

## CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

5 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 (415) 904-5260

LSM  
  
 W 11c

Date Filed: June 24, 1998  
 60th Day: Extended to August 23, 1999  
 Staff: D. Rance  
 Staff Report: August 21, 1998  
 Hearing Date: September 9, 1998  
 Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director  
 Steven Scholl, Deputy Director  
 Robert Merrill, North Coast District Manager  
 Darryl Rance, Coastal Planner

SUBJECT: **Del Norte County LCP Amendment No. 2-98 Major, (Richard McNamara RCA Rezone) (Meeting of September 8 - 11, 1998, in Eureka.)**

SYNOPSISAmendment Description

Del Norte County is requesting that a 26.94-acre property at the west end of Vipond Drive, near Lake Earl, north of Crescent City be rezoned from RCA-1 (*General Resource Conservation Area*), A-5 (*Agricultural General, five-acre minimum lot size*), and RRA-1 (*Rural Residential Agriculture one-acre minimum lot size*), to RCA-2(r) (*Designated Resource Conservation Area, Riparian*), A-5 and R1-B13 (*Single-Family Residential, 13,000 square foot minimum lot size*).

Summary of Staff Recommendation

The staff recommends that the Commission **approve** the Implementation Plan amendment as submitted. The amendment, which consists of a change in the Zoning Map, is proposed in accordance with the County's certified Local Coastal Program (LCP) Resource Conservation Area (RCA) rezone procedures. The LCP provides that riparian and other sensitive habitats be identified and mapped, as well as rezoned, prior to development of property with the General Resource Conservation (RCA-1) designation applied to it. That general designation was applied to the subject property at the time the LCP was originally certified. The identification and mapping of sensitive habitats on the subject property has now occurred, and that identification is proposed to be incorporated into the Zoning and Implementation Plan portion of the LCP by means of this amendment.

### Analysis Criteria

To approve the Implementation Plan amendment, the Commission must find that the Implementation Plan (IP), as amended, conforms with and is adequate to carry out the Land Use Plan (LUP) policies and map designations of the County's LCP.

### Related Appeal

On March 5, 1997, the Del Norte County Planning Commission approved a coastal development permit (CDP No. MJ9702C) authorizing the subdivision of the 26.94-acre parcel into 10 residential lots approximately 20,000 square feet in size and a 22-acre remainder parcel. The approval was conditioned on the proposed RCA rezone amendment being certified by the Commission. A Notice of Final Action on the County's approval of the coastal development permit was subsequently forwarded to the Coastal Commission.

The Planning Commission's Findings on the subdivision approval raised a couple of concerns. First, the Planning Commission Findings state that the subdivision is consistent with the LCP as proposed to be amended, and not the LCP as currently certified. Second, the proposed parcel configuration of the subdivision as approved by the Planning Commission also contained apparent conflicts with the wetland policies of the LCP.

On March 31, 1997, Commissioners Wan and Pavley filed an appeal of the locally approved coastal permit (No. A-1-DNC-97-019). The appeal cited: 1) the internal inconsistency of the Planning Commission's findings on the subdivision approval; and 2) inconsistencies of the subdivision configuration with wetland policies of the LCP.

After hearing of the Coastal Commission's concerns, the applicant waived time on the appeal to allow the LCP amendment to be processed first. If and when the Commission certifies this LCP amendment, staff will schedule the subdivision appeal for the Commission's consideration.

### Additional Information

For further information, please contact Darryl Rance at the North Coast District Office (415) 904-5268. Correspondence should be sent to the District Office at the above address.

### I. STAFF RECOMMENDATION FOR THE LCP AMENDMENT

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

A. APPROVAL OF ZONING MAP AMENDMENT AS SUBMITTED

The resolution is properly introduced by the following motion:

"I move that the Commission reject the zoning map amendment in LCP Amendment No. 2-98 (Major) to Del Norte County's Implementation Plan as submitted by the County modified herein."

Staff recommends a No vote, and adoption of the following resolution and findings. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present would result in rejection of the amendment request.

RESOLUTION:

The Commission hereby certifies LCP Amendment No. 2-98 (Major) to the Implementation Plan of the Del Norte County LCP for the specific reasons discussed in the following findings on the grounds that the zoning ordinances, zoning district maps, and other implementing materials as amended conform with and are adequate to carry out the provisions of the Land Use Plan as certified. As submitted, the amendment does not have a significant adverse impact on the environment within the meaning of the California Environmental Quality Act (CEQA).

II. FINDINGS TO APPROVE THE ZONING MAP AMENDMENT AS SUBMITTED

A. Site Description

The subject property, APN 110-020-64, is 26.94 acres in size and is located northeast of Crescent City in Del Norte County. More specifically, the site is located north of Vipond Drive and Clayton Road, on the east shore of Lake Earl, adjacent to an existing residential subdivision (Exhibits 1 and 2). The property contains gentle slopes but is generally flat.

The property currently has three-land use and zoning map designations. Generally, the northern portion of the property is designated and zoned as General Agriculture, 5-acre minimum parcel size. The middle portion of the property is designated and zoned as RCA-1, meaning General Resource Conservation Area. A Wetlands Investigation of the property prepared by Karen Theiss and Associates (January 1993, amended May 1998,) indicates that the middle portion of the property has two distinct areas of riparian resources that are considered environmentally sensitive habitat area. Most of this area is covered with a second growth Spruce and Redwood forest. These two sensitive habitat areas are proposed to be rezoned to RCA-2(r) to protect the riparian resources. According to the KTA Wetlands Investigation, portions the site contains vegetation that is sometimes associated with wetland or riparian areas. However, based on the three prong criteria used to distinguish wetland and riparian resources (hydic soils, hydrology and hydrophytic vegetation), the presence of these facultative species does not indicate the presence of wetlands or riparian resources on portions of the property. The California Department of Fish and Game has reviewed the proposed RCA rezone and concurs with the results of the wetland investigation and the proposed rezone. The southerly portion of the property is designated as Rural Neighborhood and zoned as R1-B13, One-Family Residence, 13,000 square feet minimum lot size. The

southern portion of the property is covered with an open grassy meadow, and was cleared of its Spruce and Redwood forest some time ago.

**B. RCA Rezone Process**

The RCA rezone process is implemented by Chapter 21.11 and Chapter 21.11A of the County's coastal zoning ordinance and is used to identify environmentally sensitive lands that may contain wetlands, wetland buffers, farmed wetlands, riparian areas, estuaries, and coastal sand dunes.

The RCA rezone process is unique to Del Norte County's Local Coastal Program. Because the County's coastal zone has extensive environmentally sensitive habitat areas, it was not possible for the County to conduct precise, site-specific habitat mapping for every property within the County's coastal zone when the County's LCP was prepared. Instead, the County prepared generalized resource maps, and applied a zoning category of Resource Conservation Area – General (RCA-1) to such areas. Consequently, the RCA-1 zone serves as a transition zone until more precise habitat mapping can be done.

Where additional information indicates that riparian or other resources are present on the site, the property is rezoned to the category of RCA-2 (Resource Conservation Area – Designated), with a suffix indicating the type of resource present (for instance, "r" for riparian). The remainder of the property, which does not contain sensitive resources, is rezoned to the abutting category. For the McNamara RCA rezone, the adjacent, non-habitat zoning designations are A-5 (*Agricultural General, 5 acres minimum lot size*) on the north side of the RCA-1 zone and the R1-B13 (*One-Family Residence, 13,000 sq. ft. minimum lot size*) on the south. Before any development within an RCA-1 zone can occur, the County's LCP requires that the RCA-1 zone within the project area be rezoned to an appropriate RCA-2 zone.

The County's LCP requires that the approval of an RCA-1 to RCA-2 rezone by the Planning Commission be submitted to the Del Norte County Board of Supervisors for their review. If the Board of Supervisors approves the RCA rezone, then the rezone is forwarded to the Coastal Commission for its review as an LCP amendment.

**C. Description of Proposed LCP Amendment**

The McNamara property that is the subject of this RCA Rezone application is a part of a larger land holding that has been incrementally subdivided over the years. In January of 1985 the County Planning Commission and Board of Supervisors adopted an Environmental Impact Report (EIR) (SCH No. 82111705) prepared for the subdivision of the McNamara property. The project description consisted of the creation of up to 85 lots at the end of Vipond Drive. The County Planning Commission and Board of Supervisors have subsequently approved three phases of the McNamara subdivision; Phase I has been recorded and Phase II has not yet been recorded. This application constitutes Phase III of the McNamara Subdivision.

The proposed RCA rezone would amend the zoning map in the County's Implementation Program to rezone the 26.94-acre property from RCA-1 (*General Resource Conservation Area*), A-5 (*Agricultural General, 5-acre minimum lot size*), R1-B13 (*One Family Residential, 13,000 square foot minimum lot size*), and RRA-1 (*Rural Residential Agriculture, one acre minimum lot size*), to RCA-2(r) (*Designated*

*Resource Conservation Area, riparian*), A-5, and R1-B13. A “before” and “after” illustration showing the existing and proposed zoning of the subject property is shown on Exhibit Nos. 3 and 4. Exhibit No. 3 shows the existing zoning, which includes 12.76 acres of RCA-1, 6.25 acres of R1-B13, 8.38 acres of A-5, and 1.55 acres of RRA-1. Exhibit No. 4 shows the proposed zoning, which includes 8.9 acres of RCA-2(r), 6.77 acres of R1-B13, 13.03 acres of A-5, and .24 acres of RRA-1. Under the proposed amendment: 1) acreage under the RCA zoning decreases by 3.85 acres; 2) acreage under the R1-B13 zoning increases by .52 acres; 3) acreage under the A-5 zoning increases by 4.65 acres; and 4) acreage under the RRA-1 decreases by 1.31 acres.

The following are principal permitted use for the proposed zoning categories:

- **RCA-1:** a) fish and wildlife management; b) nature study; c) hunting and fishing including the development of duck blinds and similar minor facilities.
- **RCA-2(r):** a) fish and wildlife management; b) nature study; c) hunting and fishing including the development of duck blinds and similar minor facilities; e) firewood removal for on-site residential use; f) limited commercial timber harvesting; g) well in rural areas; and h) roads.
- **A-5:** a) all agricultural uses; b) accessory structures, including barns, stables, one green house and other agricultural buildings; c) one-family residence with appurtenant structures; and one unlighted sign.
- **RRA-1:** a) one-family residence with appurtenant structures; b) animal husbandry and small livestock farming; c) keeping of one hog or pig; and d) agricultural uses.
- **R1-B13:** a) one-family residence; and b) accessory buildings.

The Del Norte County Board of Supervisors under Resolution No. 97-067 and revised Ordinance No. 97-009 submitted the proposed McNamara LCP amendment to the Coastal Commission. See Exhibit Nos. 5 and 6. The resolution and ordinance provide that the LCP amendment will take effect after approval by the Coastal Commission.

D. LCP Amendment Analysis

This amendment request raises two potential issues in terms of conformity of the proposed zoning change to the certified Land Use Plan. One potential issue is whether the rezone is consistent with LUP policies concerning the protection of environmentally sensitive resources. The second issue is whether the change would result in a change in the intensity or nature of development, which could occur on the property inconsistent with the LUP designations for the site.

Regarding the first potential issue, the RCA rezone process has been conducted in a manner consistent with the LUP environmentally sensitive resource policies. The LUP defines "wetlands" on page 64 as:

*Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, bogs, and fens. The land use category will be Resource Conservation Area.*

*Farmed wetlands shall be defined as wetland areas, which are grazed, planted or cut for forage during parts of the year. The land use category will be Resource Conservation Area with existing agricultural uses being deemed a principal use.*

*Riparian vegetation is the plant cover normally found along watercourses including rivers, streams, creeks and sloughs. Riparian vegetation is usually characterized by dense growths of trees and shrubs.*

Without referring to the RCA rezoning process which is detailed in the zoning ordinance, LUP Wetland Policy No. 4(g) requires on page 66 that soils, vegetation, and topographic information be analyzed to identify the specific type and boundary limits of an identified environmentally sensitive resource area. The wetland policy also requires that the analysis be done in cooperation with the California Department of Fish and Game and that the County's determination be based upon specific findings as to whether an area is, or is not, an environmentally sensitive habitat area based on LUP criteria and definitions, and criteria included in Coastal Commission guidelines for "Wetland and Other Wet Environmentally Sensitive Habitat Areas" as adopted on February 4, 1981.

The RCA rezone for this zoning map amendment is based, in part, on a January 1993 (amended May 1998) report of environmentally sensitive resource investigation conducted by Karen Theiss & Associates, Biological and Environmental Consultants (KTA). The KTA investigation employed commonly-accepted, wetlands mapping methodology using State and federal wetlands definitions and criteria consistent with the LUP definition of wetlands and riparian vegetation to identify the location and type of environmentally sensitive resources on the subject property. The environmentally sensitive resource investigation determined that 8.91 acres of the property contain wetlands, all of it consisting of riparian habitat as defined by the LCP. The amendment proposes to rezone all of the 8.91 acres as RCA-2 ([r] – Designated Resource Conservation Area, Riparian).

County and Coastal Commission staff reviewed the report prepared by KTA, as amended, to confirm the location and nature of the proposed RCA-2 (r) zones. California Department of Fish and Game staff have also conducted separate field reviews of the subject property and have reviewed the report prepared by KTA. The Department of Fish and Game concurs with the results of the report and the proposed RCA rezone.

Therefore, the Commission finds that the proposed RCA rezone of the subject property conforms with and is adequate to carry out LUP Wetland Policy No. 4(g) as soils, vegetation, and topographic information have been analyzed to identify the specific boundary limits of an identified environmentally

sensitive resource area that has been reviewed and approved by staff from the County and the California Department of Fish and Game.

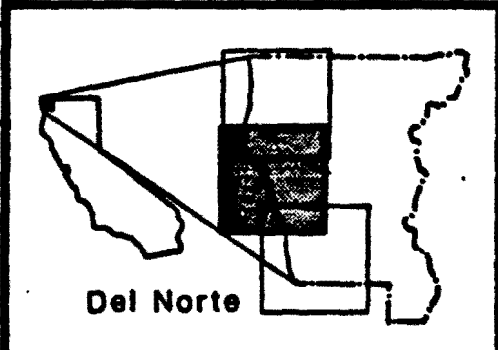
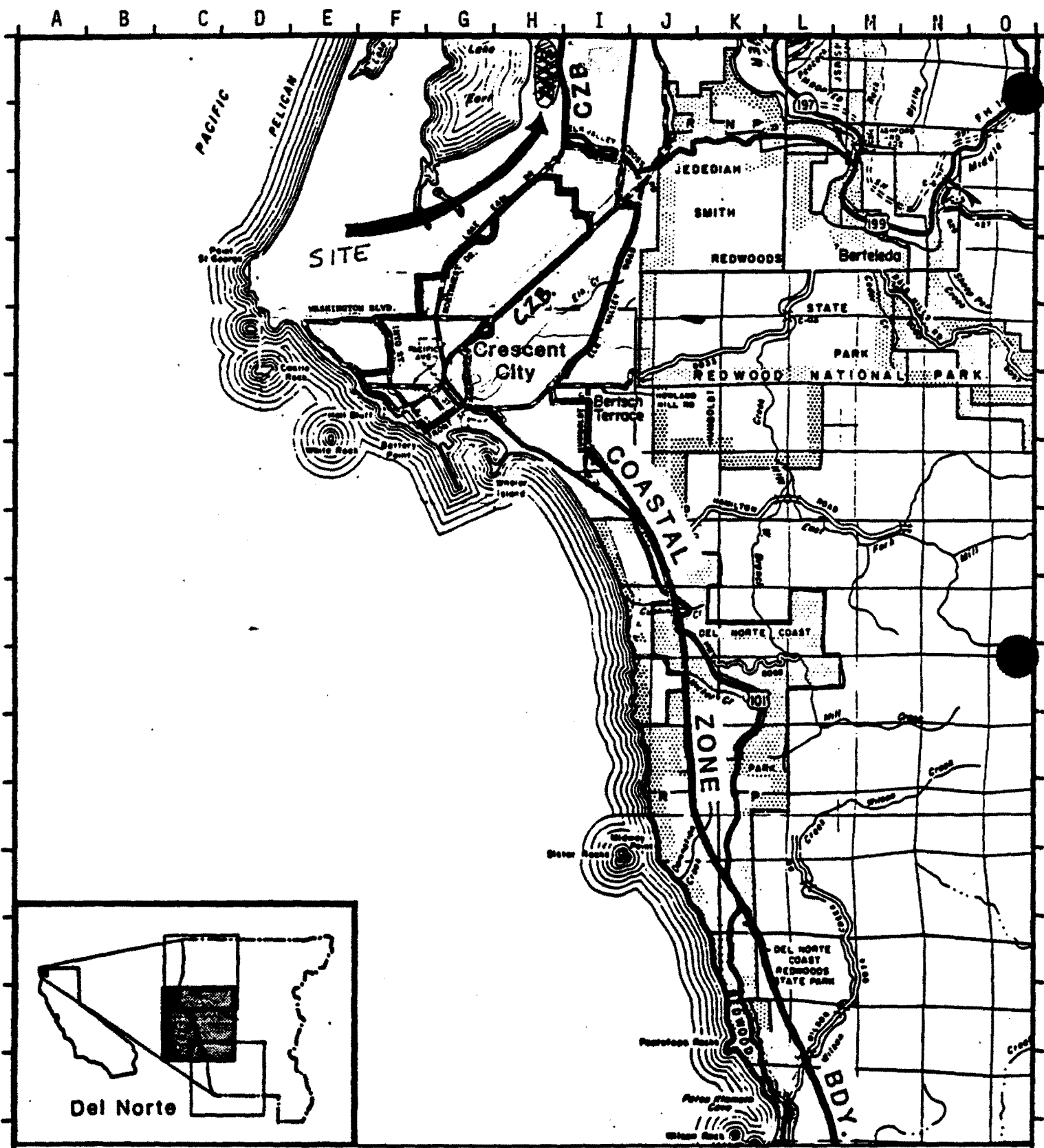
Regarding the second issue, the Commission also finds that the proposed zoning designations under the amendment would not result in a change in intensity or nature of development that could occur on the property inconsistent with the certified Land Use Plan. All of the 8.91 acres of mapped wetlands on the property were determined to be riparian resources and will be zoned under the proposed amendment as RCA-2 (r), the zoning district classification that is appropriate for riparian resources. All of the remaining land, the portion of the property found not to contain wetlands, will be zoned under the proposed amendment as A-5, R1-B13, and RRA-1. This zoning of the non-wetland area is consistent with Section 21.11.060(D)(3) of coastal zoning ordinance which states that where it is found that all or a portion of a parcel is not in a resource conservation area and/or any required wetland buffer, a finding shall be made that the non-RCA area is within the abutting General Plan land use classification and said parcel or portion of parcel shall be rezoned to another zoning classification which is in accord with the General Plan.

As stated above, the abutting, non-RCA LUP map designations for the property are A-5, R1-B13 and RRA-1. These zoning designations are in accord with the respective LUP map designation(s). Consequently, the proposed zoning for the property is consistent with the LUP designations for the site. The descriptions of the above mentioned Land Use Plan designations in the LUP specify that the minimum lot size for purposes of land division shall be in accordance with the applicable zoning designation. However, the number of lots that could be created on the property does not increase as a result of the zoning amendment because of an existing provision of the Coastal Zoning Ordinance. Section 21.11A.050 already provides that acreage zoned as RCA can be applied to minimum parcel sizes in the adjoining zoning district. Thus, whether the amount of RCA zoned area on a property increases or decreases as a result of an RCA rezone amendment, the same number of parcels could be created. Therefore, although the proposed rezone will change the specific areas of the site where future residential or agricultural development could occur, the proposed Implementation Plan amendment will not lead to future increases in the number of parcels and thus, the intensity or density of use of the property not already contemplated by the County and the Commission when the LCP was certified.

The Commission finds that the Del Norte County LCP Implementation Plan, as amended, conforms with and is adequate to carry out the certified Land Use Plan.

E. California Environmental Quality Act (CEQA).

The County prepared and adopted a Negative Declaration as lead agency for the RCA rezone under CEQA. In addition, the Secretary of Resources has designated the Coastal Commission's LCP process as the functional equivalent of the CEQA environmental review process. The Commission finds that the LCP amendment, as submitted, conforms with and is adequate to carry out the land use and resource protection policies of the County's LCP. The Commission further finds that it need not consider alternatives or mitigation measures as approval of the LCP amendment, as submitted will have no significant adverse effects on the environment within the meaning of CEQA.




 California Coastal Commission

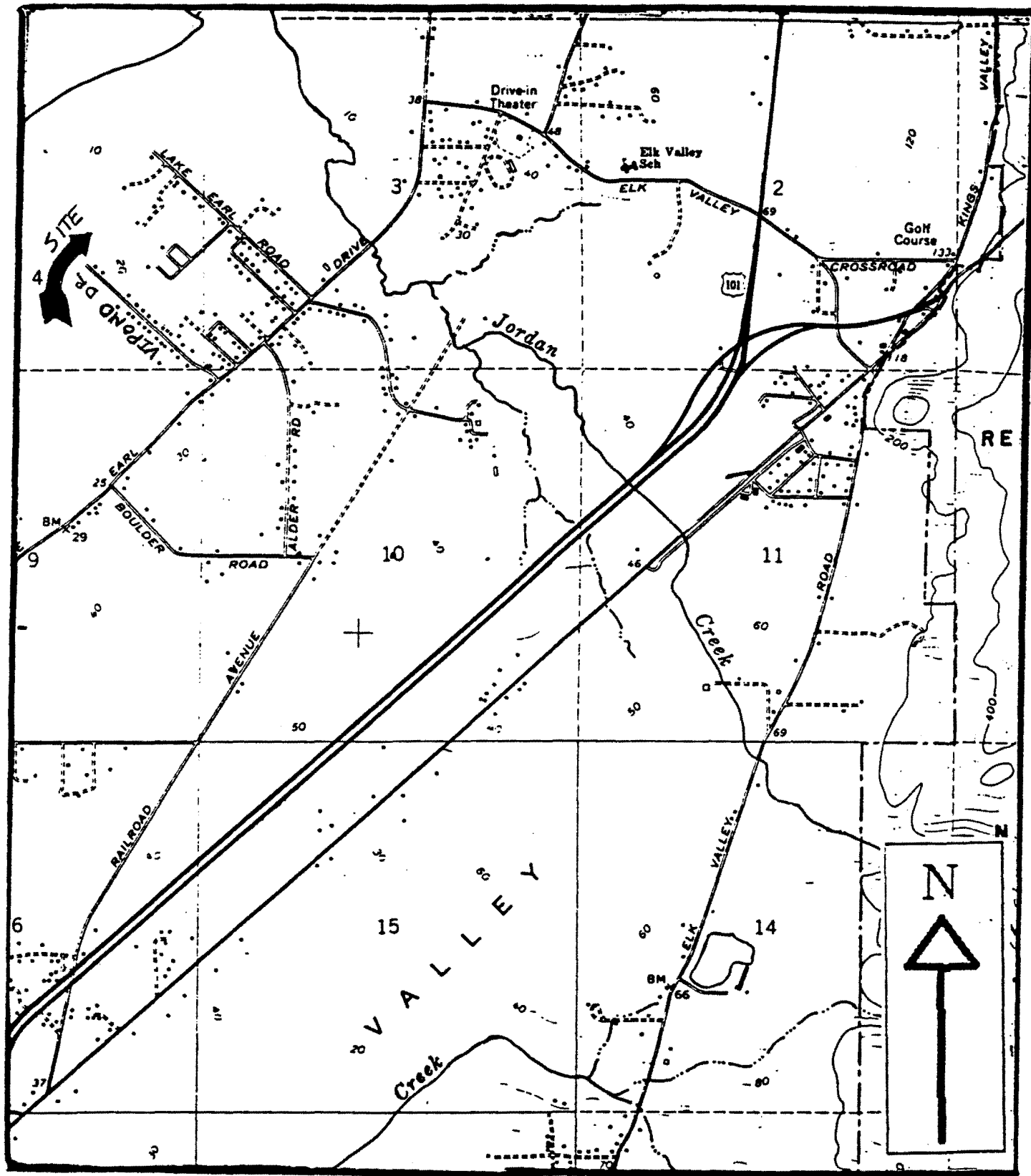
# LOCATION MAP



County of Del Norte

EXHIBIT NO. 1
APPLICATION NO. DNC LCP 2-98 McNamera
LOCATION MAP
 California Coastal Commission





# LOCATION MAP

- McNAMARA, RICHARD
- Rezone
- McNAMARA, RICHARD
- Major Subdivision

EXHIBIT NO. 2
APPLICATION NO. ENC LCP 2-98 McNAMARA
AREA LOCATION
California Coastal Commission

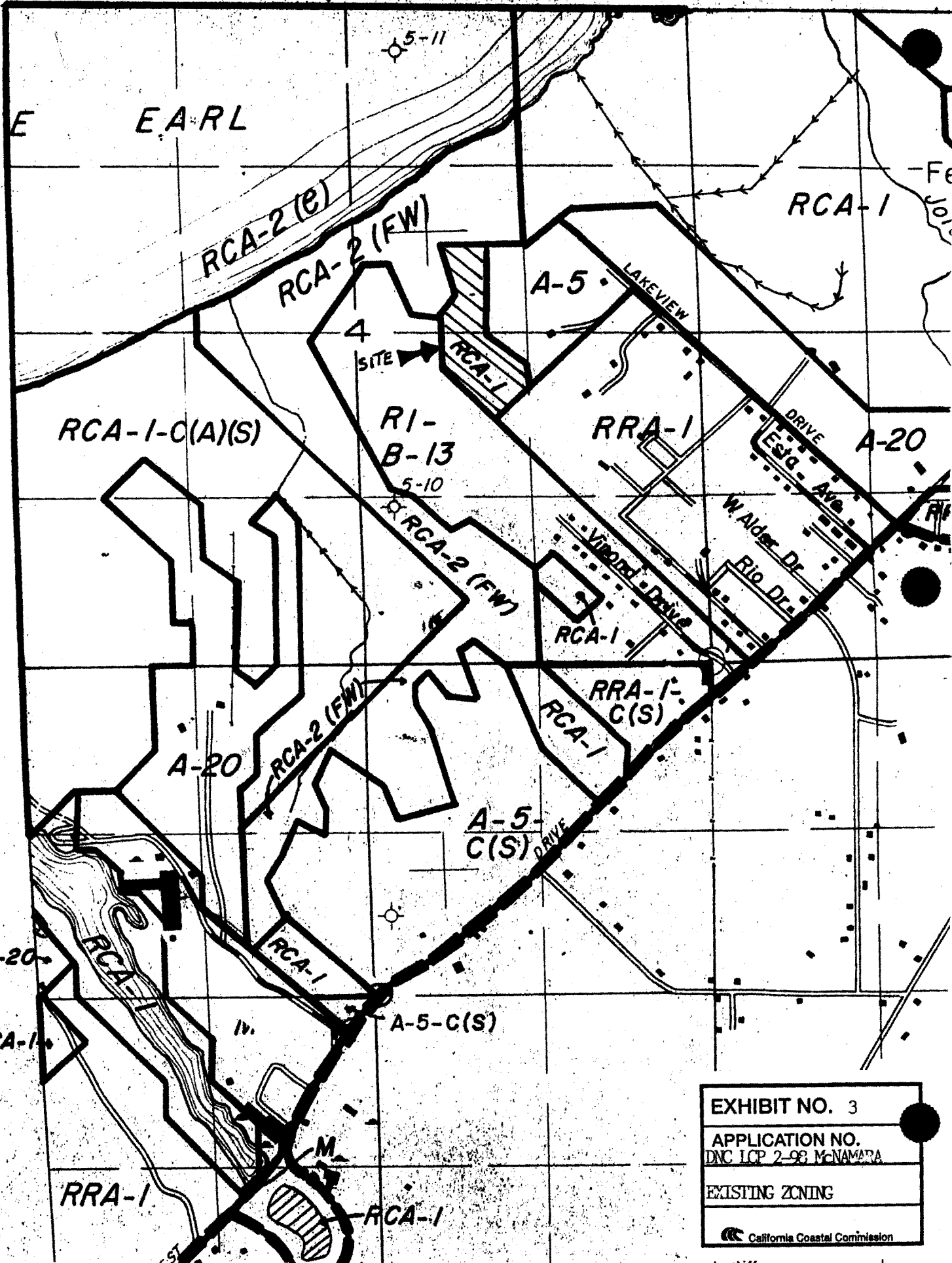


EXHIBIT NO. 3
APPLICATION NO. DNC LCP 2-98 McNAMARA
EXISTING ZONING
California Coastal Commission

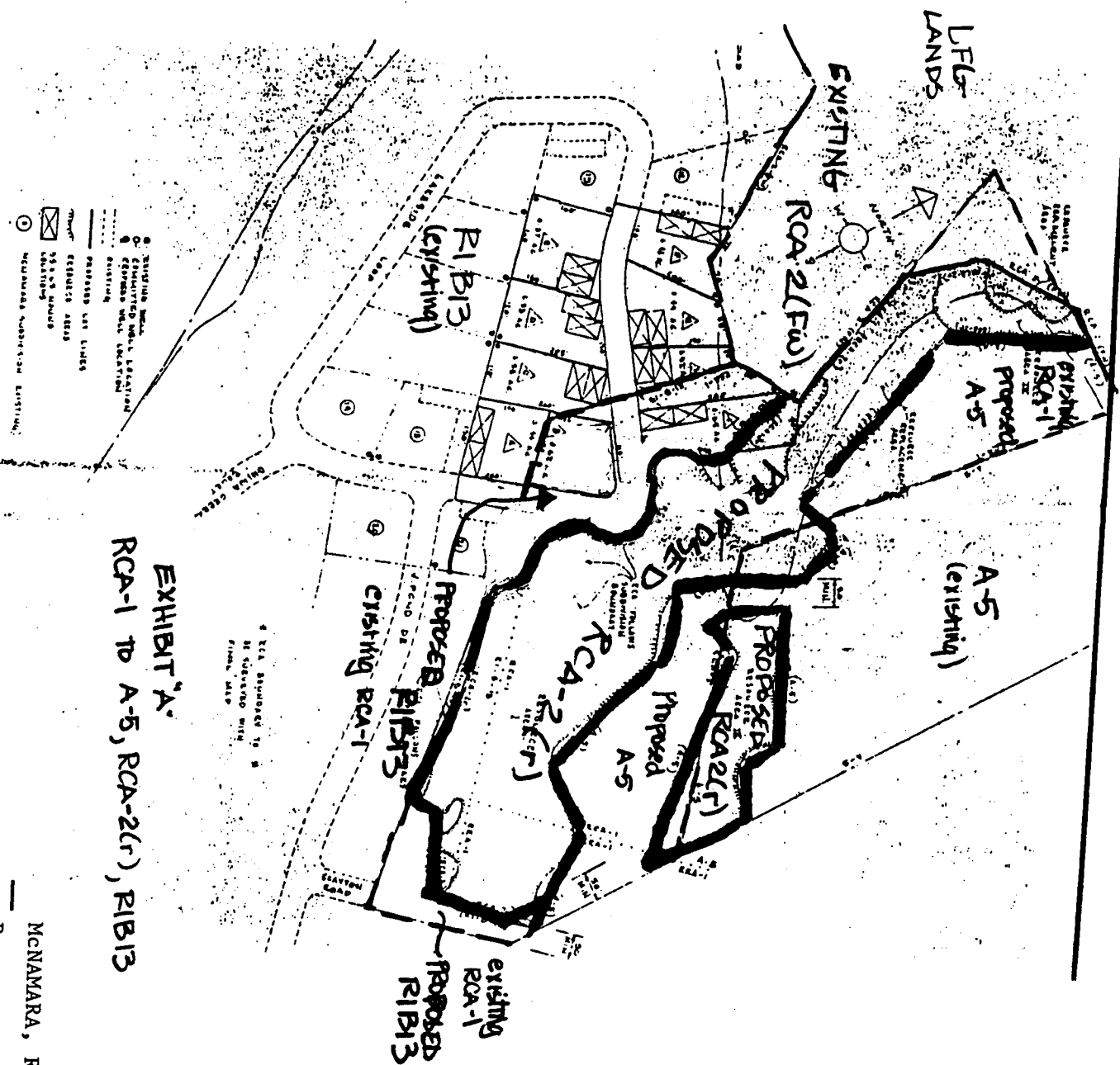


EXHIBIT 'A'  
 RCA-1 TO A-5, RCA-2(F), R1B13

McNAMARA, RICHARD  
 Rezone

R9702C  
 110-020-64

EXHIBIT NO. 4
APPLICATION NO. ENC LCP 2-98 McNAMARA
PROPOSED ZONING
California Coastal Commission

**BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE  
STATE OF CALIFORNIA**

**RESOLUTION NO. 97- 067**

**A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS  
SUBMITTING ORDINANCE NO. 97-009 AN ORDINANCE AMENDING  
ORDINANCE NO. 83-08 AND COUNTY CODE TITLE 21 BY DELETING  
COASTAL ZONING AREA MAP C-8 AND ADOPTING NEW COASTAL  
ZONING AREA MAP C-8 (MCNAMARA) TO THE COASTAL COMMISSION  
AS AN LCP AMENDMENT**

**WHEREAS, the County of Del Norte has adopted an ordinance amending the  
local Coastal Plan and Title 21 Coastal Zoning Ordinance; and**

**WHEREAS, this amendment has been reviewed and processed pursuant to  
the provisions of the Local Coastal Plan and Title 21 (Coastal Zoning); and**

**WHEREAS, the project is exempt from the California Environmental Quality  
Act; and**

**WHEREAS, this ordinance is intended to be carried out in a manner in  
conformity with the Coastal Act and the implementing Local Coastal Plan; and**

**WHEREAS, this amendment shall take effect and be enforced thirty (30)  
days after the date of the passage of the companion ordinance, and after approval  
of the amendment by the Coastal Commission, whichever is later.**

**NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the  
County of Del Norte, State of California do hereby approve the changes as  
outlined by the attached Ordinance; and**

**BE IT FURTHER RESOLVED, that by submission of such changes to the  
Coastal Commission for certification, the Board of Supervisors is requesting the  
subject amendments be identified as requiring rapid and expeditious action.**

**PASSED AND ADOPTED this 10th day of ~~May~~ 1997, by the following polled  
vote: June**

**AYES: Supervisors Finigan, Reese, Eller, McClure and Clausen**


**NOES: None**

**ABSENT: None**




**BARBARA P. CLAUSEN, Chairman  
Board of Supervisors**

**ATTEST:**

  
**KAREN L. WALSH, Clerk of the  
Board of Supervisors, County  
of Del Norte, State of California**

BO

EXHIBIT NO. 5
APPLICATION NO. DNC LCP 2-98 McNAMARA
COUNTY RESOLUTION
 California Coastal Commission

BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE  
STATE OF CALIFORNIA

ORDINANCE NO. 97- 009

AN ORDINANCE AMENDING ORDINANCE NO. 83-08  
AND COUNTY CODE TITLE 21 BY DELETING  
COASTAL ZONING AREA MAP C-8 AND ADOPTING  
NEW COASTAL ZONING AREA MAP C-8 (MCNAMARA)

The Board of Supervisors, County of Del Norte, State of California, does ordain as follows:

SECTION I: Section 2.D.2 of the Coastal Zoning Enabling Ordinance No. 83-08 and County Code Title 21 is hereby amended by deleting therefrom Coastal Zoning Area Map C-8 and amending same with a new Coastal Zoning Area Map C-8 as specified in attached Revised Exhibit "A" and subject to the following condition:


This rezone requires the deletion of proposed lot "J" of the McNamara Unit 3 Subdivision (MJ9702C)

SECTION II: This Ordinance shall take effect and be enforced thirty (30) days after the date of its passage or approval of the rezone by the Coastal Commission, whichever is the latter.

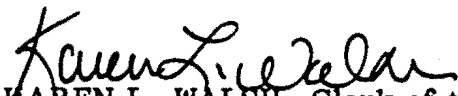
FINDINGS OF FACT: This Ordinance is passed and adopted based upon the findings cited in the Staff Report and the Board of Supervisors hereby makes said findings as more particularly described in said Staff Report, which is herein incorporated by reference (§ 65804(c)(d) of the Government Code).

PASSED AND ADOPTED this 10<sup>th</sup> day of ~~May~~<sup>June</sup>, 1997, by the following polled vote:


AYES: Supervisors Finigan, Reese, Eller, McClure and Clausen  
NOES: None  
ABSENT: None

  
BARBARA P. CLAUSEN, Chairman  
Board of Supervisors

ATTEST:

  
KAREN L. WALSH, Clerk of the  
Board of Supervisors, County  
of Del Norte, State of California

BOO

EXHIBIT NO. 6
APPLICATION NO. DNC LCP 2-98 McNAMARA
COUNTY ORDINANCE
1 of 2
 California Coastal Commission

K9102C  
REVISED  
EXHIBIT A

McNAMARA UNITS  
AP 110-020-64

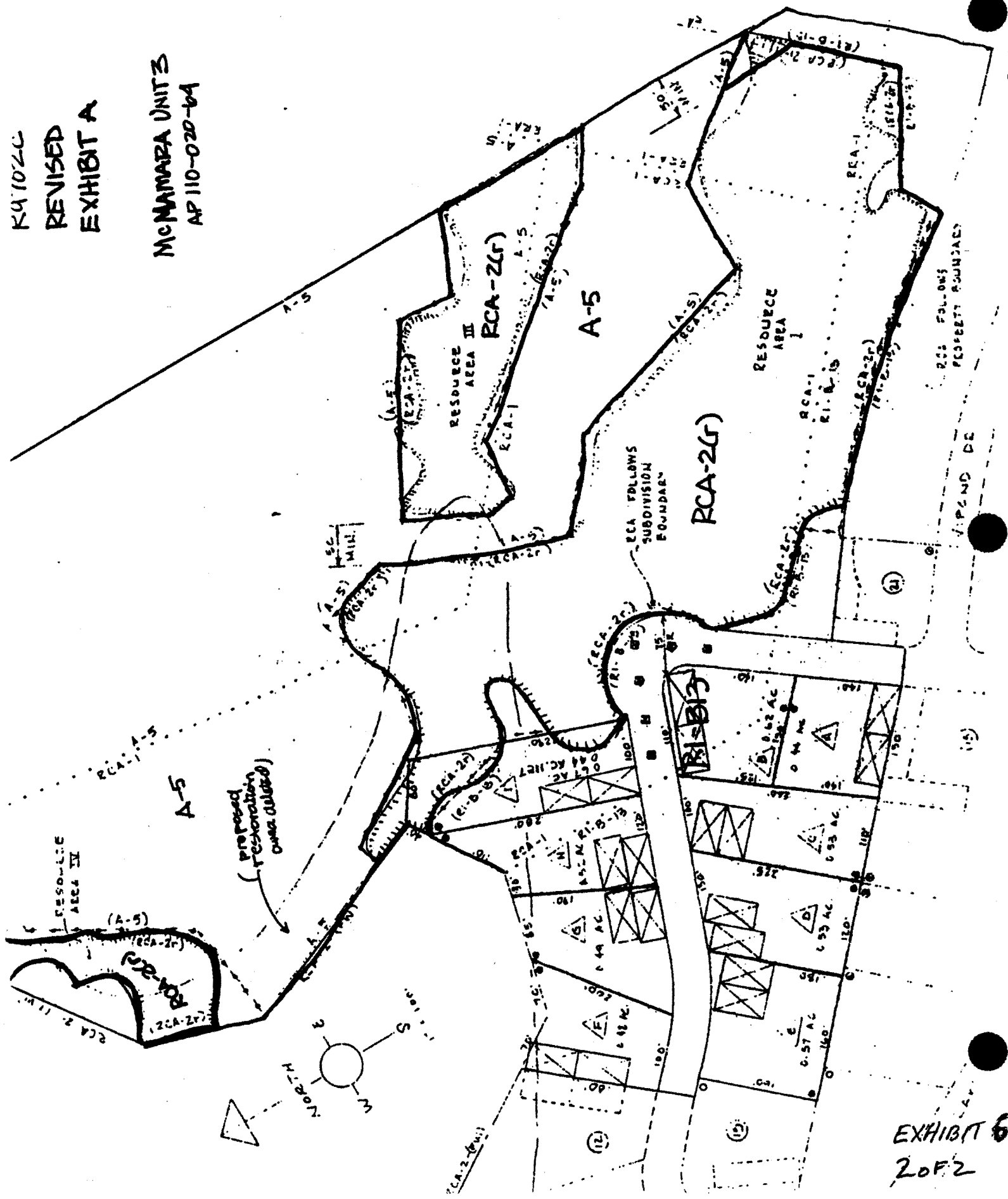


EXHIBIT 6  
2 OF 2