

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST AREA

555 FREMONT, SUITE 2000

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**W 13a**

Staff: Jo Ginsberg  
 Staff Report: August 27, 1998  
 Hearing on Rev. Findings: Sept 9, 1998  
 Commission Action on Findings:

**STAFF REPORT: REVISED FINDINGS**

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

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

**AGENT:** Rick Henderson, Henderson & Mayo

**LOCAL GOVERNMENT:** County of Mendocino

**DECISION:** Approval with Conditions

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

**PROJECT DESCRIPTION:** Construction of a 20-unit visitor-serving facility, including 20 guest units in 7 separate structures, a two-story lobby/meeting room/manager's quarters building, an employee utility building, 25 parking spaces, a sign, underground water tanks, wells, leach fields, driveway, and fence.

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

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

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

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SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; Mendocino County Coastal Development Permits CDU 8-97 and CDU 8-93.

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STAFF NOTES

1. Procedure.

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

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

2. Related Agenda Item.

At the September 9 meeting, the Commission will also be considering another matter concerning this project, Coastal Development Permit Amendment Request No. A-1-MEN-98-17-A, scheduled as Item W-14.a on the agenda, just after consideration of the revised findings. The amendment request seeks to modify the Special Conditions of the permit to require the recordation of a deed restriction instead of an easement to limit use of the balance of the property to agricultural uses.

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STAFF RECOMMENDATION:

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

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

COMMISSION ACTION:

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

DE NOVO ACTION ON APPEAL: REVISED FINDINGS

I. ADOPTED RESOLUTION OF APPROVAL

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

II. Standard Conditions: See attached.

III. Special Conditions:

1. Agricultural Easement:

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

(1) the following activities and development:

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- (a) General agriculture, as defined in Section 20.336.032 of the Mendocino County coastal zoning code, which includes such activities as the grazing, feeding, and incidental care of livestock, animal husbandry, and 4-H projects;
- (b) Light agriculture, as defined in Section 20.336.03O of the Mendocino County coastal zoning code, which includes such activities as apiaries and the hatching, raising, butchering, or marketing on a small scale of fowl, poultry, and other small animals;
- (c) Row and field crops, as defined in Section 20.336.040 of the Mendocino County coastal zoning code;
- (d) Tree crops, as defined in Section 20.336.055 of the Mendocino County coastal zoning code;
- (e) one single-family dwelling per legally created parcel;
- (f) harvesting of firewood for the residents' personal use
- (g) home occupations;
- (h) timber production, harvesting, and management;
- (i) vacation home rental;
- (j) passive recreation;
- (k) fish and wildlife habitat management.

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

The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 50 years, such period running from the date of recording.

2. Landscaping Plan:

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

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

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

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

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

(5) The plan shall provide for revegetation of all areas disturbed by construction. Revegetation shall be accomplished as soon as practical after construction activities are completed. All areas of bare soil shall be planted, mulched, or otherwise treated to reestablish vegetative cover.

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

The applicant shall notify the Executive Director in writing when the trees have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant.

3. County Environmental Health Approval:

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

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4. Road Approach:

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit for the review and approval of the Executive Director, a copy of a Caltrans encroachment permit for work done within the State right-of-way. A commercial road approach at the project access onto Highway One shall be constructed in conformance with Caltrans design standards and encroachment permit procedures.

5. Design Restrictions:

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

6. Tree Removal:

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

7. Utility Lines:

All new utility lines shall be placed underground.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

1. Project and Site Description:

As noted in the Substantial Issue portion of this report, the proposed development consists of a 20-unit visitor-serving facility with a meeting room and manager's residence. The guest rooms would be contained within seven detached buildings, two with five units each, and five with two units each, two of which are two-story. The manager's quarters, reception area, and meeting room would be within a separate two-story structure with an exterior observation deck at the second

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floor level. A separate building with laundry, storage, and employee facilities is also proposed. Parking would be provided for 25 vehicles. The total floor area of the proposed guest units is 9,932 square feet; the reception/manager's quarters building is 2,865 square feet, and the laundry/employees building is 750 square feet, for a total of 13,547 square feet of floor area.

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

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

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

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

2. Project History.

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

3. Visual Resources:

LUP Policy 3.5-1 and Zoning Code Section 20.504.010 state that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be

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visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

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

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

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

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

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

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

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

The proposed inn will be visible from a number of locations along Highway One, especially to motorists traveling southbound on Highway One after they cross the Ten Mile River Bridge. For



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

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

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

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

To further ensure that the proposed development is visually compatible with the rural character of the surrounding area, and is designed to protect views in a scenic coastal area, consistent with LUP Policy 3.5-1 and Zoning Code Section 20.504.010, and that all lights are shielded or positioned so that light will not shine or glare beyond the boundaries of the parcel, consistent with Zoning Code Section 20.504.035, the Commission attaches Special Condition No. 5. Special Condition No. 5 imposes design restrictions, including a requirement that all exterior siding of the proposed structures shall be of natural or natural appearing materials and that all siding and roofing of the proposed structures shall be composed of materials of dark earthtone colors only;

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that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and that all exterior lights, including any lights attached to the outside of the structures, shall be low-wattage, non-reflective, and have a directional cast downward.

Since the existing trees on the site provide some softening effects and/or backdrop to minimize visual impacts, the Commission also attaches Special Condition No. 6, which states that this permit does not authorize the removal of any trees from the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection, and that any future removal of trees other than timber operations which are in accordance with an approved timber harvest plan shall require a new coastal permit or an amendment to this permit. The Commission notes that the definition of development in the Coastal Act specifically excludes timber operations, which are in accordance with an approved timber, harvest plan. Therefore, no coastal permit can be required for such timber operations.

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

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

4. Agricultural Resources:

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

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

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

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

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

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

As noted above, LUP Policy 3.2-4 allows visitor accommodations to be located on agricultural parcels if the project meets a number of specific criteria. The project as proposed meets these criteria. The proposed project maximizes the protection of sensitive habitat by being sited out of the Ten Mile River watershed in an area determined by a biological survey to have no sensitive habitat. The proposed inn has been sited close to Highway One where it will have the least amount of adverse impact on ongoing agricultural and timberland production, while avoiding all sensitive habitat. Were the inn to be sited near the Ten Mile River, as originally proposed, there would be adverse impacts to environmentally sensitive habitat. Were the inn to be sited in the forested portion of the site, it would result in a greater disruption to timberland production, as a longer access road from Highway One would be required, trees would have to be removed, the inn site would be higher up on the ridge and therefore more visible (once trees were cut), the visual character of the timberland portion of the site would change drastically, and there would be

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conflicts between the visitor-serving use and adjacent timberland production, such as noise, dust, etc.

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

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

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

However, the Commission finds that to maintain the agricultural productivity of on-site and adjacent agricultural lands consistent with LUP Policy 3.2-4, no further encroachment of non-agricultural uses into the grazing and timber lands on the balance of the property should be allowed. The applicants have submitted correspondence and information contained in studies prepared by the University of California Cooperative Extension and others demonstrating that the Mendocino agricultural industry and the raising of beef cattle and timber harvesting in particular have been in a state of decline. The submitted information suggests that developing visitor-serving facilities compatible with continued agricultural uses on agricultural lands such as the proposed 20-unit inn may be an effective strategy for a land owner to increase revenues that can be used to sustain the agricultural operation. While the strategy may be effective, the Commission notes that the strategy may be self-defeating if the amount and kind of development of revenue-generating visitor-serving facilities adversely affects the agricultural productivity of the site.

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Given the state of decline of the agricultural industry and the marginal profitability of agricultural operations along the coast, any development that would further decrease agricultural productivity would be particularly harmful to the operation, and would diminish the ability to retain the property in agricultural use, contrary to LUP Policy 3.2-4. As noted previously, evidence submitted by the applicant indicates that the four-acre encroachment of the proposed inn onto four acres of grazing land will not reduce the agricultural productivity of the site. However, no evidence has been submitted to suggest that greater encroachments would similarly not reduce the agricultural productivity of the site.

The Commission also notes that allowing a visitor-serving facility on this agricultural parcel may encourage other visitor-serving uses on the parcel or on other nearby agricultural parcels. The development of visitor-serving uses can spawn other visitor-serving uses nearby. For example, numerous overnight accommodations, such as motels and expansions to existing motels, are being constructed in Fort Bragg, only about five miles to the south. In addition, the LCP allows as conditional uses certain non-agricultural uses which the Commission believes, if allowed, might have an adverse impact on the continued agricultural productivity of the parcel and surrounding agricultural parcels, such as energy facilities, commercial horse stables and kennels, etc. Therefore, the Commission is restricting use of the subject parcel to only those principally permitted uses allowed in the LCP on designated Rangeland parcels, as well as timber production. The applicants agreed to such a restriction on future use at the Commission hearing on this matter.

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

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

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

5. Environmentally Sensitive Habitat Areas:

LUP Policy 3.1-7 and Zoning Code Section 20.496.020(A) state that a buffer area shall be established adjacent to all environmentally sensitive habitat areas to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. Policy 3.1-10 states that areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses that are dependent on the riparian resources. Zoning Code Section 20.496.035 states in part that no development or activity which could degrade a riparian area or diminish its value as a natural resource shall be permitted in the riparian corridor or in any area of riparian vegetation except for, among others, road and trail crossings when no less environmentally damaging alternative route is feasible.

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

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

As noted in the Substantial Issue portion of this report, the appellants opine that the additional visitor use resulting from the proposed visitor-serving facility, in combination with the potential future development of a coastal trail on the park property, will have a significant adverse impact on the sensitive coastal resources of the adjacent MacKerricher State Park. While it is true that the park contains sensitive habitat, it is the responsibility of State Parks to manage and protect the

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resources of the park. A letter submitted by the Park Superintendent (see Exhibit No. 19) indicates that the "proposal does not pose a threat to the resources of MacKerricher State Park, or to visitor enjoyment of a quality park experience."

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

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

6. Public Access:

Pursuant to Coastal Act Section 30604, projects located within the coastal development permit jurisdiction of a local government which are between the nearest public road and the shoreline of a body of water in the coastal zone are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement. LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site that will conflict with easements acquired by the public at large by court decree. Where evidence of

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historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval. LUP Policy 3.6-5 states that vertical accessways from the sites of all existing ocean front visitor accommodations and services and from all sites in which visitor accommodations and services are designated as the principal permitted use shall be considered to be designated as such in the Land Use Plan, and appropriate provisions implementing this policy shall be required in conjunction with all new or expanded developments on such sites.

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

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

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

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

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



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7. Planning and Locating New Development:

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

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

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

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

The Commission thus finds that the proposed project, as conditioned, is consistent with LUP Policies 3.9-1 and 3.8-1 to the extent that the parcel is able to accommodate the proposed development and that adequate services are available.

8. Visitor Serving Facilities:

Zoning Code Section 20.436.015(B) allows visitor accommodations as a conditional use on properties that are so designated on the Land Use Plan Maps. Section 20.436.025(C) requires that approval of new visitor accommodation and service facilities shall minimize encroachment on resource lands. Zoning Code Section 20.436.025(H) requires that development of visitor serving facilities shall be compatible with the character of their surroundings; that building materials shall

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be natural, such as wood or stone, and shall utilize primarily earthtone colors; that proposed tree removal and grading shall be minimized to that which is necessary for accommodation of the main and accessory structures; and that the design and scale of individual proposed structures shall be subordinate to surrounding landforms.

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

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

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

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

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

9. Traffic Impacts:

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

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

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

10. California Environmental Quality Act (CEQA):

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

The proposed project has been conditioned to be found consistent with the policies of the Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, include the following requirements: that (1) the applicant record a document that offers to dedicate an agricultural easement over the balance of the subject parcel not within the designated four-acre building envelope, within which only agricultural and agriculturally related uses and development may take place, for the purpose of preservation of coastal agriculture; (2) the applicant submit a landscaping plan that shall provide for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the western property line and on the north-facing side of the structures and parking lot to screen the project from views along Highway One, and shall include a tree maintenance program, and that revegetation of disturbed areas shall be

REVISED FINDINGS

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accomplished as soon as practical after construction activities are completed; (3) the applicant submit written verification of approval from the Mendocino County Department of Environmental Health regarding the on-site sewage system; (4) the applicant submit a copy of a Caltrans encroachment permit for work done within the State right-of-way, and that a commercial road approach at the project access onto Highway One shall be constructed in conformance with Caltrans design standards and encroachment permit procedures; (5) all exterior siding of the proposed structures shall be of natural or natural-appearing materials and all exterior siding and roofing of the proposed structures be composed of materials of dark earthtone colors only; all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and all exterior lights, including any lights attached to the outside of the buildings, shall be low-wattage, non-reflective, and have a directional cast downward; (6) the applicant shall obtain a new coastal permit or an amendment to this permit to remove any of the existing trees on the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection or those removed as part of a timber operation which is in accordance with a timber harvest plan approved by the California Department of Forestry and Fire Protection; and that (7) all new utility lines be placed underground.

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

REVISED FINDINGS

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APPLICANT: DON & MARGARET PERRY;  
HENRY & MARGARET SMITH

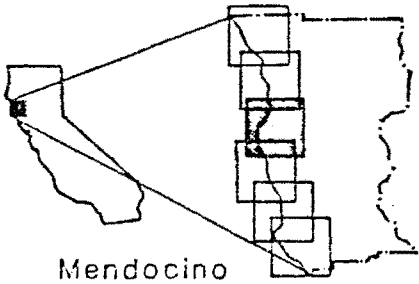
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ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.





Mendocino

EXHIBIT NO. 1

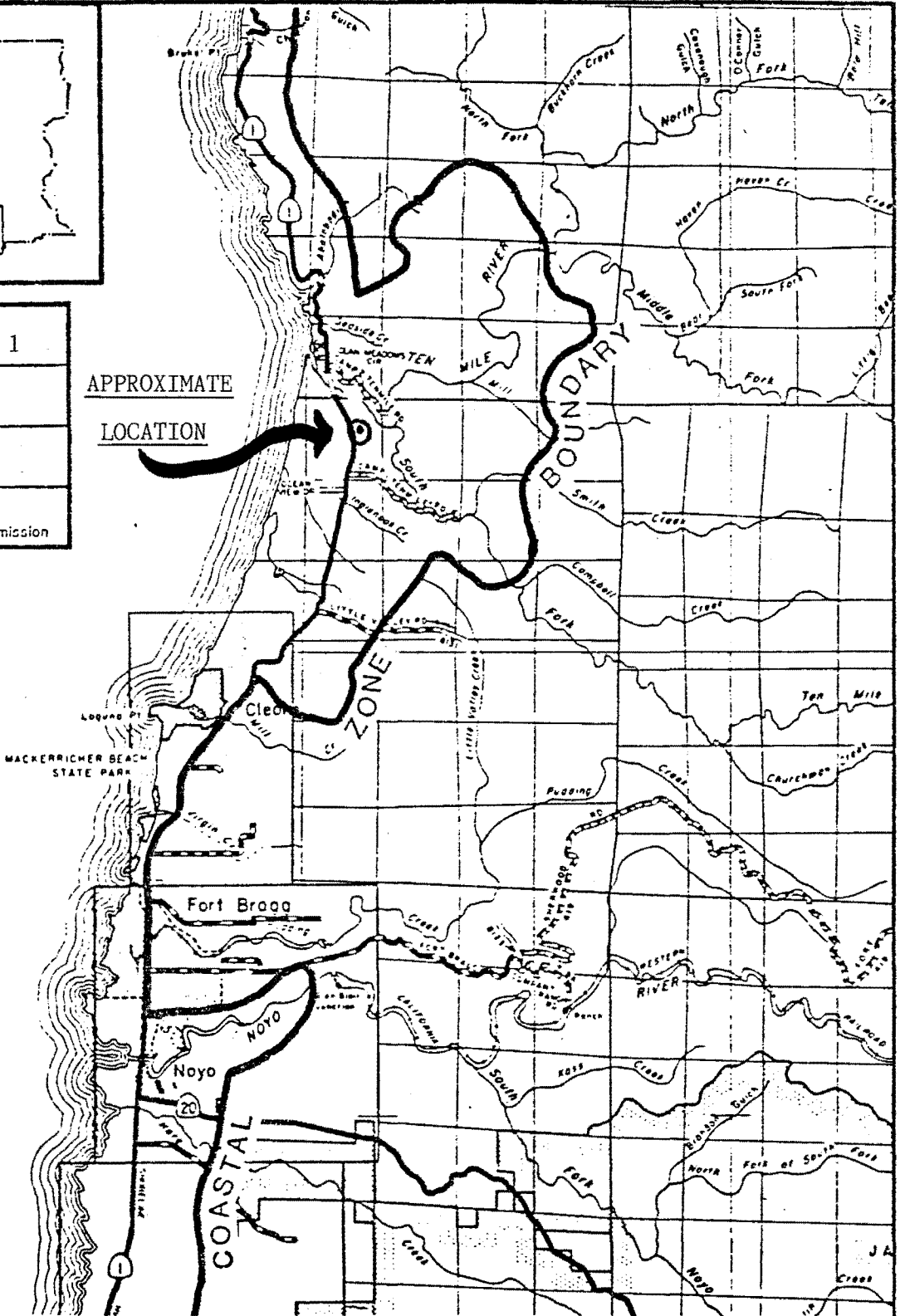
APPLICATION NO.  
A-1-MEN-98-17

PERRY/SMITH



Location Map  
California Coastal Commission


APPROXIMATE  
LOCATION

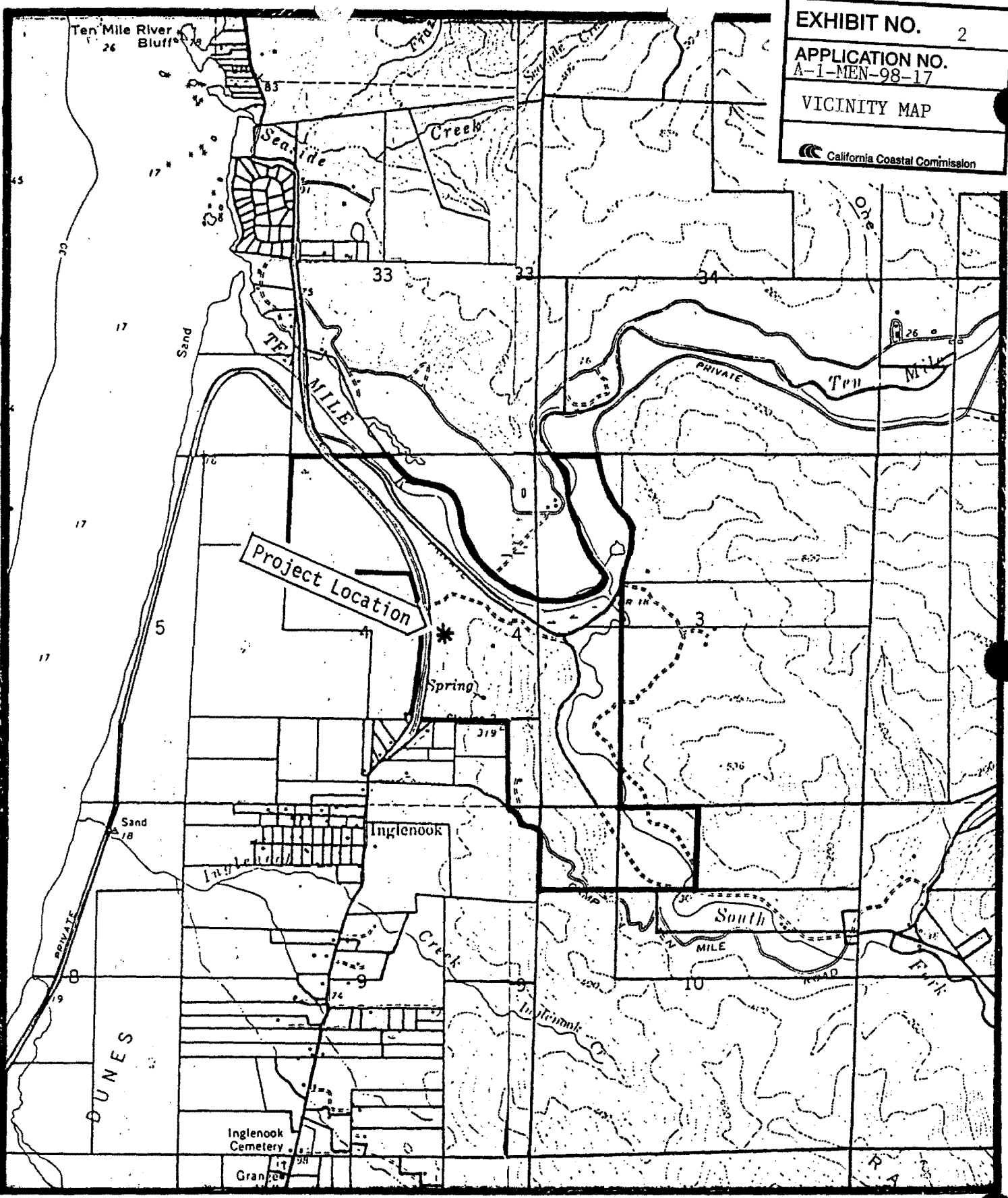


California Coastal Commission

LOCATION MAP



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





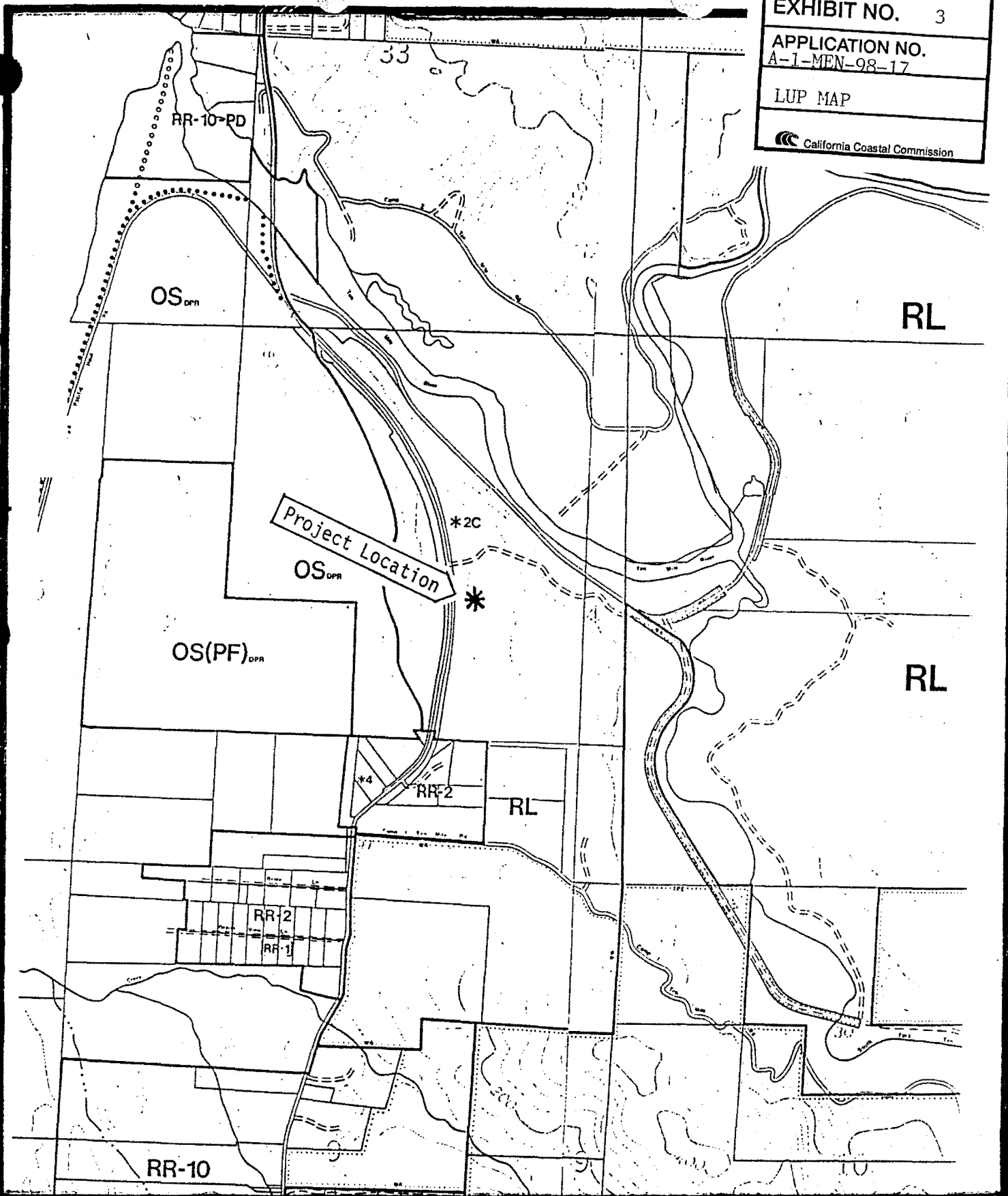
CASE NUMBER: CDU 8-97	OWNER: HENRY & MARGARET SMITH	AGENT: DON & MARGARET PERRY
A/P NUMBER: 069-010-22	VICINITY MAP	SCALE: 1" = 2000'
		 NORTH



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





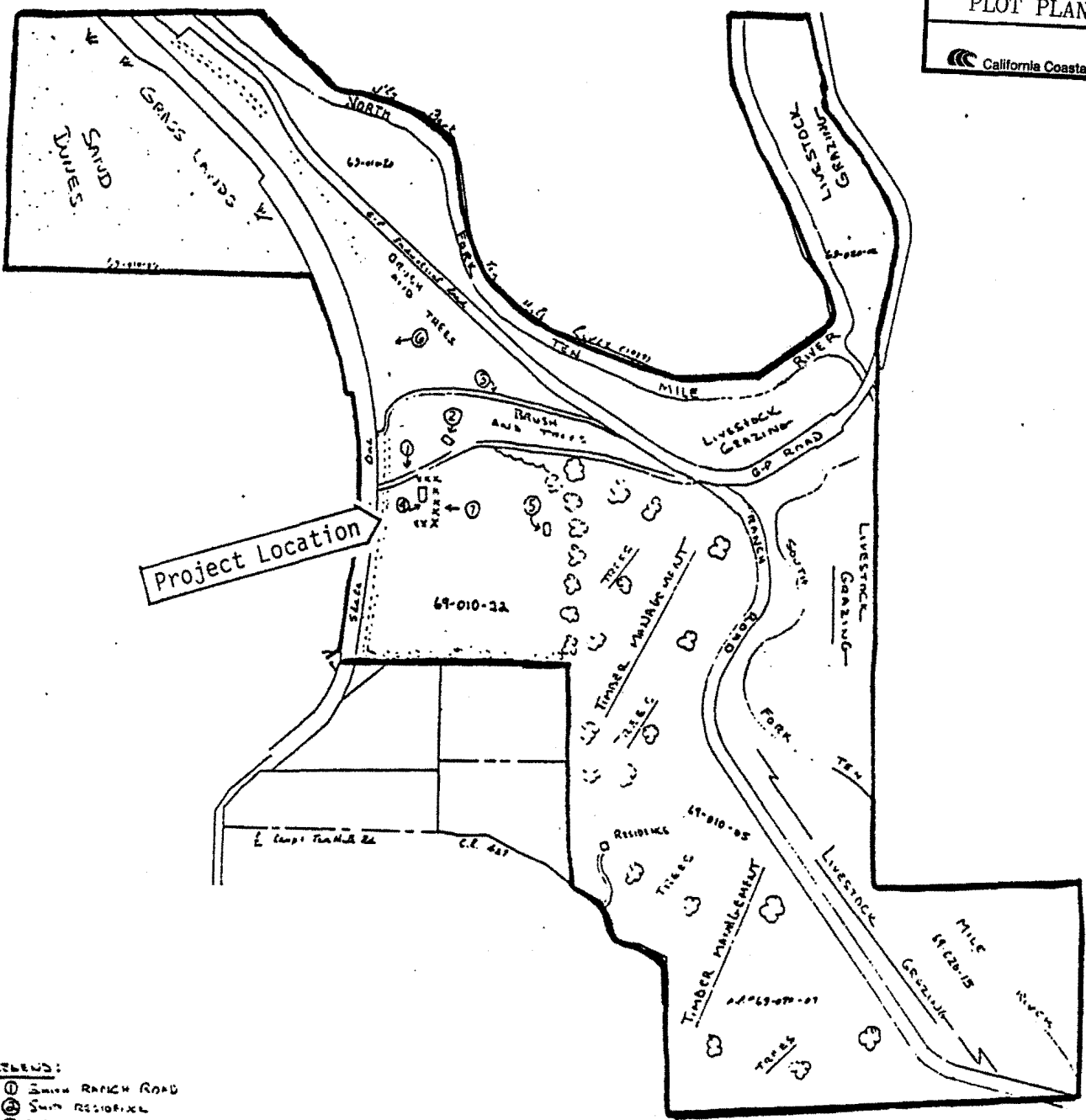
CASE NUMBER: CDU 8-97	OWNER: HENRY & MARGARET SMITH	AGENT: DON & MARGARET PERRY
A/P NUMBER: 069-010-22	COASTAL PLAN	SCALE: not to scale
		 NORTH

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



- LEGEND:**
- ① SWAN RANCH ROAD
  - ② SWAN RESIDENCE
  - ③ GP HAUL ROAD
  - ④ HAY SHED
  - ⑤ EQUIPMENT/HAY BARN
  - ⑥ OLD HWY. ONE
  - ⑦ PROJECT SITE


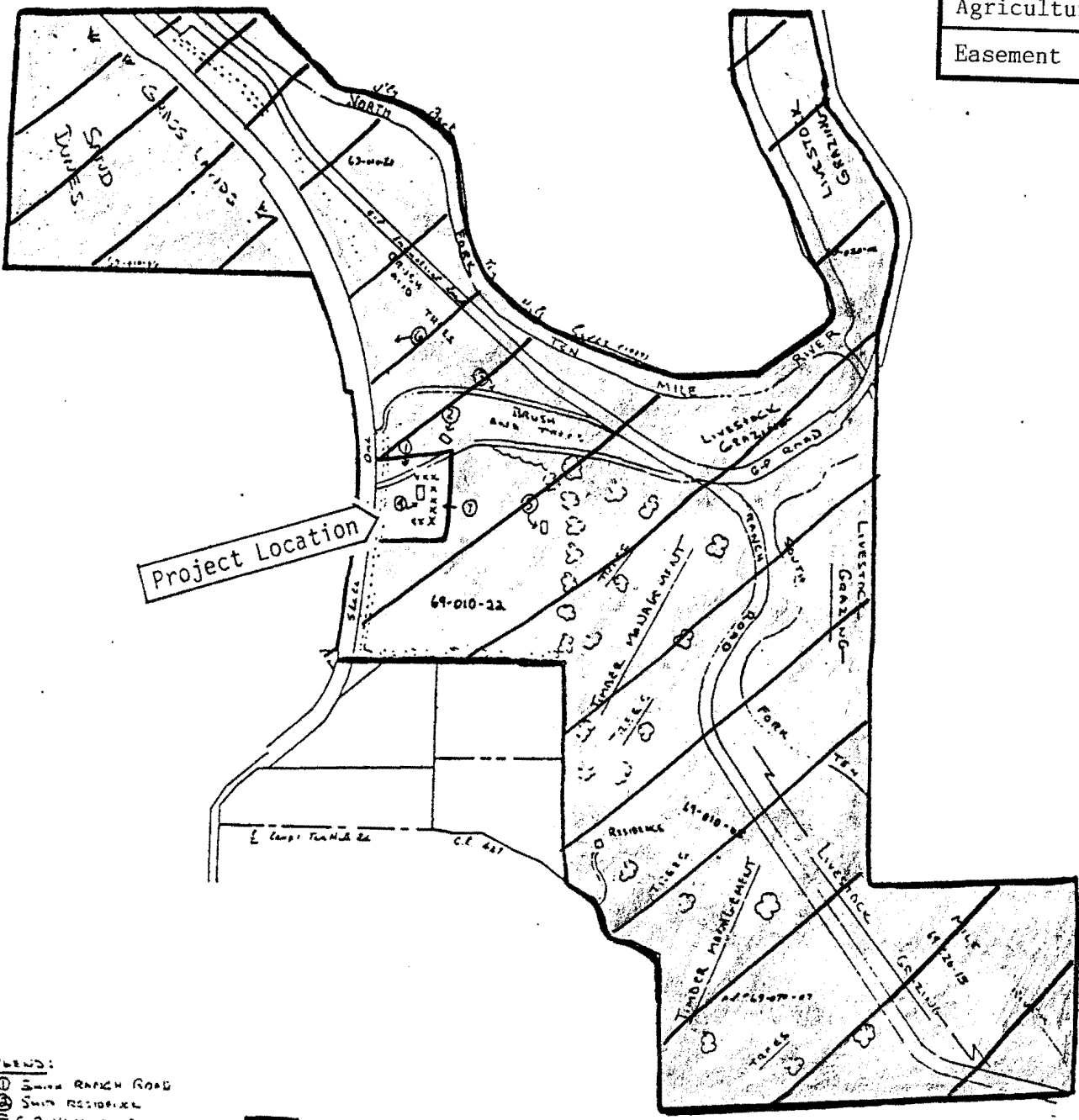

CASE NUMBER: CDU 8-97	OWNER: HENRY & MARGARET SMITH	AGENT: DON & MARGARET PERRY
A/P NUMBER: 069-010-22	PLOT PLAN	SCALE: not to scale
		 NORTH

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

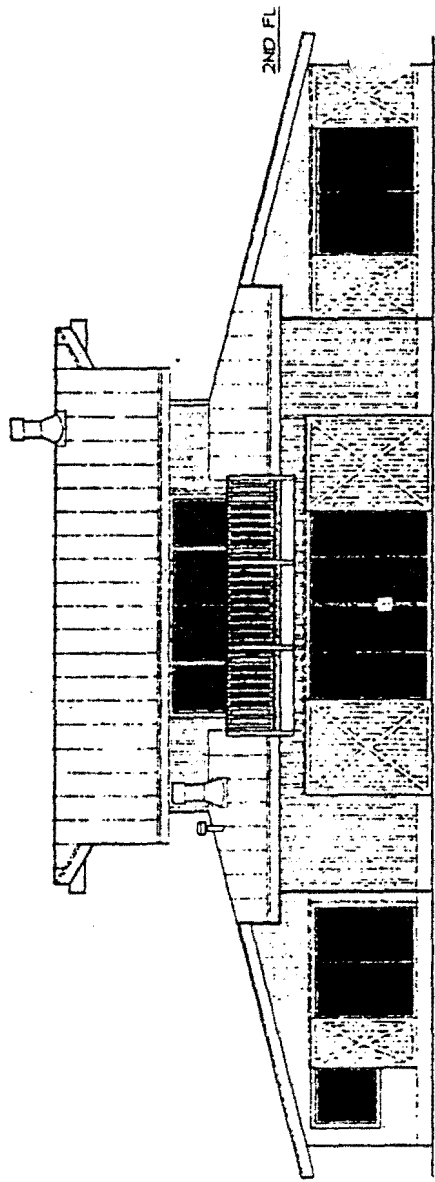


- LEGEND:
- ① SWAMP RANCH ROAD
  - ② SWAMP RESIDENCE
  - ③ GP HAUL ROAD
  - ④ HAY SHED
  - ⑤ BARN/HAY BARN
  - ⑥ OLD HWY. ONE
  - ⑦ PROJECT SITE

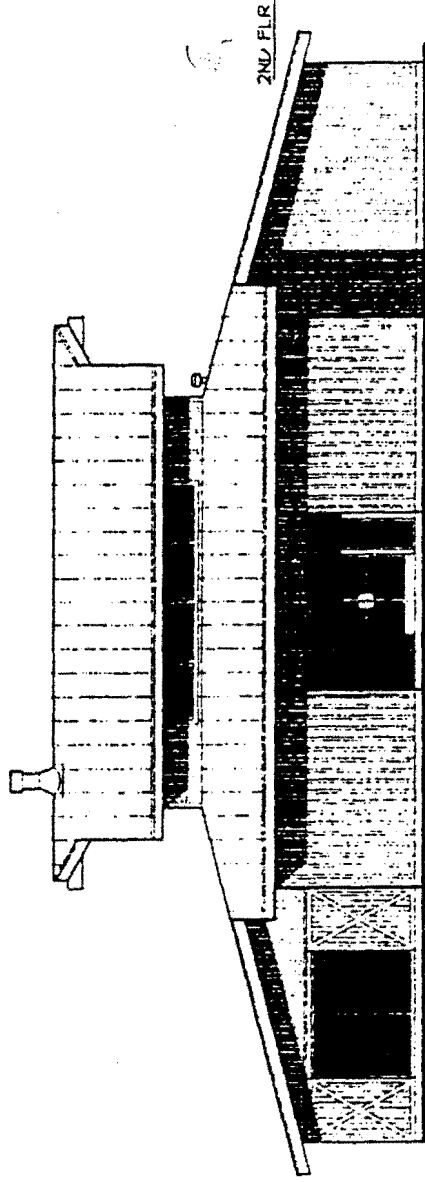
 = Area Subject to Agricultural Easement

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

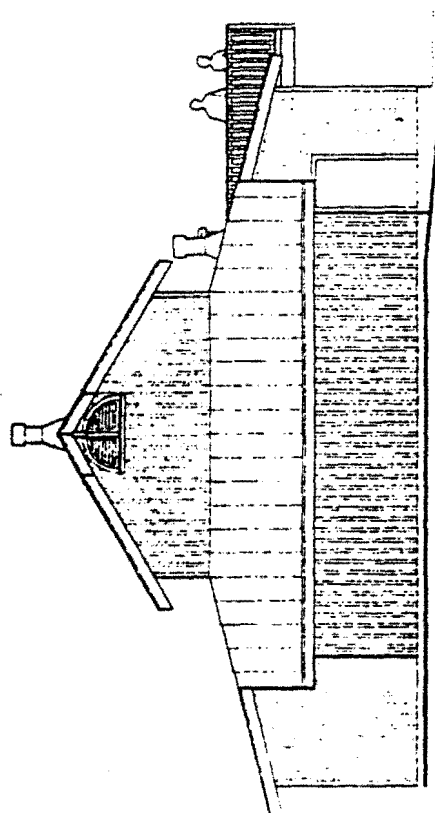




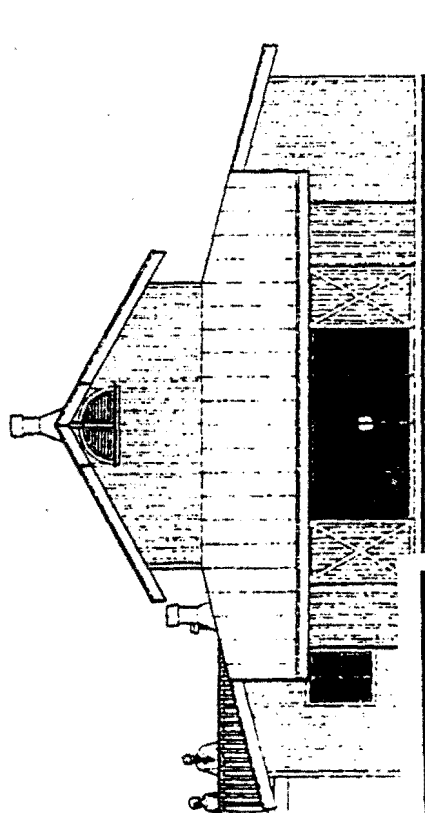
BACK ELEVATION



FRONT ELEVATION



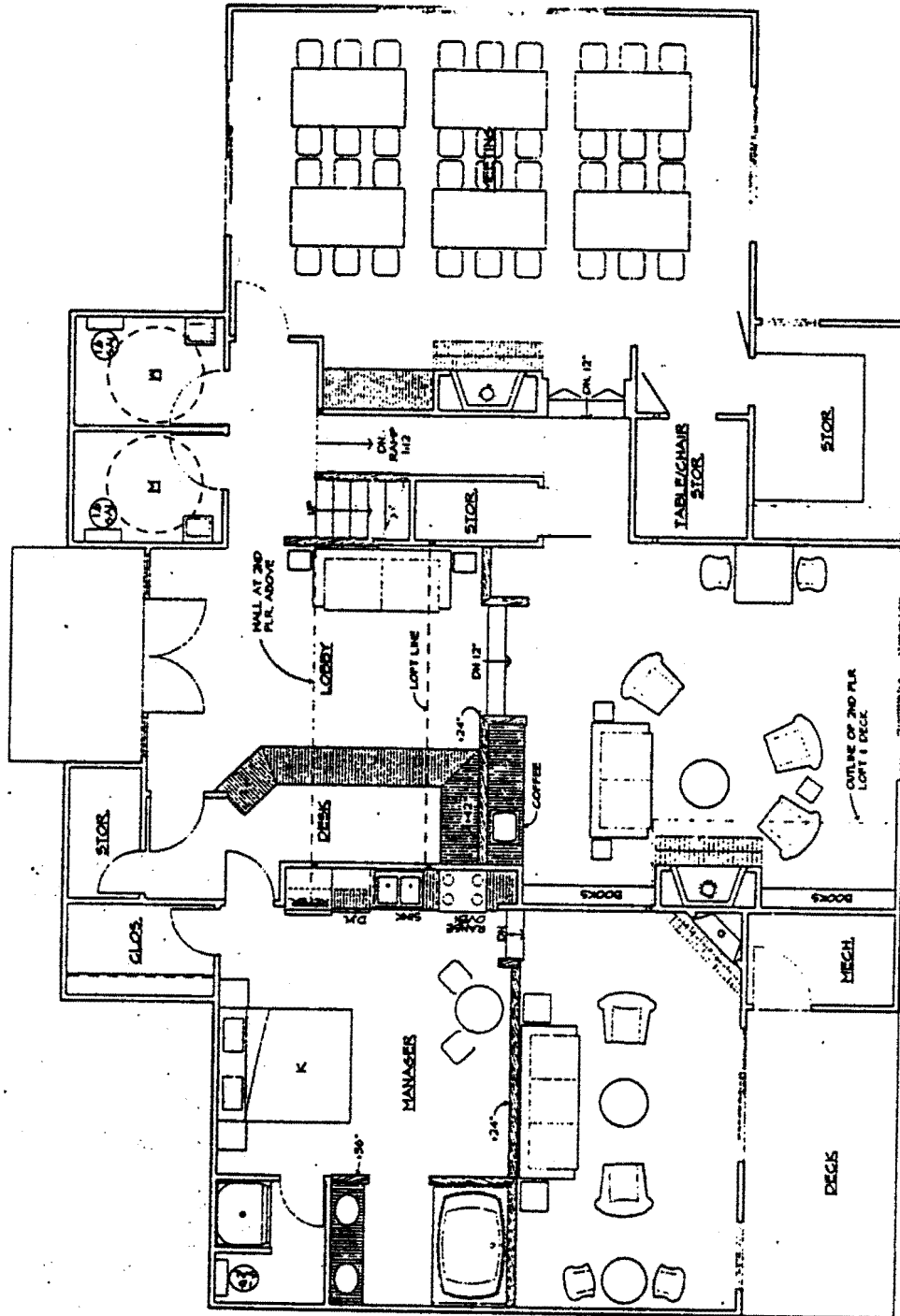
RIGHT ELEVATION



LEFT ELEVATION

LOBBY / MANAGER QUARTERS  
SCALE: 1/8"=1'-0"

EXHIBIT NO.	6
APPLICATION NO.	A-1-MEN-98-17
ELEVATIONS	



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

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

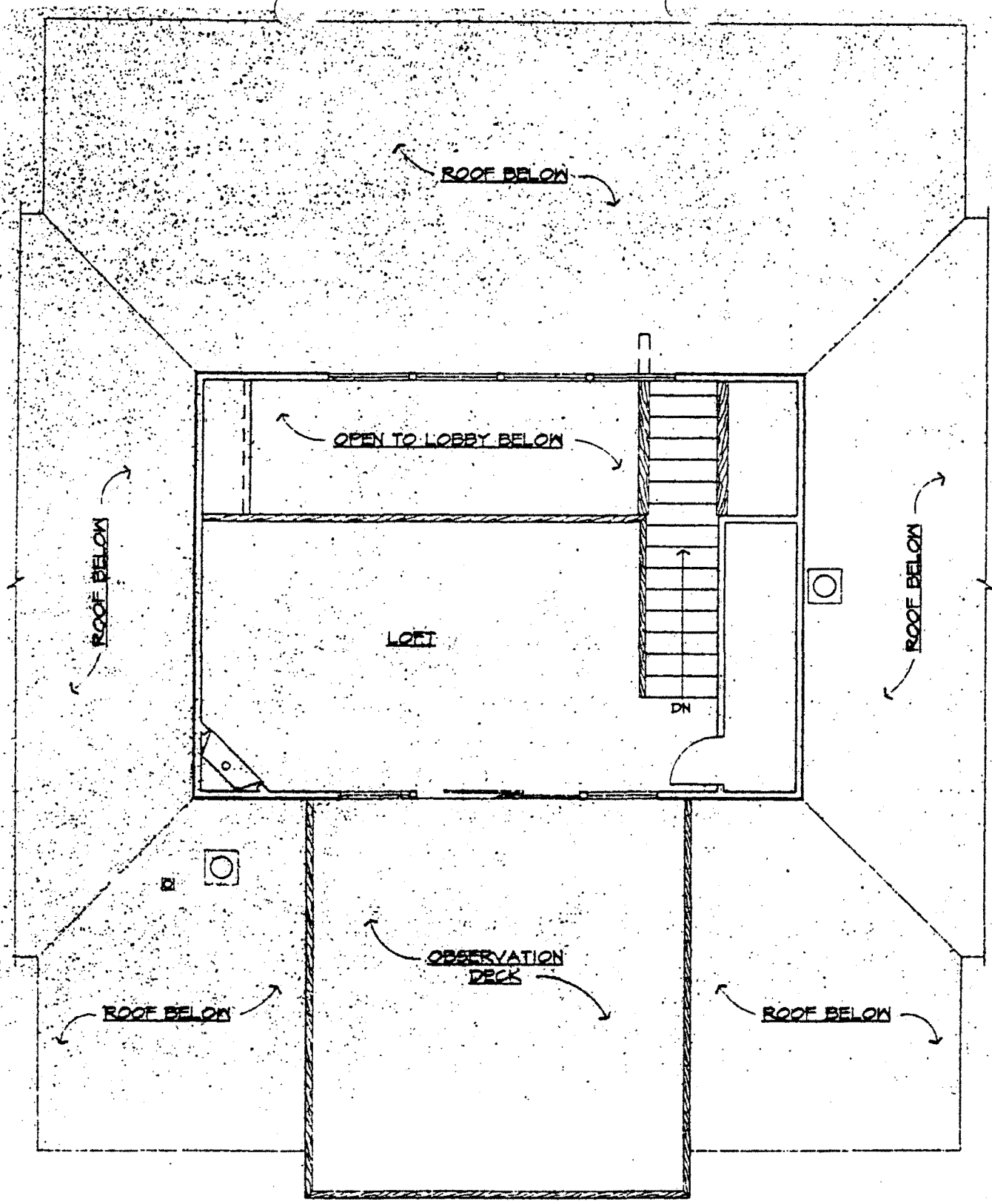
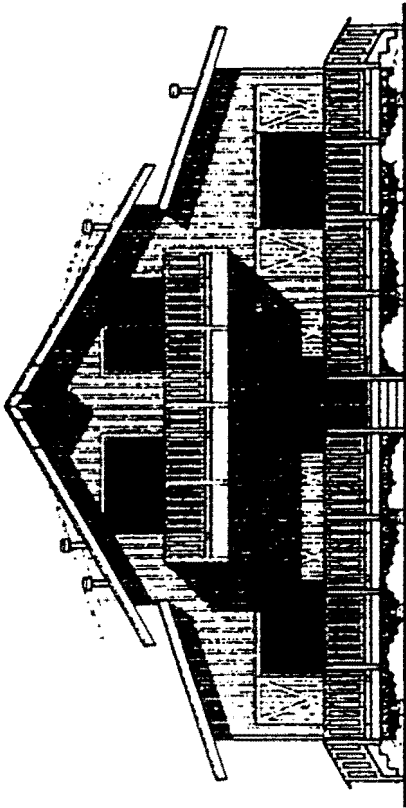
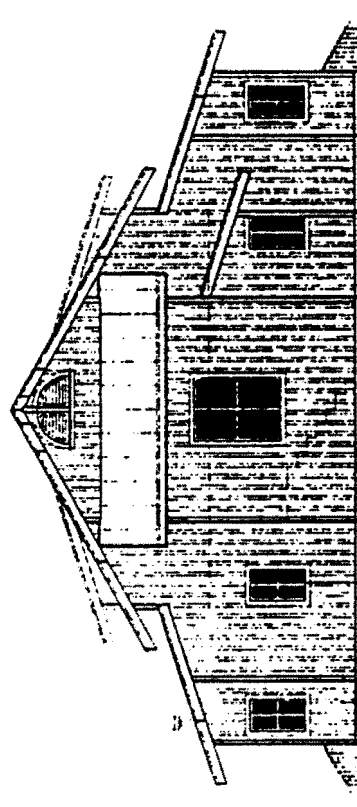


EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	

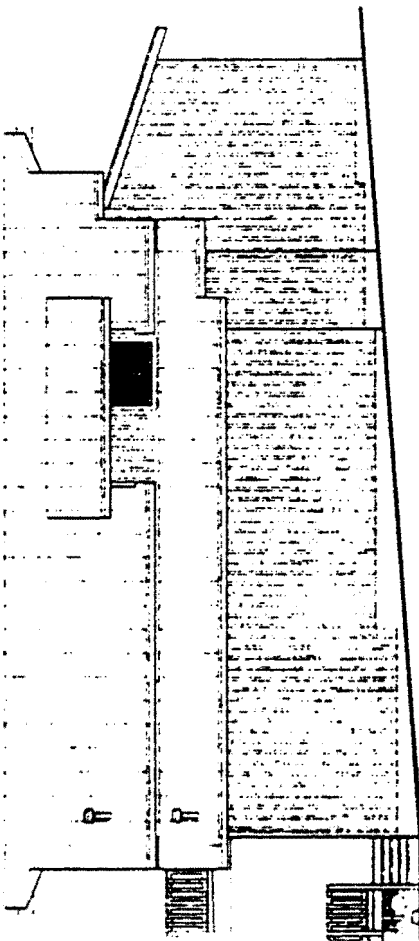
**SECOND FLOOR**  
SCALE: 1/4" = 1'-0"



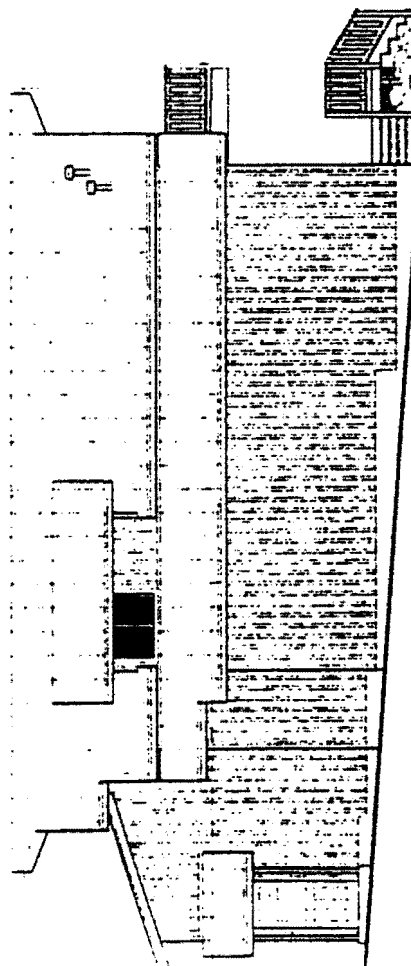
BACK ELEVATION



FRONT ELEVATION



LEFT ELEVATION



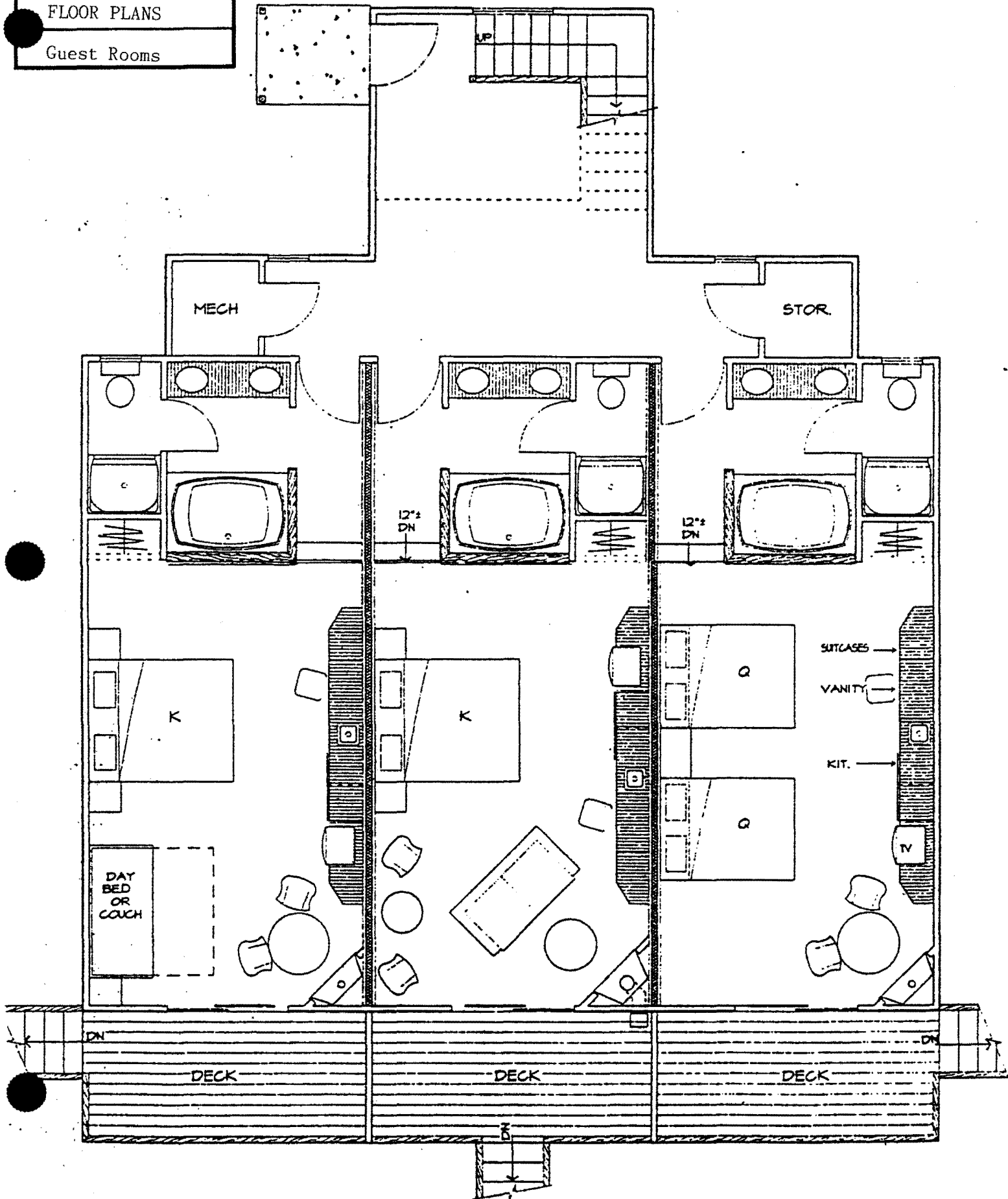
RIGHT ELEVATION

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

EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-08-17
ELEVATIONS	
Guest Rooms	



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



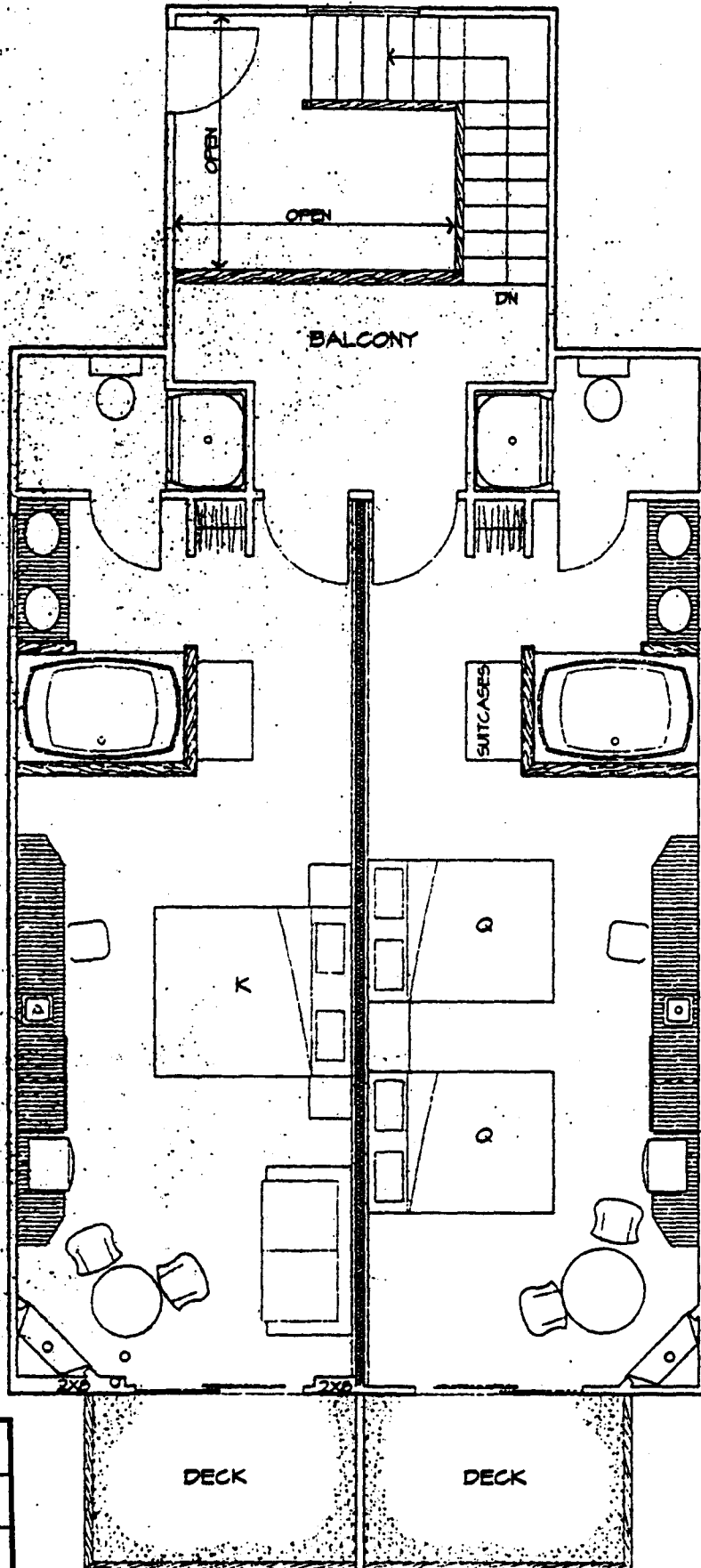
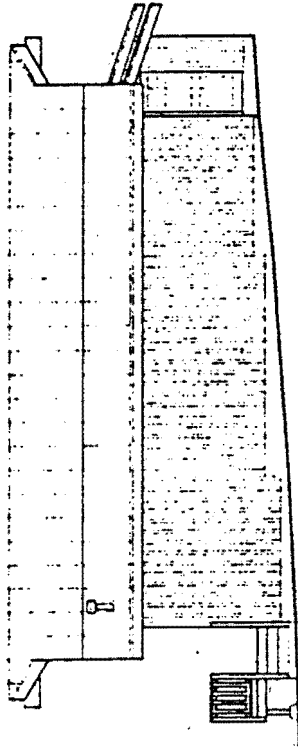
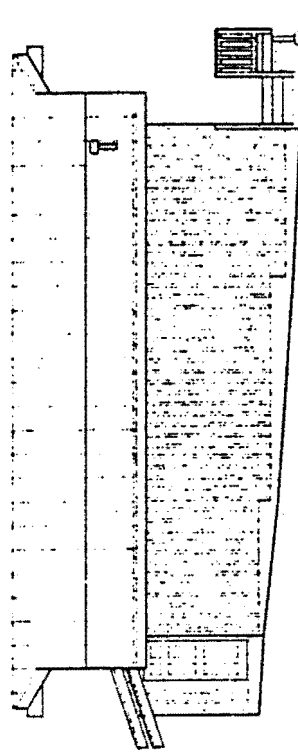


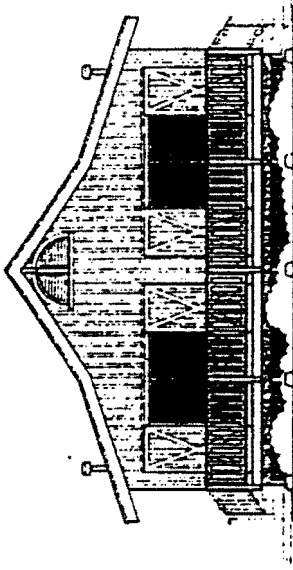
EXHIBIT NO.	11
APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	
Guest Rooms	



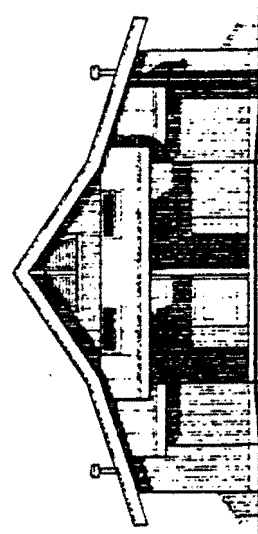
LEFT ELEVATION



RIGHT ELEVATION



REAR ELEVATION



FRONT ELEVATION

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

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

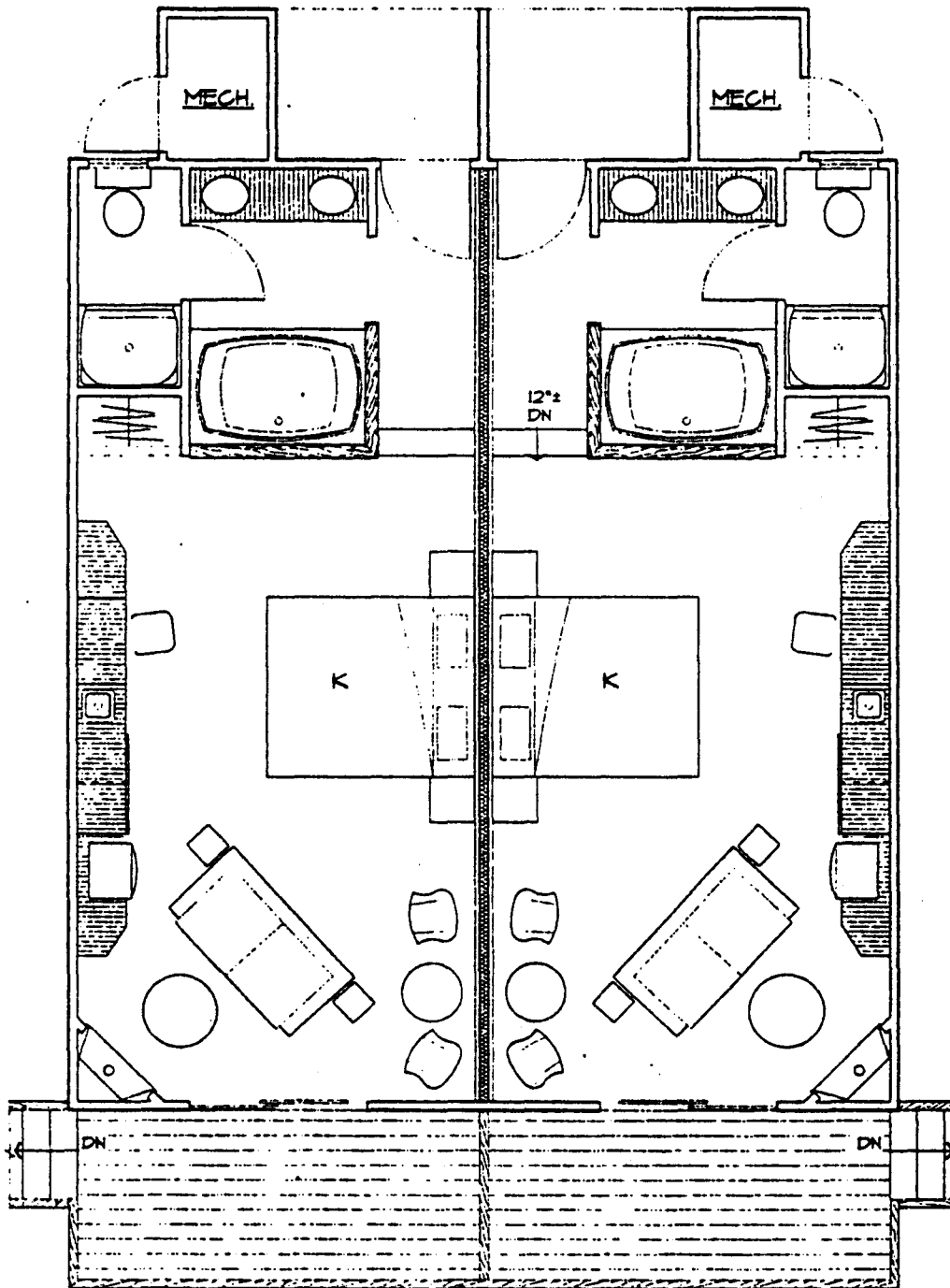
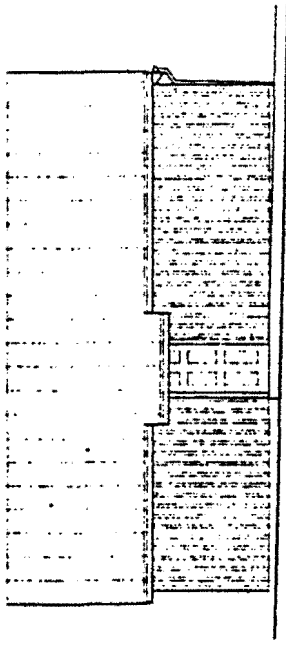


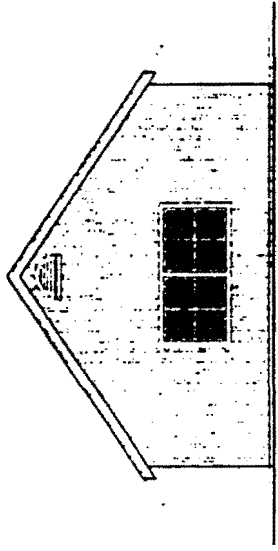
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APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	

**FLOOR PLAN**

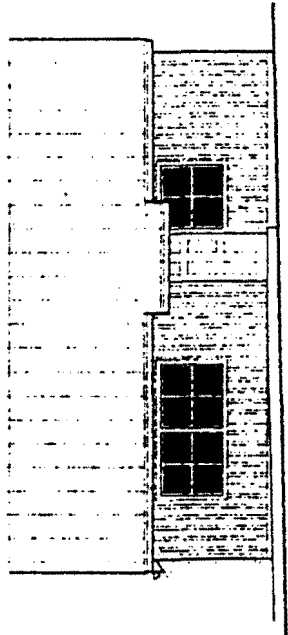
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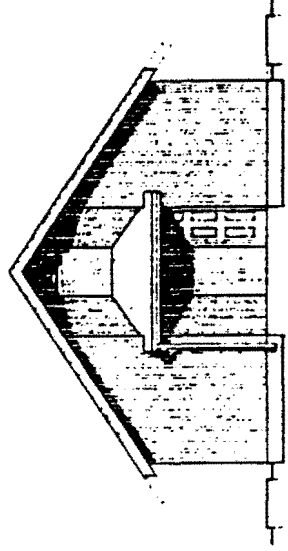
RIGHT ELEVATION



BACK ELEVATION



LEFT ELEVATION



FRONT ELEVATION

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

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

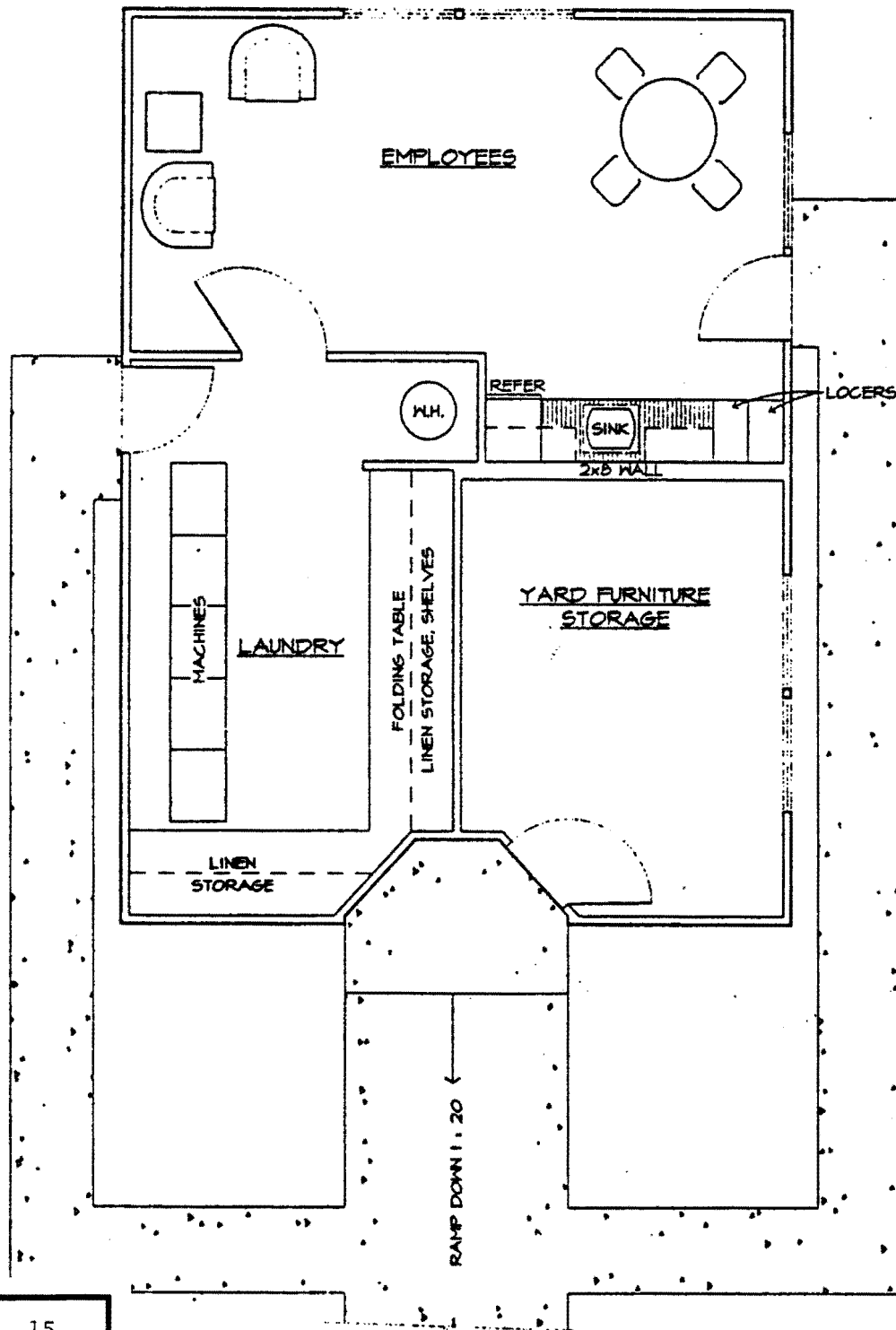


EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	
Laundry/Employee Bld	

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

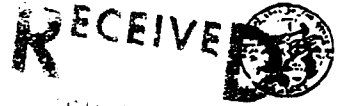
STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA  
45 TREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT



FEB 13 1998

CALIFORNIA  
COASTAL COMMISSION

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

SECTION I. Appellant(s)

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

JUDITH VIDAYER - Friends of Ten Mile P.O. 25 FT BRAGG 95437 707-961-2742  
MENDOCINO COASTWATCH ROANNE WITHEBS P.O. 198, FORT BRAGG, CA 95437  
MENDO LAKE GROUP GIERA CLUB P.O. 2330 (FORT BRAGG, CA 95437  
RONGuennier Zip Area Code Phone No.

SECTION II. Decision Being Appealed

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

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

3. Development's location (street address, assessor's parcel no., cross street, etc.): In Coastal zone 7 1/4 miles north of FT BRAGG at Ten Mile AP#s 69-010-20, 21, 22, 34, 35, 69-020-02, 05, 14, 69-050-06, 69-070-07, 11 28301 N. HWY 1 FB.

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: Coastal Development Use Permit
- c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

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

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

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

See attachment

Project conflicts w/ local LCP 1) Visual resource policies

3.5-1-3-4-6

2) Environmentally Sensitive Habitat Area policies

zoning code Sec. 30240(a)(b); LCP definitions pg. 39 - STAs p. 28<sup>+</sup> 44 - Dunes

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

4) Protection of Agricultural Lands

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

SECTION V. Certification

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

*Ronnie Watkins*  
*South Village Road 2, Lemoore*  
Signature of Appellant(s) or  
Authorized Agent

Date Feb 11, 1998

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

Section VI. Agent Authorization

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

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

Date \_\_\_\_\_ Signature of Appellant(s) \_\_\_\_\_



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

# Appeal to The Coastal Commission RE: CD

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

## 1) Viewshed Protection of Highly Scenic Area

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

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

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

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

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

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

## 2) Environmentally Sensitive Habitat Areas (ESHAs)

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

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

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

### 3) Public Beach Access

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

### 4) Conversion of Agricultural Lands

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

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

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



COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES  
501 LOW GAP ROAD, ROOM 1440  
UKIAH, CALIFORNIA 95482

February 3, 1998

**NOTICE OF FINAL ACTION**

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

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

**ACTION TAKEN:**

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

The above project was not appealed at the local level.

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

**Enclosures**

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

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

**EXHIBIT NO. 17**

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

**COUNTY FINAL CDP**

**CONDITIONS**

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

**A. General Conditions:**

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 if the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$1,275.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to January 30, 1998. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
2. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the permittee to make use of this permit within 2 years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
3. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
4. The application, supplemental exhibits and related material, including location, design and construction materials of signs and buildings, shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.
  - A. Roof color shall be a shade of earth tone brown compatible with the siding. The proposed color scheme shall be submitted to the Department of Planning and Building Services for review and approval prior to issuance of building permits.
5. This permit shall be subject to revocation or modification upon a finding that any one or more of the following:
  - a. That the permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which the permit was granted have been violated.
  - c. That the use for which the permit was granted is being conducted so as to be detrimental to the public health, welfare or safety or to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
6. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

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

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

<b>EXHIBIT NO.</b>	17
<b>APPLICATION NO.</b>	A-1-MEN-98-17
<b>COUNTY FINAL CDP</b>	
<b>CONDITIONS</b>	

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

<b>EXHIBIT NO.</b> 17
<b>APPLICATION NO.</b> A-1-MEN-98-17
COUNTY FINAL CDP
CONDITIONS

EXHIBIT NO. 18

APPLICATION NO.

A-1-MEN-98-17

COUNTY STAFF REPORT

BOS-2

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## MENDOCINO COUNTY MEMORANDUM

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**TO:** Board of Supervisors

**DATE:** 1/13/98

**FROM:** Charles N. Hudson - Planner II

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. *Project alternatives were not considered.*

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

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

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

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



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

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

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

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

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

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

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

**STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT**

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

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

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

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

**LOCATION:** In the Coastal Zone, 7 ¼ ± miles north of Fort Bragg, on the east side of Highway 1, ½ ± mile north of its intersection with Camp 1 - Ten Mile Road (CR# 427), ¾ ± mile southeast of the Highway 1 - Ten Mile River Bridge; AP# 069-010-20, 21, 22, 34, 35; 069-020-02, 05, 14; 069-052-06; 069-070-07, 11.

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

**GENERAL PLAN:** Rangeland

**ZONING:** RL \*2C

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

**EXISTING USES:** Hay storage, grazing

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

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

**SUPERVISORY DISTRICT:** 4

**GOV. CODE 65950 DATE:** January 23, 1998

<b>EXHIBIT NO.</b> 18
<b>APPLICATION NO.</b> A-1-MEN-98-17
COUNTY STAFF REPORT

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

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

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

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

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

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

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

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

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

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

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

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

#### ENVIRONMENTAL REVIEW:

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

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

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

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

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

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

Caltrans submitted the following comment regarding drainage:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Caltrans submitted the following comments:

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

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

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

Drainage impacts are discussed above under Water Drainage.

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

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

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

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

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



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

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

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

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

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

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

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

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

**RECOMMENDED MOTION:**

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

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

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

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

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

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

**RECOMMENDED CONDITIONS:**

**A. General Conditions:**

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

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2. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the permittee to make use of this permit within 2 years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
  3. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
  - \*\* 4. The application, supplemental exhibits and related material, including location, design and construction materials of signs and buildings, shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.
  - \*\* 5. This permit shall be subject to revocation or modification upon a finding that any one or more of the following:
    - a. That the permit was obtained or extended by fraud.
    - b. That one or more of the conditions upon which the permit was granted have been violated.
    - c. That the use for which the permit was granted is being conducted so as to be detrimental to the public health, welfare or safety or to be a nuisance.
    - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
  6. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- B. Specific Conditions: Compliance with the following conditions shall be achieved prior to issuance of a building permit unless otherwise noted, and compliance shall be maintained for the term of the permit:**
- \*\* 1. All appropriate measures shall be taken to suppress dust and prevent erosion during and following construction. Revegetation of disturbed areas shall be accomplished as soon as practical after construction activities are completed. If vegetation cannot be established prior to winter rains, other measures shall be employed as necessary to prevent erosion. All areas of bare soil shall have been planted, mulched or otherwise treated to control erosion and reestablish vegetative cover prior to final inspection of the structures by the Building Inspection Division.
  - \*\* 2. Submit acceptable water quality test results and water system design details to the State of California, Department of Health Services, Public Water Supply Branch and the Mendocino County Division of Environmental Health.
  - \*\* 3. Obtain a permit for the water system from the State of California, Department of Health Services, Public Water Supply Branch.
  - \*\* 4. Submit to the Division of Environmental Health an acceptable site evaluation report and sewage disposal system design prepared by a qualified site evaluator, demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan. The report shall include acceptable soil permeability and soil profile data, wet weather groundwater monitoring, and a cumulative impact assessment.
  - \*\* 5. Submit to the Division of Environmental Health an acceptable site development plan prepared by a qualified site evaluator showing the location and dimensions of the sewage disposal system, including primary disposal system, 100 percent replacement area, acceptable setback distances, and other pertinent information.

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

**MITIGATION MONITORING:**

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

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

Oct. 10, 1997  
DATE

  
CHARLES N. HUDSON  
PLANNER II

CNH:ng  
10/1/97

Negative Declaration

Appeal Fee - \$435.00  
Appeal Period - 10 days

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

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

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

## DEPARTMENT OF PARKS AND RECREATION

RUSSIAN RIVER / MENDOCINO DISTRICT

Mendocino Sector  
Post Office Box 440  
Mendocino, CA 95460

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

February 26, 1998

RECEIVED  
MAR 03 1998CALIFORNIA  
COASTAL COMMISSIONJudith Vidaver,  
Friends of the Ten Mile  
P.O. Box 2330  
Fort Bragg, CA 95437

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

Dear Ms. Vidaver,

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

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

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

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

Page 2  
Judith Vidaver  
February 25, 1998

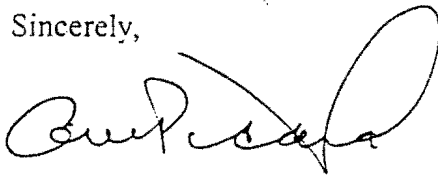
established public access points when entering the park. There is no designated park access north of Ward Avenue.

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

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

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


Sincerely,



Greg Picard,  
Park Superintendent

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

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

EXHIBIT NO.	20
APPLICATION NO.	A-1-MEN-98-17
Correspondence	
	

Ten Mile River Ranch  
28301 North Highway One  
Fort Bragg, California 95437

August 13, 1998

RECEIVED  
AUG 17 1998  
CALIFORNIA  
COASTAL COMMISSION

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

RE: Coastal Permit A-1-MEN-98-17 (Smith/Perry)

Dear Commissioners:

Since a prior Coastal Commission meeting of May 12, 1998 in Sacramento, during which the above referenced project was discussed, we have reviewed the Coastal Commission Staff Report Revised Findings of May 22, 1998, and have the following comments, questions and suggestions.

1. Beginning on Page 6, then on pages 10, 19, 20, and under the heading, Tree Removal, "This permit does not authorize the removal of any trees from the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-1-MEN-98-17."

Because the entire parcel is 389 acres and a substantial part of it is in forest land production (FL), wherein we harvest trees on a regular basis pursuant to an Non Industrial Timber Management Plan (NTMP) approved by The California Department of Forestry and Board of Forestry, we assume this tree removal provision was intended to apply to the four-acre project envelope. Therefore, we would request that the tree removal limitations be clarified to apply to the "four acre building envelope" rather than the "subject parcel."

2. It appears that Special Condition Number 1 (the creation of an agricultural easement on the 389 acre legal parcel where the project would be located) is a much more restrictive concept than that which we possibly imagined during the meeting of May 12. Upon review of the severity and




longevity (in perpetuity) of agricultural easements, we cannot find a nexus between any impact that the project would have on our agricultural operations outside the four-acre building envelope, and the requirement of the condition of an agricultural easement. Therefore, we must respectfully ask the question, is it reasonable and necessary to impose such a restriction on the remaining 385 acres of a parcel whose agricultural dedication and activities will not be impacted by activities within the four-acre project site, by virtue of the protective zoning that already exists, namely Rangeland?

The Mendocino County Planning Department has stated that in order for us to conduct any activity that is not allowed under the current Rangeland zoning, we would have to request and be granted a **zoning amendment**. This would require submitting an application to, and acquiring a recommendation from, the Department of Planning and Building Services, then a public hearing would be required before the Planning Commission. If approved at that level, it would most certainly be appealed to the Board of Supervisors. If approved at that level, it would most certainly be appealed to the Coastal Commission. If that level proved successful for the applicant, the litigation process then remains for any person, group, or agency to pursue as a further means of preventing an applicant from acquiring zoning amendments.

It is our understanding that in order for us, or any other landowner in the vicinity to acquire a **use-permit** to conduct visitor-serving activities, the above process would have to be repeated successfully a second time at all three levels of county government, then at the Coastal Commission and litigation levels in order to be successful. This arduous pursuit would require seeking approval for zoning amendments that are vigorously discouraged under the present County Rangeland Zoning regulations, as well as the General Plan Coastal Element.

More specifically, the Rangeland zoning on our property allows one dwelling per 160 acres, and allows livestock and forest land production. The parcel in question is 389 acres in size, on which there currently exists two dwellings. Therefore, we could not construct any additional dwelling structures without a zoning change, nor would additional visitor-serving activities be permitted without a use-permit and a zoning amendment. We believe that such a use-permit and zoning amendment would be nearly impossible to obtain because this is contrary to the local coastal plan and land use plan. To illustrate this point more specifically, the Use-Permit we are currently seeking, on a parcel

EXHIBIT NO.	20
APPLICATION NO.	A-1-MEN-98-17
Correspondence	
	California Coastal Commission

that is **zoned** for a VSF designation, has taken us over five years thus far, and we have not yet received final approval.


The Coastal Commission Revised Findings Staff Report acknowledges (bottom of Page Thirteen) that "the proposed Visitor Serving Facility has been sited on a portion of the 389 acre parcel where it will have the least number of adverse impacts on the existing agricultural and timberland production, while still having minimal visual impacts; and the agricultural productivity of the property will be protected and maintained."

We strongly concur with that statement, because it was for those very reasons that we chose the present site, namely to protect existing agricultural activity on the remainder of the 389 acre parcel, while maintaining minimal visual impacts. That is why, in retrospect, we are now confused as to why such a requirement as an Agricultural Easement is necessary at all. During the five years of planning and review of our permit application, the topic of easements was not mentioned once for consideration by Mendocino County Planning (please review Mendocino County Planning Department Chief Planner, Allan Falleri's, attached letter, dated July 10, 1998).

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

The motels being constructed in the city of Fort Bragg had been in the city planning process for years prior to any recent development, and have been previously zoned for development. As a result, comparing **existing** development projects **inside** the Fort Bragg city limits to **potential** development **outside** the Fort Bragg city limits is not really a fair or accurate comparison. Any surrounding parcels under our ownership are protected by the Rangeland zoning, and do not allow any visitor-serving uses without a separate use-permit and zoning amendments.

It is our understanding that **any** agriculturally zoned parcels (Rangeland Forestland) cannot be utilized for development without successfully

EXHIBIT NO.	20
APPLICATION NO.	A-1-MEN-98-17
Correspondence	
 California Coastal Commission	


accomplishing a zoning amendment, and, acquiring a use-permit vis-a-vis the rigorous and difficult process mentioned above.

4. To further illustrate the effectiveness of the current Rangeland zoning, and that the Agricultural Easement would be burdensome and unnecessary, item (2), Page Three lists activities that would be permitted, "if approved by the Coastal Commission as an amendment to this coastal development permit when the Executive Director determines such an amendment is required by the Coastal Act." Under the current Rangeland zoning, are not the activities such as fence repairs and repairs to structures listed on Page Three, item (2) (a), currently permitted? Under an Agricultural Easement, these activities would require special permission every time we wanted to build/repair a fence or repair any building.

During the above mentioned prior Coastal Commission meeting of May 12, 1998, we had no clear idea of the serious nature of easements, nor that they could exist in perpetuity, nor that an organization unknown to the landowner/grantor could be granted the easement, nor that an organization could again grant the easement to a completely different organization, and on and on. Frankly, the unknown aspects and consequences of easements is a very serious matter and should only be considered, we believe, as a voluntary endeavor or in cases where the underlying agricultural zoning offers no control over potential future development. That is not the case with the currently-in-place Rangeland zoning which we must abide by at the present time on our land.

I have included a copy of a letter from Chief Planner, Allan Falleri of the Mendocino County Planning and Building Services. It expresses the County Planning Department staff position that, **"the limitations imposed by the RL zoning and land use designations are adequate to protect the agricultural values of the property from possible future incompatible uses."**

Also, (attached) a copy of a Mendocino County Planning Department record of General Plan Amendments North of Navarro since 1986, shows that: (1) no Rangeland zoned parcels were converted for incompatible development purposes. And, (2) even when the \*2C was approved on RL parcels in 1987 (7-87 Decker, 16-87 Burningham) there were no adjacent parcels that required the protection of an Agricultural Easement.

EXHIBIT NO. 20
APPLICATION NO. A-1-MEN-98-17
Correspondence
 California Coastal Commission

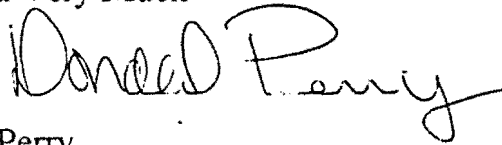
In addition, (attached) a letter from Robert R. La Belle, District Superintendent of California State Parks and Recreation expresses concerns regarding the impacts an Agricultural Easement on property State Parks may acquire in the future, would have on their plans to make improvements to that property, pursuant to the MacKerricker State Park General Plan, in order to provide public access to the Ten Mile River beach area of MacKerricker State Park for recreational purposes.

Accordingly, we would encourage the Commission to reconsider and to delete the condition of imposing an Agricultural Easement on our 389 acre parcel. We would ask, is there a basis under the law that an Agricultural Easement be required as a condition of approval of the project when no apparent nexus exists to warrant such a requirement? An Agricultural Easement requires that we relinquish an interest in the remainder of the 389 acre parcel by granting to an **unknown** public or private organization the right to enter upon our property at any time they wish, forever, to monitor every activity we engage in for possible violations that are currently prevented from occurring by the existing **Rangeland** zoning.


For more than three generations, the Smith family has demonstrated its voluntary commitment to agriculture and its careful stewardship of the resources on the Ten Mile River Ranch without the necessity of ag-preserve status or easements. Granting us a use permit to operate a Visitor Serving Facility, without requiring an Agricultural Easement, will not diminish or depreciate the level of care, or the quality of land and resource management that we believe in, and that we have practiced and demonstrated on our land since the early part of this century.

For all the above reasons we respectfully urge the Coastal Commission to reconsider and to remove the unnecessary condition of requiring an Agricultural Easement as a requirement for permit approval of the Ten Mile River Inn, and request an opportunity for discussion on this important matter.

Thank You Very Much



Donald J. Perry,

EXHIBIT NO.	20
APPLICATION NO.	A-1-MEN-98-17
Correspondence	
 California Coastal Commission	

<b>EXHIBIT NO.</b>	20
<b>APPLICATION NO.</b>	A-I-MEN-98-17
Correspondence	

Cumulative Impacts: Five separate General Plan Amendment applications comprise this submittal. Copies or notices of these applications were submitted to the agencies included on the Notices and Request for Comments for their comments on both individual and cumulative impacts. The County Board of Supervisors have determined that significant negative cumulative impacts will not result from project approval.

The amendments included in this submittal are summarized below, including net development potential. Cumulative impacts associated with these applications were evaluated in the project staff reports. With respect to traffic, this group of projects will generate a net increase of 6.66 peak hour trips, as shown in Table A (page 9 of the Group submittal). The Detailed Cumulative Impact of all Coastal Land Use Plan Amendments on State Route 1 - Pending Coastal Plan Amendments (page 11 of the group submittal) indicates that this Group, together with one other pending project, will not increase traffic at road segments or intersections with levels of service below C. Table A (page 9 of the Group submittal) shows the location of all projects approved or pending since preparation of the State Route 1 corridor Study. The cumulative net increase in peak hour trips is projected at 72.12 peak hour trips. As discussed on page 6 of the Group submittal, staff has overestimated the potential number of trips compared with the methodology used to determine impacts for property already assigned the land use classification that is proposed (under the 75/50 scenario, traffic generation from only 50 percent of subdivision potential is counted, whereas County staff has been counting the traffic generation from 100 percent of subdivision or inn units potential that could result from the proposed amendment). In any case, the cumulative total is below the 100 peak hour trip threshold at which the State Route 1 gravity model should be rerun.

**1ST MAJOR AMENDMENT OF 1998**

**1997 NORTH OF NAVARRO COASTAL LAND USE PLAN GROUP**

CASE # APPLICANT	GENERAL LOCATION	LAND USE AND ZONING AMENDMENTS TENTATIVELY APPROVED	NET DEVELOPMENT POTENTIAL
GP 5-96/R 6-96 Daniels/Scherf	S of Ukiah- Comptche Rd	RMR-20 to RR-10 RMR to RR:L:10  (Applicants have, as required by the Board on December 8, 1997, filed General Plan and Zoning amendments on 20 acres outside Coastal Zone from RR-5 to RR-10 (to be processed with 1998 Inland Coastal Group)	2 lots; 32 acres in Coastal Zone. Application to amend RR-5 to RR-10 on remainder of ownership outside the Coastal Zone (20 acres) will limit total potential to 5 parcels as currently exists on the 52 acre ownership.
GP 8-97/R 9-97 Merrill, Pollard, Sawyer, Hassebrock	S of Little River Rd	RMR-20 to RR-10 RMR to RR:L:10:CR limiting future subdivision to 10 acres and no encroachment or access from Highway 1	3 lots; 65 acres

GP 9-97/OA 3-97 Reed	Town of Mendocino	Increase inn cap for Reed Manor by adding 4 units, from 5 units to 9 under existing *1C designation.	4 inn units
GP 10-97 Rolfe/Mendocino County	N of Mendocino	Correct by adding boundary between RR-5 and RR-5[RR-2]	None- correction
GP 11-97/R 11-97 Ulatowski	Gurley Lane, E of Mendocino	RMR-20 to RR-10 RMR to RR:L:10	2 lots; 32 acres
GP 15-97 Group TOTAL			7 lots; 4 inn units

It is not anticipated that the approval of the proposed LCP amendments in this submittal would result in any significant cumulative impacts in conjunction with other Coastal Plan amendment applications, either previously approved or in process.

The following amendments to the County's Coastal Plan have been approved and certified since LCP adoption.

GP CASE	APPLICANT	LOCATION	FROM	TO
6-86	Warrington	Caspar	RR-5*PD	RR-5-PD[RR-2-PD]
8-86	Kravis	Mendocino	*3 & *1C	*5
9-86	Stanford	Mendocino	*2 & *4	*5
11-86	Booth	Caspar	RR-5[RR-2]	RR-5[RR-1]
13-86	White	Irish Beach	Move Access	
18-86	Men. Pres. Ch.	Mendocino	OS	PF
6-87	Zimmer	Little River	*1C	*2C
7-87	Decker	Manchester	RL-160	RL-160*2C
16-87	Burningham	Point Arena	RL-160	RL-160*2C
17-87	Ciancutti	Mendocino	Moved *1C	Adjacent Parcel
9-88	Baker	Gualala	RR-5[SR]	C
13-88	Brazil	Albion	RR-5-PD*1	RR-5-PD*2
14-88	Agate Cove	Mendocino	RR-5[2]*2	RR-5[2]*1
16-88	Booth	Caspar	OS-DPR	RR-5[RR-1]
4-89	Gualala CSD	Gualala	Add Sewer District	
6-89	Welter	Mendocino	RR-5[RR-2]	RR-5[RR-2]*2
7-89	Tuck	Gualala	RR-10	RR-5 & RR-5DL
13-89	Barnett	Elk	RR-10	RV & OS
15-89	Mendocino County	Coastal Plan	Cleanup	
5-91	Mendocino County	Amend Text	Hazardous Waste Plan	
12-91	Spring	Mendocino	RL	OS & RR-10
14-91	Mendocino School Dist., Cecchi, Co.	Mendocino	PF	RR-5[RR-2]
23-91	Velez, et al.	Cleone	RR-10	RR-2
10-92	Lance, LP Corp.	Little River	FL	RR-5

GP CASE	APPLICANT	LOCATION	FROM	TO
22-92	Arnold	Manchester	RL	FL
11-92	Peirce/Comer	Fort Bragg	Remove "TPZ" map symbol	
3-93	Kruzic	Fort Bragg	RR-5[RR-2]	RR-5[RR-1]
29-88	Taylor	Cleone	RR-5[RR-2]	RR-5[RR-2]*1C
5-89	Peirce/Comer	Pearl Drive	FL	RR-5-PD
12-89	Creasey	Albion	RMR-20	RR-10
4-90	Feary/Wilson	Little River	RMR-20*1*4	RMR-20*2*4
5-90	Wells/Healy	Albion	Correct location of *2	
14-95	Kruzic	Fort Bragg	RR-5[RR-1]	RR-5[RR-2]
8-93	Waidhofer	Elk	RR-10	RV
10-93	Stuart, et al.	Gualala	TP	FL & remove "TPZ" map symbol
13-93	Compton/Davis	Anchor Bay	RR-5, RR-5-DL	RR-5[RR-2], RR-5[RR-2]DL
13-95	Flanagan	Anchor Bay	RR-5[RR-2]*4	RR-5[RR-2]*1C
7-96	Muegge	North of Gualala	FL	RR-10
9-96	Caltrans	North of Elk	Remove proposed view turnout from land use map	

First Coastal Commission submittal of 1996 (incomplete - pending):

GP CASE	APPLICANT	LOCATION	FROM	TO
12-93	Mendocino Coast Properties	Irish Beach	OS	RR-5-PD

In conclusion, cumulative impacts that would be "considerable, significant and adverse" as described in the CEQA Guidelines will not result from approval of the two amendments in this submittal.

7. Environmental Documents: The County has conducted an environmental review for the proposed amendments. The environmental review documents include the Site and Project Description questionnaires, the comments from the responding referral agencies, the Environmental Review checklists and the Staff Reports. Copies of the environmental review documents are included in the attachments. It was County staff's determination that no significant adverse environmental impacts would result from approval of the proposed amendments. However, no environmental determination was adopted by the County because responsibility for complying with the requirements of CEQA for coastal plan amendments rests with the Coastal Commission.
8. Public Participation: The proposed amendments were afforded full public review. Each was heard at least once by the Planning Commission and once by the Board of Supervisors. Notices to adjacent property owners were mailed and were also published in newspapers of general circulation. Copies of the documents giving evidence of opportunity for public participation are included in the attachments.

Consistency with the Coastal Act: The staff reports for the proposed amendments discuss the relation of the proposals to the goals and policies of the County's General Plan, and where applicable, also address consistency with the Coastal Act. Because the County's Coastal Plan has been certified as consistent with the Coastal Act, an

EXHIBIT NO. 20
APPLICATION NO. A-1-MEN-98-17
Correspondence



EXHIBIT NO. 21

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

Correspondence

 California Coastal Commission

COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES  
501 LOW GAP ROAD, ROOM 1440  
UKIAH, CALIFORNIA 95482

July 10, 1998

Jo Ginsberg  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

RECEIVED  
AUG 13 1998  
CALIFORNIA  
COASTAL COMMISSION

RE: A-1-MEN-98-17; Ten Mile River Inn

Dear Ms Ginsberg,

I am writing in response to a letter dated July 8, 1998 from Mr. Don Perry (copy enclosed) in which Mr. Perry requests an explanation for why this department did not believe it was necessary to put further restrictions, such as an agricultural easement, on his property as a condition of approving use permit #CDU 8-97 for the Ten Mile River Inn.

As you know, the land use designation for the Perry-Smith property is RL\*2C. Although the \*2C combining district is intended to provide for visitor accommodations as a conditional use, the underlying RL land use designation continues to regulate all other uses of the property. The RL designation and implementing zoning district permit only one single-family residence per legal parcel, agricultural uses, passive recreational uses and wildlife management uses as "Principal Permitted Uses." A number of additional uses which are generally deemed to be potentially compatible with rangeland are allowed as conditional uses subject to conditional use permits which require discretionary approval by the Planning Commission or Board of Supervisors, and would be subject to appeal to the Coastal Commission. Any discretionary approval must be found to be consistent with the applicable goals and policies of the Coastal Element. Further, any future application that might be filed to change the RL designation would be subject to the LCP Amendment process which would require discretionary approvals by the County and Coastal Commission.

Our staff believes that the limitations imposed by the RL zoning and land use designations are adequate to protect the agricultural values of the property from possible future incompatible uses. Any future uses of the Perry-Smith property which might be potentially incompatible with the intent of the LCP and zoning regulations to promote and protect the agricultural value of the property would be subject to discretionary permits which would be appealable to the Commission. We did not recommend a requirement for a mechanism such as an agricultural easement because we did not believe such a measure was necessary given the agricultural protections in place by virtue of existing LCP and zoning restrictions.

I am not attempting to undermine or otherwise interfere with any recommendation of yours or that of other Commission staff. Because this question was raised at the May 12<sup>th</sup> Commission hearing in Sacramento (and I believe that I gave a response similar to that above), I thought it would be helpful to



Ginsberg  
page 2

explain and clarify our staff's position. I would appreciate it if you could relay this information to the Commission.

Thank you for your attention to this matter and for all your hard work and help that you gave our staff in processing this permit.

Sincerely,



Alan R. Falleri  
Chief Planner

enclosure

cc: Don Perry  
File #CDU 8-97

EXHIBIT NO.	21
APPLICATION NO.	A-1-MEN-98-17
Correspondence	

## DEPARTMENT OF PARKS AND RECREATION

Russian River/Mendocino District  
P.O. Box 123  
25381 Steelhead Blvd.  
Duncans Mills, CA 95430  
(707) 865-2391

EXHIBIT NO.	22
APPLICATION NO.	A-1-MEN-98-17
	Correspondence

July 27, 1998

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

Ref: A-1-Men 98-017 / Smith-Perry, Applicant

Dear Coastal Commission Members:

It has come to our attention that the permit application to develop a 20-unit inn has been approved with conditions. The condition that we have concerns about is in regards to the proposed agricultural preservation or conservation easement that would be applied to lands held by the Smith Family. While we are not aware of the particular conditions or language of this proposed easement, our experience has been that easements of this nature generally exclude any form of development and/or improvements.

The Smith family owns land adjacent to the eastern boundary of MacKerricher State Park. The potential for this park to grow and our long term management of the northern portions of the park could be forever restricted. Just recently, our Department has been awarded a EEM Grant (Caltrans Environmental Enhancement & Mitigation Program) for acquisition of a parcel owned by the Smith Family. The purpose of this acquisition (grant) is for natural habitat enhancement and to facilitate a logical and enforceable park boundary. Any easement restricting development or improvements could preclude us from improvements associated with resource management and interpretation (displays, trails, etc.), or other facilities necessary to support public use of this parcel.

In addition, at the northern end of MacKerricher S.P. there is no designated park access. Although there is a popular access point near the Ten-Mile River Bridge, access to the park is by trespass, across land owned by the Smith Family. It has long been a goal of this Department to develop a designated park and coastal access point in this area. This access issue is addressed in the MacKerricher State Park General Plan and the Mendocino County Local Coastal Plan. Some preliminary planning for public access at this location has taken place as part of the MacKerricher Ten-Mile Coastal Trail Project. In order to provide coastal access for the public, some acquisition of Smith Family land is necessary. Planning has not progressed far enough to determine the scope of acquisition. Nevertheless, development restrictions imposed on these lands could preclude us from making improvements necessary to support and provide designated public access.

Coastal Commission Members

July 27, 1998

Page 2

We certainly understand the intent of the Coastal Commission and local residents in maintaining the rural character of the Ten Mile area. In implementing this objective, care should be taken not to over commit and impose restrictions that would prevent potential recreational use and facilities. A thorough examination of local (county) land use policies should be made to determine the inherent level of restrictions for developing these lands. Should supplemental protection be necessary to meet the Commission's objectives, perhaps this could be achieved through additional policy or permit condition language.

In determining a solution to meeting the intent of this permit, we hope that you will consider the future needs of the State Park. We appreciate the opportunity to work with you, to ensure that opportunities for public recreation and enjoyment of these outstanding resources are not overlooked. Please feel free to contact Gary Shannon (707-865-3132) of my staff regarding the details of these issues.

With respect,



Robert R. La Belle,  
District Superintendent

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LAW OFFICES OF  
**HENDERSON and MAYO**

327 N. STATE STREET, SUITE 206  
UKIAH, CALIFORNIA 95482

AN ASSOCIATION OF SOLE PRACTITIONERS  
RICHARD J. HENDERSON  
JAMES R. MAYO\*

AREA CODE 707  
468-8959  
468-1465

\*CERTIFIED SPECIALIST, PROBATE,  
ESTATE PLANNING and TRUSTS  
THE STATE BAR of CALIFORNIA BOARD  
of LEGALIZATION

FAX 468-8609

July 24, 1998

**RECEIVED**  
JUL 27 1998

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

**CA COASTAL COMMISSION  
LEGAL DIVISION**

Re: Smith/Perry (Ten Mile Inn)  
CCC Permit A-1-MEN-98-17

Dear Ms. Cheddar:

The Perrys and I have carefully reviewed our notes and recollections of the Commission discussion during the May 12, 1998 hearing and the proposed "Agricultural Easement" set forth in the revised findings. We do not believe that the proposed easement is consistent with the stated objectives of the Commission.

1. **Existing Land Use Restrictions Will Preclude Non-agricultural Use of the Property and Additional Restrictions Are Unnecessary.**

The discussion of use restrictions occurred toward the end of the hearing when the Commission was considering the finding required by COM/LUP<sup>1</sup> §3.2-4. The Staff had already made a detailed analysis of the four acre VSF use site in relation to the entire 389 acre parcel and had concluded that the project was consistent with the LUP (Staff Report at pg. 25):

"A small portion of the property to be developed with the inn will not adversely affect the continued use of the remainder of the property of grazing land, and revenue from the inn will enable the applicants to continue the agricultural use of the remainder of the ranch, thereby maintaining or enhancing productivity of the property.

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<sup>1</sup>/County of Mendocino Land Use Plan.

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While the development will constitute a change to non-agricultural use, the area involved is an insignificant portion of the whole 389 acre parcel.

\* \* \*

The Commission therefore finds the proposed project, as conditioned, to be consistent with the certified LCP, including LUP Policies 3.2-4 and 3.2-5, as the proposed visitor accommodations meet the required standards to be a permitted use on an agricultural parcel and as the agricultural use of the property will be maintained and will be virtually unaffected by the development"

A Commissioner suggested the use of an "agricultural easement" to ensure the continued use of the balance of the property for agriculture. Unfortunately, neither the Commission nor the Staff had available the copy of the County Zoning Ordinance to determine the extent of existing agricultural protections on the property. Under the combined restrictions of the Zoning Ordinance and the Coastal Act, it is extremely unlikely that any non-agricultural use will be developed on the property.

No development of the four acre BSF site can occur without an amendment to the Permit. The Range Land zoning classification establishes a density of one single family residence per 160 acres (MCC<sup>2</sup> §20.368.025). Since two residences already exist on the 389 acre parcel no additional residences can be built. The permitted and conditional uses allowed in the zoning ordinance (MMC §20.368.010 and 20.368.015) are already restricted to agriculture related and compatible uses. The entirety of the 389 acre parcel is located within the Coastal Zone and any future use and development is subject to the provisions of the Coastal Act. Under these circumstances it is extremely unlikely that the balance of the property could ever be used for non-agricultural purposes.

- 2. Any Proposed Restrictions Should Be Developed Within the Context of the Zoning Ordinances and Should Not Unduly Restrict the Existing Agricultural Operation and Residential Use.**

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<sup>2</sup>/Mendocino County Code.

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We believe it is unreasonable to refer all requests for all development on the property to the Coastal Commission as initially proposed. The Commission obviously wishes to encourage agricultural uses on the property. It is unreasonable to request the ranch owners to apply to the Coastal Commission in San Francisco for approval of routine work such as the construction of fences, water wells, well houses and repairs of existing structures, including the two single family residences. We would like to separate out and refer for local approval routine agricultural and residential uses and developments. I enclose a proposed list, based on existing zoning and Coastal Act regulations, of activities and developments which are associated with routine and residential uses and which should be reviewed at local levels. The list also contains a second category of activities and developments which, though related to agriculture, are somewhat less routine and could be submitted to the Coastal Commission for approval.

**3. Any Limitations on the Future Use of the Property Should Be Imposed in the Form of a Deed Restriction Rather than an Easement.**

The purpose of the Commission's requirement is to obtain the agreement of the owners to forego certain otherwise-allowed development and land uses in order to protect the agricultural character of the property. This type of limitation is far more similar to a deed restriction than an easement. An easement is generally used to create a subsidiary property interest or a right of use of the subject property in another person. The proposals discussed by the Commission do not include any suggestion that the public or any third parties should have any rights of use upon the property or to control its use or development in any way. The recordation of a properly recorded deed restriction would be fully adequate to impose the type of development restrictions that the Commission contemplated. We therefore respectfully ask that the Staff recommend to the Commission that any required development/activity restrictions be incorporated in a deed restriction rather than an easement.

Very truly yours,



Richard J. Henderson

RJH:pa  
c: Margaret and Don Perry

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1. The use of the property shall be restricted to the following uses as those uses are presently defined in the Zoning Ordinance of Mendocino County:

A. **Permitted Uses:**

Family Residential: Single Family	Row and Field Crops
Vacation Home Rental	Tree Crops
General Agriculture	Passive Recreation
Light Agriculture	Fish and Wildlife Habitat Management

B. **Conditional Uses:**

Farm Employee Housing	Commercial Recreation: Outdoor Sports and Recreation
Farm Labor Housing	Cottage Industries
Animal Sales and Service: Horse Stables	Forest Production and Processing: Commercial Wood Lots
Animal Sales and Services: Kennels	Forest Production and Processing: Limited
Animal Sales and Services: Veterinary	Horticulture
Water Shed Management	Packing and Processing: General
	Visitor Serving Facility (2C)

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No use identified in categories 1.B above may be established without (a) a coastal development permit issued by the County of Mendocino and (b) an amendment to Coastal Commission Permit A-1-MEN-98-17.

2. No development within the meaning of Public Resources Code §30106 of the Coastal Act shall occur on the property without the approval
  - A. of the County of Mendocino for (1) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, and water pollution control facilities for agricultural purposes; (2) repairs, alternations, and additions to existing single-family residences; and (3) drainage improvements; or
  - B. of the California Coastal Commission for any development other than as described in the preceding Paragraph 2.A.
3. In the event that any portion of the property is conveyed to the State of California, that portion of the property so conveyed shall be free and clear of all use, development and other restrictions set forth in this document. Upon such conveyance, however, the remainder of the property shall remain subject to the restrictions set forth herein.
4. In the event that the properties surrounding and/or in the vicinity of the property may in the future become substantially developed to non agricultural uses, the owner of the property may request the modification for waiver of any development or use restrictions set forth herein.

C:\WPDOCS\PERRY

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Sec. 20.368.005 Intent

This district is intended to encompass lands within the Coastal Zone which are suited for and are appropriately retained for the grazing of livestock and which may also contain some timber producing areas.

Sec. 20.368.010 Principal Permitted Uses for RL Districts

The following use types are permitted in the Range Lands District:

(A) Coastal Residential Use Types

Family Residential: Single Family  
Vacation Home Rental

(B) Coastal Agricultural Use Types

General Agriculture  
Light Agriculture  
Row and Field Crops  
Tree Crops

(C) Coastal Open Space Use Types

Passive Recreation

(D) Coastal Natural Resource Use Types

Fish and Wildlife Habitat Management

Sec. 20.368.015 Conditional Uses for RL Districts

The following are permitted uses upon the issuance of a coastal development use permit:

(A) Coastal Residential Use Types

Family Residential: Dwelling Groups  
Family Residential: Cluster Development  
Farm Employee Housing  
Farm Labor Housing

(B) Coastal Civic Use Types

~~Alternative Energy Facilities: Onsite~~  
~~Alternative Energy Facilities: Offsite~~  
~~Community Recreation~~  
~~Major Impact Utilities~~  
~~Minor Impact Utilities~~

(C) Coastal Commercial Use Types

~~Animal Sales and Services: Auctioning~~  
Animal Sales and Services: Horse Stables  
Animal Sales and Services: Kennels  
Animal Sales and Services: Veterinary (Large Animals)  
Commercial Recreation: Outdoor Sports and Recreation  
Cottage Industries

(D) Coastal Agricultural Use Types

~~Animal Waste Processing~~  
Forest Production and Processing: Commercial Woodlots  
Forest Production and Processing: Limited  
Horticulture

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Packing and Processing: General  
~~Packing and Processing: Fisheries By-Products~~

(E) Coastal Open Space Use Types

Active Recreation

(F) Coastal Extractive Use Types

Mining and Processing  
Onshore Oil and Gas Development Facilities

(G) Coastal Natural Resource Use Types

Watershed Management

Sec. 20.368.020 Minimum Lot Area for RL Districts

One hundred sixty (160) acres.

Sec. 20.368.025 Maximum Dwelling Density for RL Districts

One (1) unit per one hundred sixty (160) acres except as provided pursuant to Section 20.316.020 (Farm Employee Housing), Section 20.316.025 (Farm Labor Housing), Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit). In no case shall there be more than four (4) dwellings per parcel whether single family residential, farm employee housing, farm labor housing, accessory living unit or family care unit, except where Chapter 20.412 "Clustering Development Combining District" applies.

Sec. 20.368.030 Minimum Front, Rear and Side Yards for RL Districts

Fifty (50) feet each.

Sec. 20.368.035 Setback Exception

Any nonconforming parcel which is less than five (5) acres shall observe a minimum front, side and rear yard of twenty (20) feet.

Sec. 20.368.040 Building Height Limit for RL Districts

Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen (18) feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Thirty-five (35) feet above natural grade for uninhabited accessory structures not in an area designated as a Highly Scenic Area (See Section 20.504.015(C)(2)).

Sec. 20.368.045 Maximum Lot Coverage for RL Districts

Twenty (20) percent for parcels less than two (2) acres in size. Fifteen (15) percent for parcels from two (2) acres to five (5) acres in size. Ten (10) percent for parcels over five (5) acres in size.

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Sec. 20.320.005 General Description of Civic Use Types

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with public or social importance. They also include certain uses accessory to the above, as specified in Chapter 20.456 (Accessory Use Regulations).

Sec. 20.320.010 Administrative Services: Government

Consulting, record keeping, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, city or special district offices.

Sec. 20.320.015 Alternative Energy Facilities: Onsite

This use type includes alternate energy facilities related to solar, wind, waves, biomass, and cogeneration sources for onsite use shall be permitted as a conditional use in all districts.

Sec. 20.320.020 Alternative Energy Facilities: Offsite

This use type includes alternate energy facilities related to solar, wind, waves, biomass, and cogeneration sources for offsite use shall be permitted as a conditional use in AG, RL, FL, TP and I Districts.

Sec. 20.320.025 Ambulance Services

Transportation of ill or injured persons to and from treatment facilities together with incidental storage and maintenance of necessary vehicles.

Sec. 20.320.030 Cemetery Services

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Sec. 20.320.035 Clinic Services

Providing non-profit medical services to persons afflicted with bodily or mental disease or injury without provision for on-site residence or confinement.

Sec. 20.320.037 Community Recreation

Recreational, social or multi-purpose uses owned or operated by a public entity. Typical uses include public parks, sports facilities, senior citizen centers, nature centers, teen centers, playhouses, auditoriums and recreational centers.

Sec. 20.320.040 Cultural Exhibits and Library Services

Non-profit, museum-like preservation and exhibition of objects of permanent interest in one (1) or more of the arts and sciences, gallery exhibition of works of art or library collection of books, manuscripts, etc., for study and reading.

Sec. 20.320.045 Day Care Facilities/Small Schools

Care or education of seven (7) or more, but not to exceed twenty-five (25) persons regardless of age or handicap but excluding overnight care or uses classified as Group Care or Major Impact Services and Utilities. Typical uses include day nurseries for children, day care facilities for the elderly, and small schools.

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Sec. 20.320.050

**Sec. 20.320.050 Educational Facilities**

Public and private schools providing education for more than twenty-five (25) persons.

**Sec. 20.320.055 Fire and Police Protection Services**

Facilities for conduct of public safety services, including police and fire protection services.

**Sec. 20.320.060 Group Care**

Services provided in facilities authorized, certified or licensed by the state to provide board, room and personal care to seven (7) or more, but not to exceed twenty-five (25) elderly, or mentally impaired or otherwise handicapped persons or dependent and neglected children but excluding those uses classified under Major Impact Services and Utilities. Typical uses include halfway houses, intermediate care facilities and rest homes.

**Sec. 20.320.065 Lodge, Fraternal and Civic Assembly**

Meetings and activities conducted primarily for their members by nonprofit organizations which are tax exempt pursuant to Section 501(c) of the Internal Revenue Code. Excluded from this use type are uses classified as Group Care, or Visitor Accommodations and Services (all types). Typical uses include meeting places for civic clubs, grange halls, lodges, or fraternal or veterans organizations.

**Sec. 20.320.070 Major Impact Facilities**

Services or facilities which may have a substantial impact. Typical uses include airports, hospitals, group care for more than twenty-five (25) persons, detention and correction institutions, and corporation yards.

**Sec. 20.320.075 Major Impact Services and Utilities**

Services or utilities which may have a substantial impact. Such uses may be conditionally permitted when the public interest supercedes the usual limitations placed on land use and transcends the usual restraints of zoning for reasons of necessary location and community wide interest. Typical places or uses are power generating facilities, sewage disposal facilities, septage disposal facilities and sites, sanitary landfills (including recycling operations), water treatment plants and natural gas pipelines.

**Sec. 20.320.080 Minor Impact Utilities**

Public utilities which have a local impact on surrounding properties and are necessary to provide essential services. Typical uses are electrical and gas distribution substations, transmission distribution lines, microwave transmitting/receiving stations and relay stations.

**Sec. 20.320.085 Religious Assembly**

Religious services involving public assembly such as customarily occurs in synagogues, temples, and churches.

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**Sec. 20.324.005 General Description of Coastal Commercial Use Types**

Commercial use types include the distribution and sale or rental of goods; and the provision of services other than those classified as civic uses. They also include certain uses accessory to the above, as specified in Chapter 20.456 (Accessory Use Regulations).

**Sec. 20.324.010 Administrative and Business Offices**

Offices of private firms or organizations which are primarily used for the provision of professional, executive, management, or administrative services. Typical uses include administrative offices, and services including real estate insurance, property management, investment, travel, secretarial services, telephone answering, photocopy and reproduction, and other activities when the service rendered is that customarily associated with administrative office services. Excluded are banks.

**Sec. 20.324.015 Agricultural Sales and Services**

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, feed and grain stores, crop dusting, or tree service firms.

**Sec. 20.324.020 Animal Sales and Services**

Establishments or places of business primarily engaged in animal related sales and services. The following are animals sales and services use types:

- (A) Animal Sales and Services: Auctioning. Auctioning of livestock on a wholesale or retail basis with incidental storage of animals produced off property not exceeding seventy-two (72) hour periods. Typical uses include animal auctions or livestock auction yards.
- (B) Animal Sales and Services: Horse Stables. Boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than the occupants of the premises or their paying or non-paying guests. Typical uses include boarding stables, riding academy or public stables.
- (C) Animal Sales and Services: Household Pets. Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.
- (D) Animal Sales and Services: Kennels. Kennel services for dogs, cats and similar small animals. Typical uses include boarding kennels, pet motels or dog training centers.
- (E) Animal Sales and Services: Veterinary (Large animals). Veterinary services for large animals. Typical uses include animal hospitals (large animals) and veterinary hospitals (large animals). Typical uses include clinics for the treatment of sheep, cattle, horses, goats and similar large animals.
- (F) Animal Sales and Services: Veterinary (Small animals). Veterinary services for small animals provided that overnight care shall be within a fully enclosed building or structure. Typical uses include pet clinics, dog and cat hospitals or animal hospitals treating small animals.

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Sec. 20.324.025 Automotive and Equipment

"Automotive and Equipment" means establishment or places of business primarily engaged in automotive related or heavy equipment sales or services. The following are automotive and equipment use types:

- (A) Automotive and Equipment: Cleaning. Washing and polishing of automobiles. Typical uses include auto laundries or car washes.
- (B) Automotive and Equipment: Fleet Storage. Storage or parking of two (2) or more vehicles used regularly in business operations. Excluded from this use type are Automotive and Equipment: Sales/Rentals, and the incidental parking of vehicles as an accessory use to a permitted use on the same premises. Typical uses include taxi fleets, mobile catering truck storage or delivery truck fleets.
- (C) Automotive and Equipment: Gasoline Sales. Establishments or places of business primarily engaged in the retail sale, from the premises, of petroleum products with incidental sale of tires, batteries, and replacement items, lubricating services and minor repair services. Typical uses include automobile service stations, filling stations or truck stops.
- (D) Automotive and Equipment: Parking. Parking of motor vehicles on a temporary basis within a public or privately owned off-street parking area with or without a fee. Typical uses include commercial parking lots or commercial garages.
- (E) Automotive and Equipment: Repairs, Light (Under 6,000 lbs). Repairs of automobiles, pick-up trucks, recreational vehicles, farm equipment and boats (less than twenty-four (24) feet in length) and the sale, installation and servicing of automobile equipment and parts but excluding body repairs and painting. Typical uses include muffler shops, auto repair garages, auto glass shops or auto parts stores.
- (F) Automotive and Equipment: Repairs, Heavy (6,000 lbs and over). Repair of motor vehicles such as aircraft, boats, (twenty-four (24) feet or longer) heavy construction equipment, trucks, or major truck terminals etc., as well as the sale, installation and servicing of automotive equipment and parts together with body repairs, painting and steam cleaning. Typical uses include truck transmission shops, body shops or motor freight maintenance groups.
- (G) Automotive and Equipment: Sales/Rentals. Sale, retail or wholesale and/or rental from the premises of auto, trucks, motorcycles, mobile homes, motor homes, trailers, construction equipment, farm equipment and aircraft together with incidental maintenance. Typical uses include auto dealers, car rental agencies, aircraft dealers, boat dealers, construction equipment dealers, or mobile home dealers.
- (H) Automotive and Equipment: Storage, Nonoperating Vehicles. Storage of nonoperating motor vehicles. Typical uses include storage of private parking towaways or impound yards.
- (I) Automotive and Equipment: Storage, Recreational Vehicles and Boats. Storage of Recreational Vehicles and Boats. Typical uses include the collective storage of personal recreational vehicles or boats.

Sec. 20.324.030 Building Maintenance Services

Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.

Sec. 20.324.035 Business Equipment Sales and Services

Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional

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and service establishments but excludes automotive, construction and farm equipment. Typical uses include office equipment and supply firms, printing shops small business machine repair shops or hotel equipment and supply firms.

Sec. 20.324.040 Coastal-Related Support Services

Services related to commercial and sport fishing and recreational boating activities including boat storage, boat servicing (drydocks, repair, fueling, pump out), fishing support uses (laundry, shower, restroom, water, electricity, icehouses, boat sales, brokerage, marine survey vessel document services).

Sec. 20.324.045 Commercial Recreation

Establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:

- (A) Commercial Recreation: Indoor Sports and Recreation. Uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, penny arcades and swimming pools.
- (B) Commercial Recreation: Indoor Entertainment. Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls, dance halls and auditoriums.
- (C) Commercial Recreation: Outdoor Sports and Recreation. Uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, golf courses, swimming pools, water slides, tennis courts, racquetball courts. Shooting ranges and motorcycle parks shall require a use permit.
- (D) Commercial Recreation: Water-Dependent Recreation. Uses which are water-oriented and require a location on or near the water in order to function at all. Typical uses include recreational fishing piers, recreational boating facilities and public access facilities.

Sec. 20.324.050 Communications Services

Establishments primarily engaged in the provisions of broadcasting and other information relay services accomplished through the use of electronic mechanisms but excludes those classified as Major or Minor Impact Services and Utilities. Typical uses include television studios, radio stations, telecommunication service centers or telegraph service offices.

Sec. 20.324.055 Construction Sales and Services

Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware; but excluding those classified as one of the Automotive and Heavy Equipment use types. Typical uses include building materials stores, tool and equipment rental or sales, retail lumber, contractors storage yard, furniture manufacturing or cabinet shops.

Sec. 20.324.060 Cottage Industries

Use types conducted in compliance with Chapter 20.452.

Sec. 20.324.065 Eating and Drinking Establishments

Establishments or places of business primarily engaged in the sale of prepared food and beverage for on-premise consumption. Typical uses include restaurants, short order eating places or bars.

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Sec. 20.324.070

**Sec. 20.324.070 Financial Services**

Establishments primarily engaged in the provision of financial services and banking. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.

**Sec. 20.324.075 Food and Beverage Preparation: Without Consumption**

Establishments or places of business primarily engaged in the preparation of food and beverage and which no consumption of the products occur on the premises. Typical uses include catering service(s).

**Sec. 20.324.080 Food and Beverage Retail Sales**

Establishments or places of business primarily engaged in the retail sale of food and beverage for home consumption. Typical uses include grocery stores, liquor stores, delicatessens or retail bakeries.

**Sec. 20.324.085 Funeral and Intermment Services**

Establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead. Typical uses include funeral homes or mortuaries.

**Sec. 20.324.090 Laundry Services**

Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as Personal Services. Typical uses include laundry agencies, diaper services or linen supply services and self-service laundries.

**Sec. 20.324.095 Medical Services**

Establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis and treatment or rehabilitation services provided by physicians, dentists, nurses and other health personnel as well as the provisions of medical testing and analysis services, but excludes those classified as any civic use type. Typical uses include medical offices, dental laboratories or health maintenance organizations.

**Sec. 20.324.100 Neighborhood Commercial Services**

Commercial retail services of a small scale, convenience retail stores and services commonly located in or adjacent to and providing direct services to residential zones including banks, foodmarkets, and drugstores.

**Sec. 20.324.105 Personal Services**

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, self-service laundry, photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

**Sec. 20.324.107 Recycling Centers**

Places of business or public facilities where materials such as metal (excluding white metal or appliances), aluminum, paper, cardboard, glass, plastic and other similar items are permitted for the purpose of collection, processing or recycling. Such use shall include the baling, bundling, crushing, smashing, separation, shredding or similar action necessary to facilitate the handling of recyclable materials, but, shall exclude automotive wrecking and junk yards. Drop-off enclosures, for collection purposes only, shall be limited to two hundred (200) square feet in area.

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Sec. 20.324.110

Sec. 20.324.110 Repair Services: Consumer

Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding Automotive and Equipment use types. Typical uses include appliance repair shops, watch or jewelry repair, apparel repair firms or musical instrument repair firms.

Sec. 20.324.115 Research Services

Establishments primarily engaged in research of an industrial or scientific nature which is provided as a service or which is conducted by and for a private firm, but excludes medical testing and analysis and product testing. Typical uses include marine research laboratories, electronics research laboratories, space research and development firms or pharmaceutical research laboratories.

Sec. 20.324.120 Retail Sales: General

Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in Sections 20.324.010 through 20.324.115 (all other commercial use types) inclusive. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, bait shop, kitchen utensils, home furnishings and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; automotive parts and accessories (excluding service and installation) hardware stores (excluding lumber storage or sales).

Sec. 20.324.125 Wholesaling, Storage and Distribution

"Wholesaling, Storage and Distribution" means establishment or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals. The following are wholesaling, storage and distribution use types:

- (A) Wholesaling, Storage and Distribution: Mini-Warehouses. Storage or warehousing service within a building(s) primarily for individuals to store personal effects and by businesses to store material for operation of an industrial or commercial enterprise located elsewhere. Incidental uses in a mini-warehouse facility function as an independent retail, wholesale, business or service use. Individual storage spaces within a mini-warehouse shall have a maximum gross floor area of four hundred (400) square feet and shall not be used for workshops, hobby shops, manufacturing or similar uses and human occupancy of said spaces shall be limited to that required to transport, arrange, and maintain stored materials. Driveways between mini-warehouse buildings on the same site shall have a minimum width of twenty-four (24) feet to accommodate the temporary parking of vehicles during loading and unloading operations.
- (B) Wholesaling, Storage and Distribution: Light. Wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributor, storage warehouses or moving and storage firms.

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Sec. 20.336.005 General Description of Agricultural Use Types

Agricultural use types include the on-site production of plant and animal products by agricultural methods. They also include certain uses accessory to the above specified in Chapter 20.456 (Accessory Use Regulations).

Sec. 20.336.010 Animal Waste Processing

Processing of animal waste and by-products, including but not limited to animal manure, animal bedding waste, and similar by-products of an animal raising agricultural operation, for use as a commercial fertilizer or soil amendment.

Sec. 20.336.015 Aquaculture

The aquaculture use type refers to aquaculture operations, including but not limited to oyster and mussel culturing, crab holding facilities, including support facilities such as earthen impoundments, steel or concrete holding tanks and raceways, except ocean ranching of anadromous fish. Typical uses include wholesale/retail sales limited to products grown on site.

Sec. 20.336.020 Forest Production and Processing

Refers to the growing, harvesting and production of forest products and forest by-products including growing, milling and sales of forest products. Removal or harvesting of major vegetation requires a coastal development permit except for timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practices Act of 1973, commencing with Section 4511. The following are forest production and processing use types:

- (A) Forest Production and Processing: Limited. The growing, harvesting, air drying or kiln drying, milling, packaging, packing, shipping and selling of forest products, produced on the premises or experimental tree farms and tree nurseries.
- (B) Forest Production and Processing: General. The growing, harvesting, air drying or kiln drying, milling, packaging, packing, shipping and selling of forest products regardless of where they are grown and also forestry related research laboratories.
- (C) Forest Production and Processing: Commercial Woodlots. Open or closed storage of firewood for wholesale or retail sales, regardless of where the firewood products are produced.

Sec. 20.336.025 Horticulture

Premises devoted to horticultural and flora-cultural specialties such as flowers, shrubs, and trees intended for ornamental or landscaping purposes. Typical uses include wholesale/retail nurseries limited to the sale of horticulture and horticulture specialties grown on site and in green houses.

Sec. 20.336.030 Light Agriculture

- (A) Land devoted to the hatching, raising, butchering or marketing on a small scale of chickens, turkeys or other fowl or poultry and eggs, rabbits, fish, frogs, mink, chinchilla or other small farm animals similar in nature, provided that not more than ten (10) mature animals per forty thousand (40,000) square feet, combined total; of all species, may be kept, fed or maintained. The total number of all species shall not exceed forty (40). The permissible number of animals per acre shall be computed on the basis of the nearest equivalent ratio (i.e., five (5) animals on twenty thousand (20,000)

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square feet). Coops or pens shall be located only on the rear one-third (1/3) of the lot and shall be located no closer than five (5) feet from the side or rear property line.

- (B) The grazing of cattle, horses, sheep, goats, hogs or other farm stock or animals, including the supplementary feeding thereof, provided not more than one (1) such animal per forty thousand (40,000) square feet shall be kept or maintained. The total number of all species shall not exceed four (4). In no event shall there be any limit to the permissible number of sheep or goats which may be grazed per acre when such grazing operation is conducted on fields for the purpose of cleaning up unharvested crops and, further where such grazing operation is not conducted for more than four (4) weeks in any six (6) month period.
- (C) For parcels of forty thousand (40,000) square feet or larger, keeping of small and large animals shall be cumulative (i.e., eighty thousand (80,000): two (2) large animals and twenty (20) small animals).
- (D) Apiaries, provided that no more than two (2) working hives may be kept on parcels of forty thousand (40,000) square feet or less.
- (E) Sale of agricultural products grown, raised, or produced on the premises.
- (F) 4-H, FFA or similar projects shall be permitted in all zoning districts.

**Sec. 20.336.032 General Agriculture**

Land devoted to the raising of livestock on parcels zoned AG, FL, TP, RL or OS which shall include:

- (A) Grazing, feeding and incidental care of livestock;
- (B) Animal husbandry including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits and poultry including egg production;
- (C) 4-H, FFA or similar projects shall be permitted in all zoning districts.

**Sec. 20.336.035 Packing and Processing**

Packing or processing of agricultural crops, animals and their by-products which entails more than picking, cutting, sorting and boxing or crating, but does not include rendering, tanning, or reduction of meat. The following are packing and processing use types:

- (A) Packing and Processing: Limited. Packing or processing of crops grown on the premises. Includes mineral water bottling plants.
- (B) Packing and Processing: Winery. Crushing of grapes and fermentation, storage, and bottling of wine from grapes grown on or off the premises. Said use type also includes tasting rooms in conjunction with a winery and breweries provided said tasting room occupies less than twenty-five (25) percent of the floor space of the winery/brewery and sales are limited to products produced on site.
- (C) Packing and Processing: General. Packing or processing of crops, animals or their by-products regardless of where they were grown.
- (D) Packing and Processing: Fisheries By-Products. Processing of fisheries by-products includes, but is not limited to, that portion of the fish catch remaining after the primary processing has been completed. This secondary process may include conversion to commercial fertilizer or other soil amendment products.

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Sec. 20.336.040

**Sec. 20.336.040 Row and Field Crops**

Premises devoted to the cultivation for sale of agricultural products grown in regular or scattered patterns such as vines, field, forage and other plant crops intended to provide food or fibers. Typical uses include wholesale/retail sales limited to products grown on site.

**Sec. 20.336.055 Tree Crops**

Premises devoted to the cultivation of tree-grown agricultural products such as pears, apples, walnuts and Christmas trees but excluding other forestry products.

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