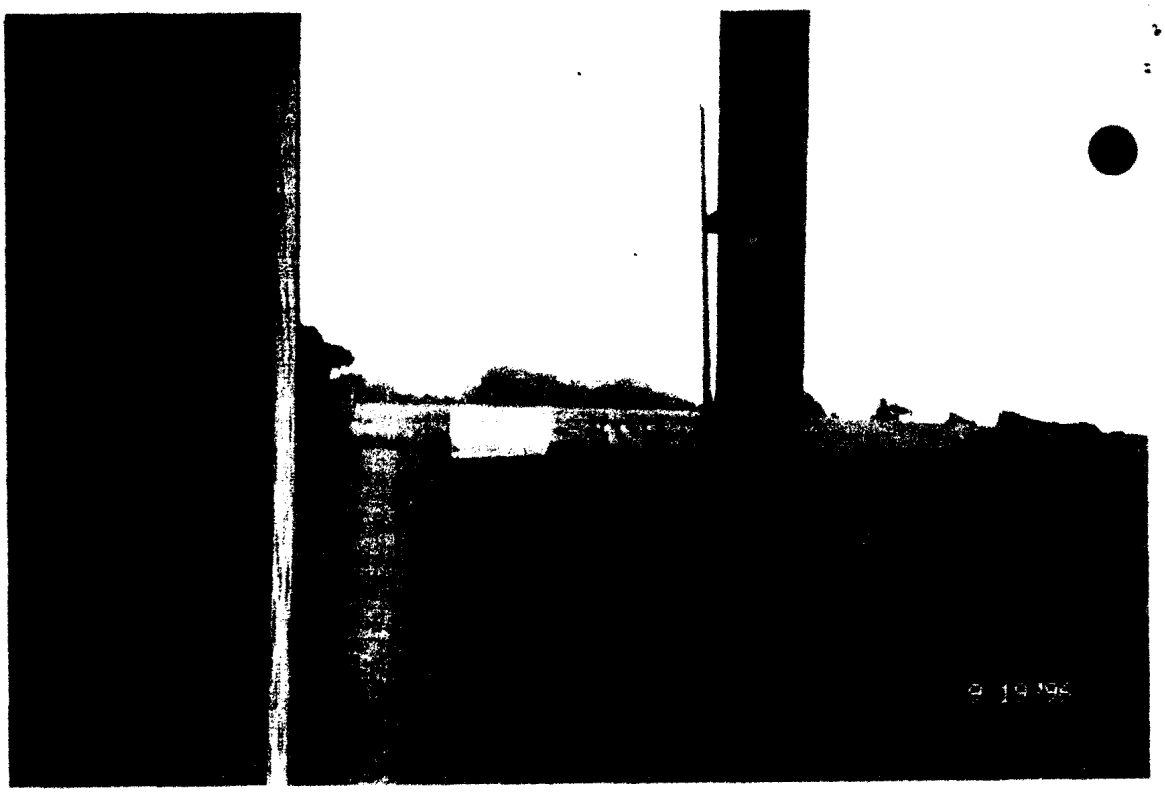
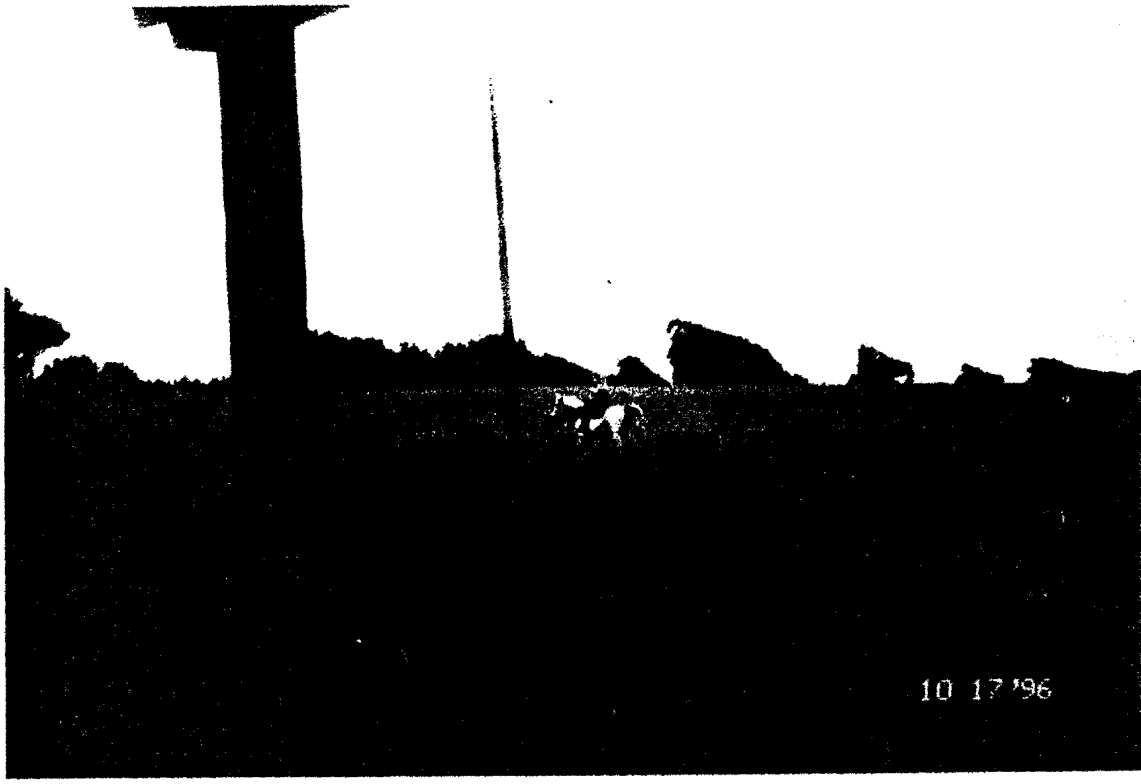


EXHIBIT NO.	53
APPLICATION NO. A-1-HUM-96-70	
Submittal by Appellant	
Page 24 of 38	
California Coastal Commission	



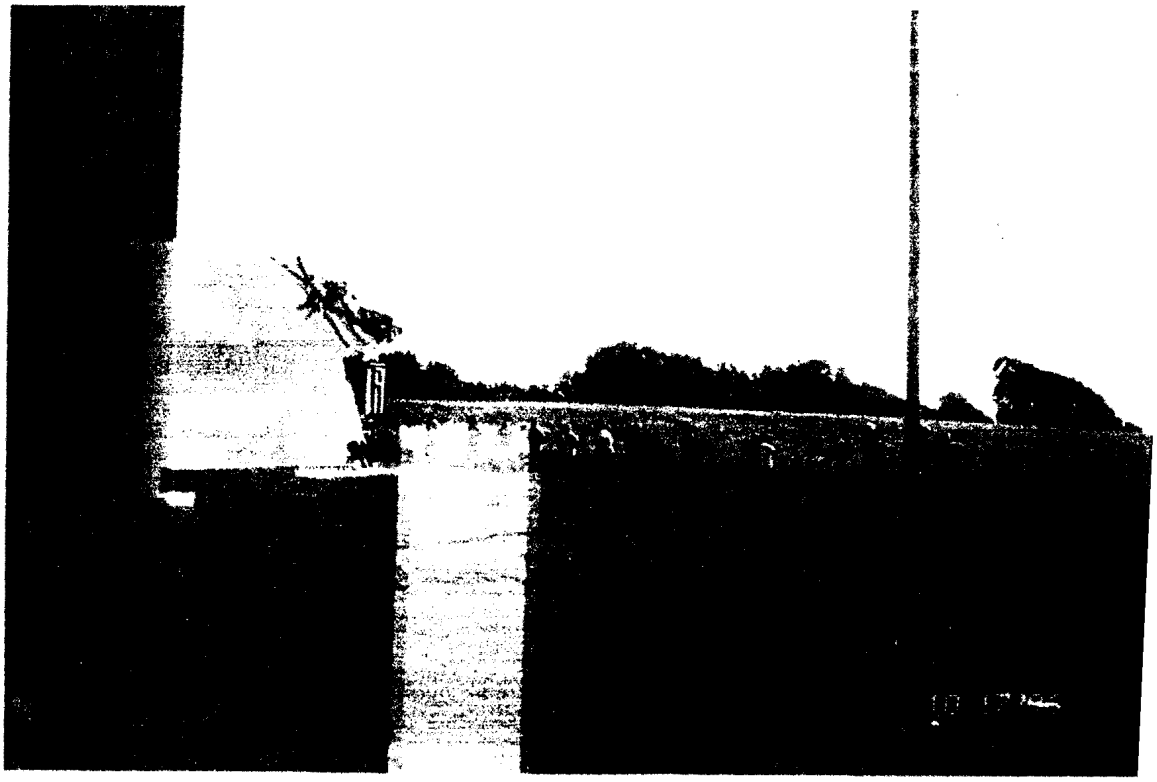


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 25 of 38

California Coastal Commission

4

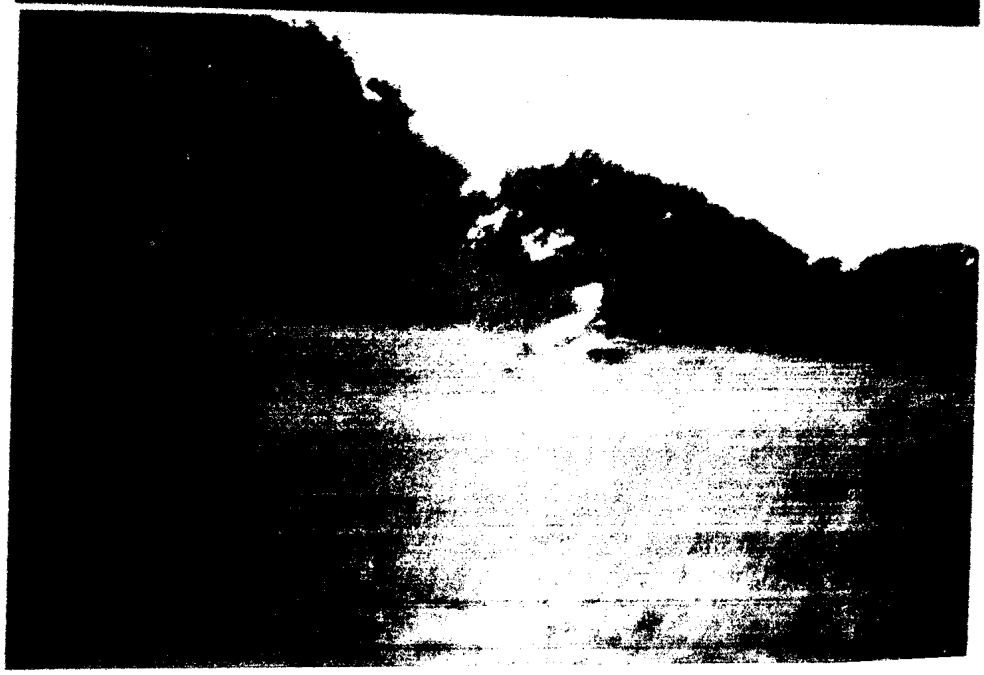


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 26 of 38
California Coastal Commission

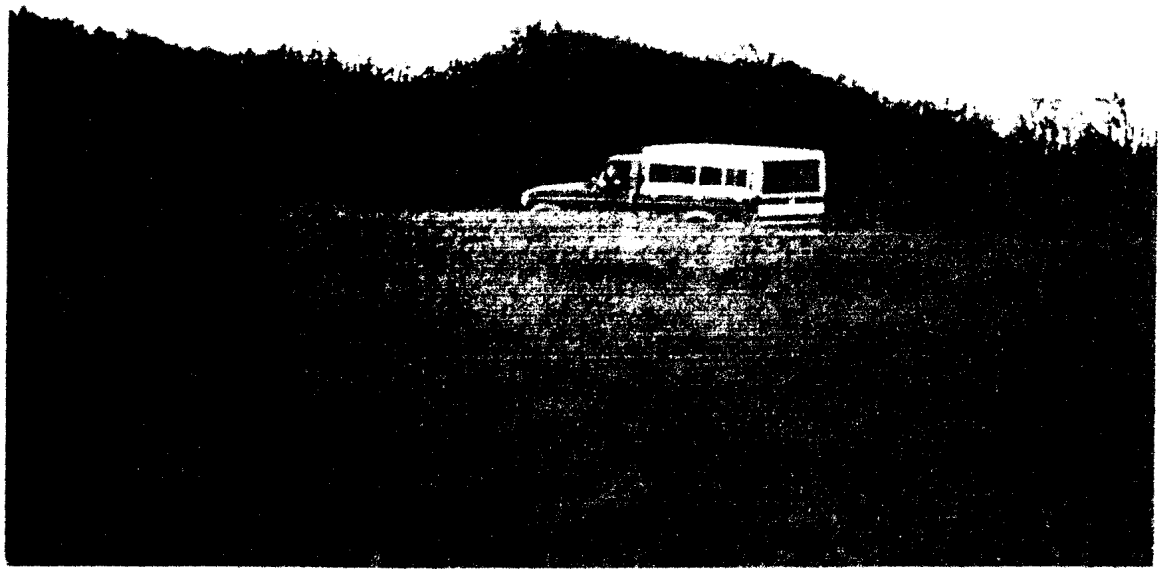


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 27 of 38 California Coastal Commission

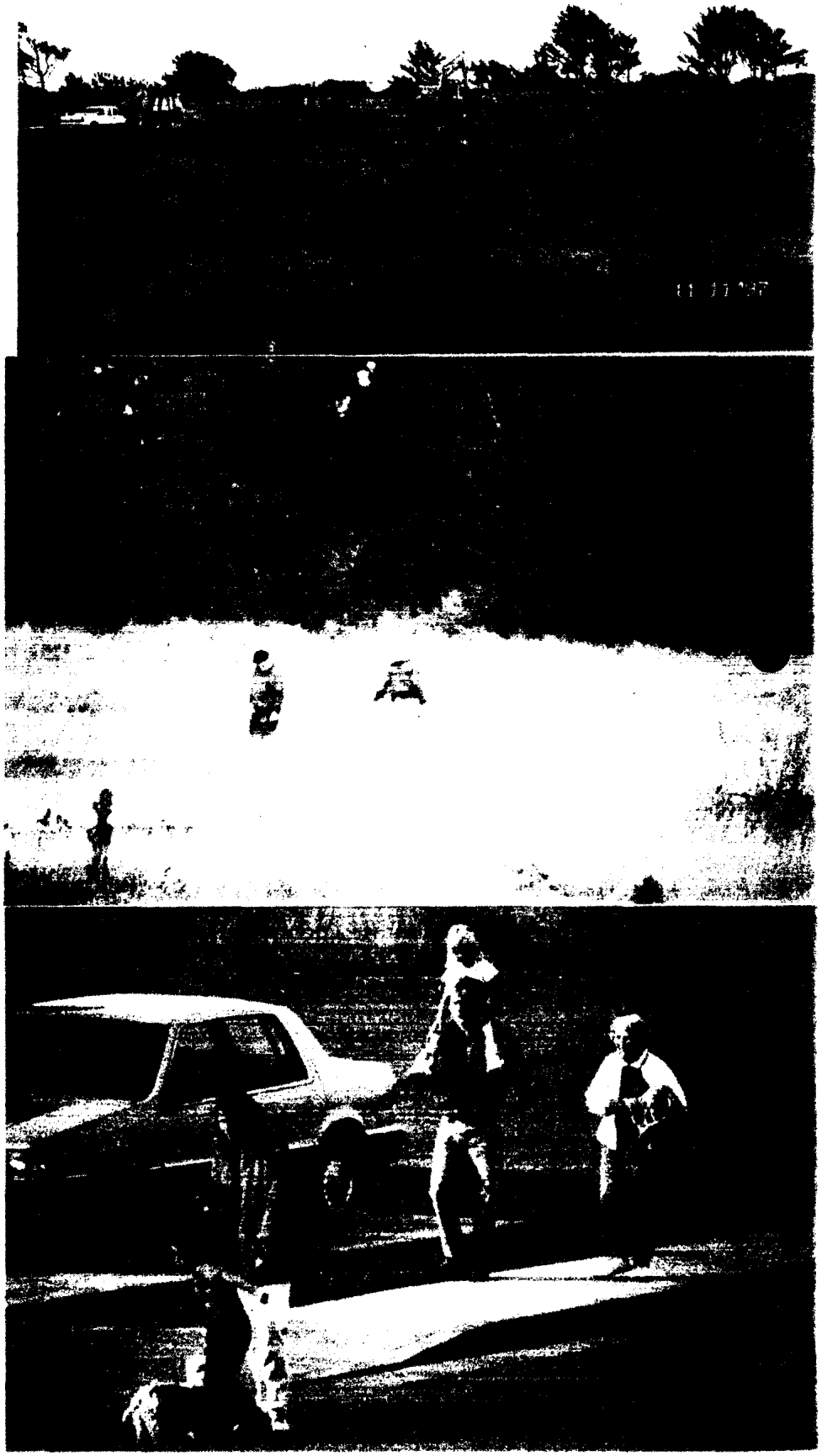
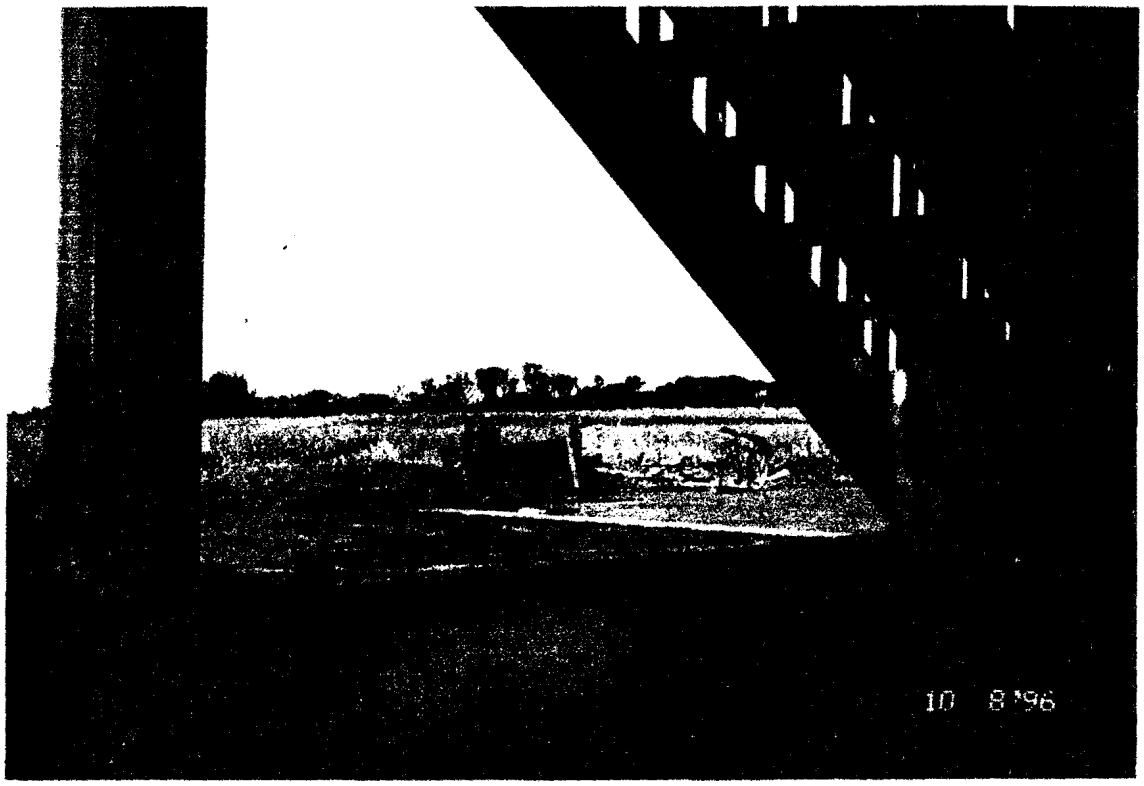


EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 28 of 38
California Coastal Commission



Bicyclist enjoying unobstructed view

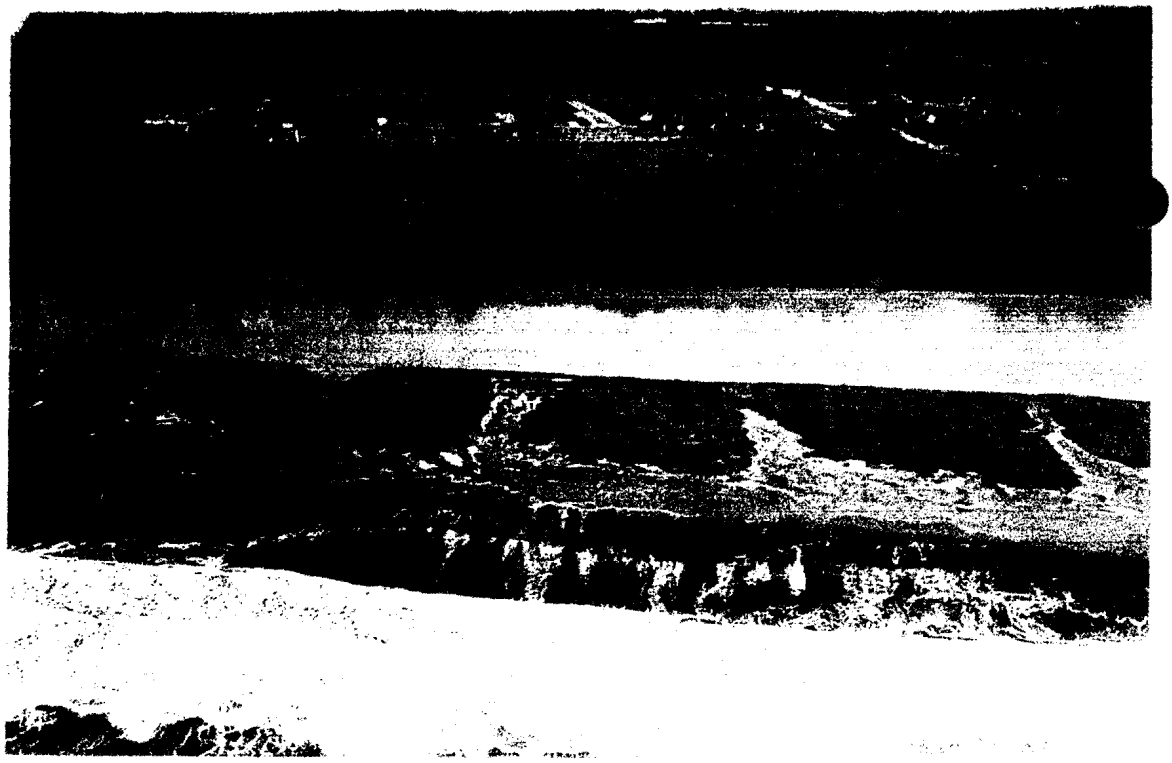
People gathering mushrooms. Same day as seismic trenchin occured. 11/11/97

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 29 of 38
California Coastal Commission

You can also see when the tide is fairly high this spit totally awash forcing the river current against the East bank of the river.
Note: The islands left compared to ground level photographs taken on an earlier date.

April 9, 1997 Photegraph showing the end of the spit.

February 27, 1998 Photograph at lower tide, spit is back considerable, compared to above photograph.
Note: The white water on the river side of the spit and in the river.



More of breaching evidences. Not at high tide.

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 32 of 38
California Coastal Commission

At low low tide. Washing below and from above The Hammond Trail The same thing that happened toward the mouth of the Mad River. (4/12/98)

More slippage and dead trees. (4/12/98)

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 33 of 38 California Coastal Commission

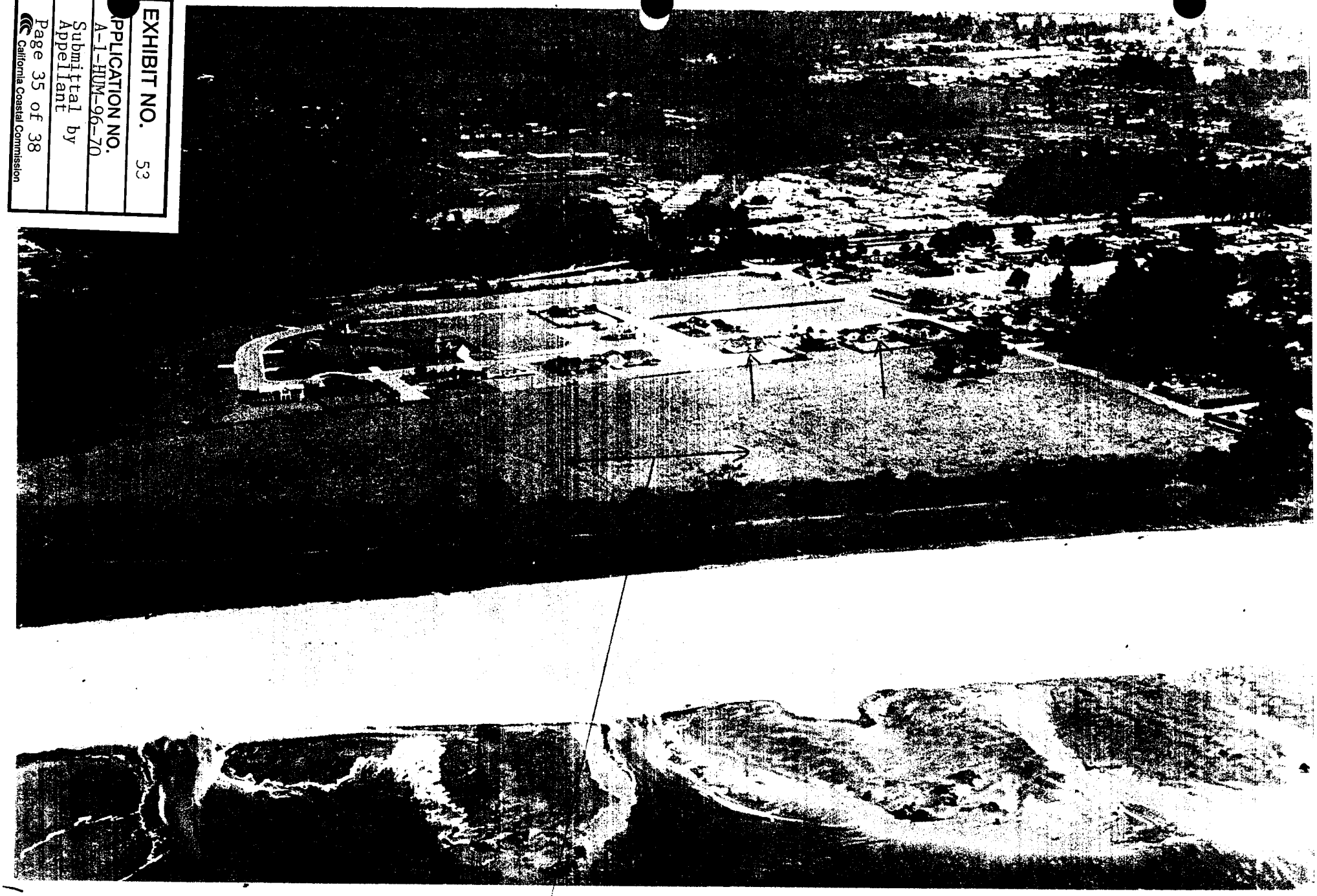
Bluff failure. Photo taken from river edge at low low tide. The Hammond Trail at top edge of loose sand. (4/12/98)

Same as above

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 34 of 38

California Coastal Commission

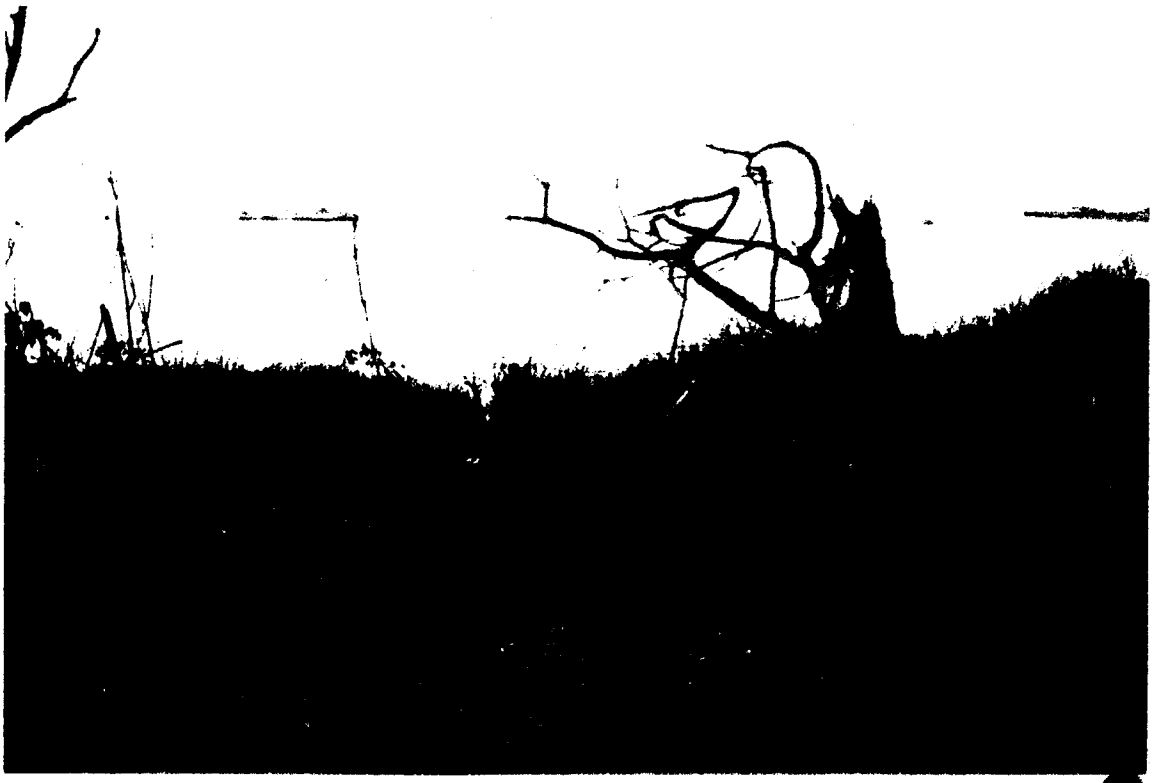
EXHIBIT NO. 53
APPLICATION NO.
A-1-HUM-96-70
Submittal by
Appellant
Page 35 of 38
California Coastal Commission



If you observed the lay of the land when you were here in September 1997, you would probably ask why they trenched in these locations and only half way across. Also, since the residents in the second and fourth houses north of Murray Road on Fortune St. had to move there houses forward (closer to the street) because of the earthquake fault.

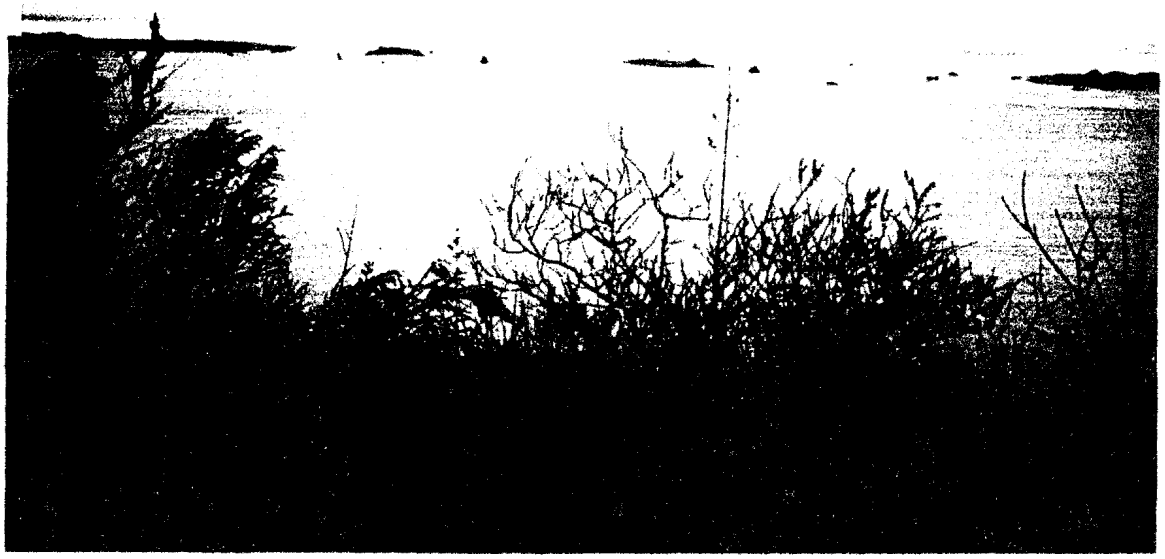
The following photographs represent the remnants of the 67.27 acres offered for Donations.

Looking Southerly direction from The Hammond Trail. Jan. 6, 1998



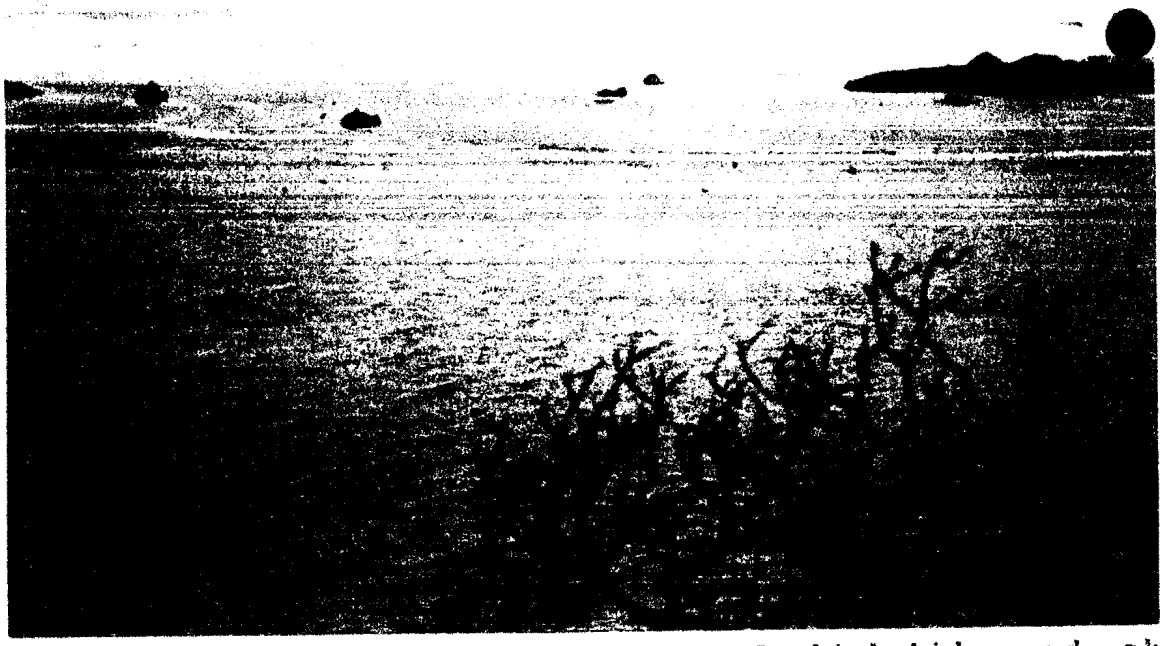
Looking North from The Hammond Trail. Jan. 6, 1998
(over cast day)

EXHIBIT NO. 53
APPLICATION NO. A-1-HUM-96-70
Submittal by Appellant
Page 36 of 38
California Coastal Commission

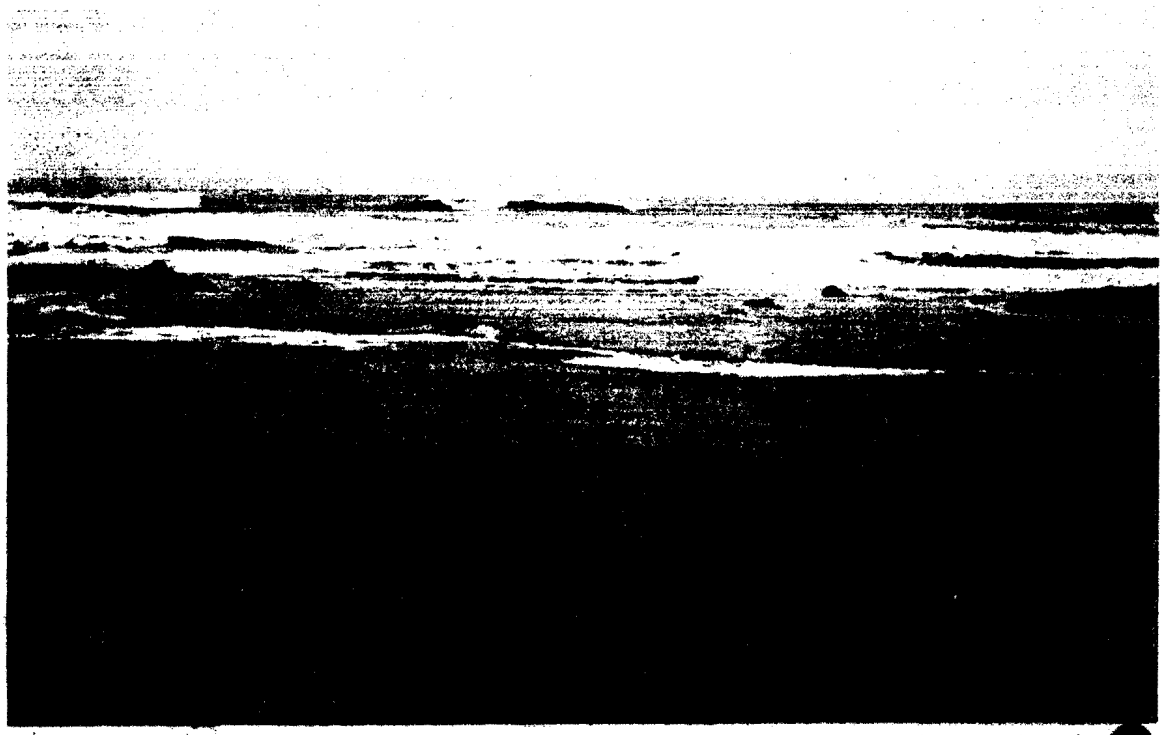


You can see what is left of these islands on Aerial photographs

Looking north from Hammond Trail. (2/7/1998) Islands are no longer there.



More breaching and washing. Not extremely high tide and abo
two hours after peak high tide. (2/7/98)
Photographs taken from the Hammond Trail



Surf washing across river pushing river current against an
Tide is receding.

STATE OF CALIFORNIA PETE WILSON, *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

ROBERT C. HIGHT, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: <Telephone>
Contact FAX: <Fax>

RECEIVED JUN 13 1997 OSCAR LARSON ASSOCIATES

9 June 1997

File: Humboldt
County General

Mr. Marty McClelland
Oscar Larson and Assoc
Consulting Engineers and Land Surveyors
317 3rd. Street
PO Box 3806
Eureka, CA 95502-3806

EXHIBIT NO. 54
APPLICATION NO. A-1-HUM-96-70
Letter From State Lands
California Coastal Commission

Dear Mr. McClelland:

I apologize for the delay in responding to your telephone call and fax dated May 28, 1997 regarding possible state interest in the bed of the Mad River at APN 511-011-05.

Staff has reviewed the material submitted in conjunction with your request. As you are aware, the State owns the ungranted beds of tidal and navigable waterways within its boundaries. The boundaries of these State-owned lands generally are based upon the last naturally occurring location of the ordinary high or ordinary low water marks prior to artificial influences which may have altered or modified the river or shoreline characteristics. This interest of the State consists of a fee ownership below the ordinary high water mark in tidal reaches of the waterway, subject to the public trust easement for water related commerce, navigation, fisheries, recreation, and open space. In non-tidal waterways, the State holds a fee ownership below the ordinary low water marks, and a public trust easement below the ordinary high water marks.

In order to determine the nature, extent and location of the State's sovereign interests in any particular area, it is necessary to gather all available and appropriately relevant material concerning the subject waterway, including, but not limited to, its historical locations, natural and artificial factors which may have influenced its character and location, any valid or purported conveyances of the property and legal principles which may affect title to the property. While we do have substantial information relating to the historical locations of the Mad River, and to activities that have occurred along the river, we have not completed any studies to definitively locate and delimit the State ownership in this section of the Mad River and the adjacent lower reach drainage of Widow White Creek. In short, the precise extent and location of the State's sovereign interest at the subject parcel has not yet been determined. Given budget and staff constraints, it is unlikely we will be able to better define the State's sovereign interests in the project site in the near future.

However, the Mad River is subject to a navigation easement which provides that members of the public have the right to navigate and to exercise the incidents of navigation in a lawful manner on State waters that are capable of being physically navigated either by oar or by motor propelled small craft.

This letter is not intended, nor should it be construed as, a waiver or a limitation of any right, title or interest by the State of California in any lands under its jurisdiction.

If you should have any questions, please contact Linda Fiack at (916) 574-1818.

Very truly yours,

Jane Sekelsky
Chief, Land Management Division

BNS:bs
cc: Mr. James Muth
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA. 94105-2219
Bryant Sturgess
Linda Fiack

EXHIBIT NO. 54
APPLICATION NO. A-1-HUM-96-70
Letter From
State Lands
California Coastal Commission