

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



F 3a

RECORD PACKET COPY

Date Filed: October 19, 1998
49th Day: December 27, 1998
180th Day: April 17, 1999
Staff: Robert Merrill
Staff Report: March 26, 1999
Hearing Date: April 16, 1999
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 1-98-085

APPLICANT: **MICHAEL EVENSON & ANTHONY SMULL**

PROJECT LOCATION: Along the north bank of the mouth of the Mattole River, off of Lighthouse Road, west of Petrolia, Humboldt County.

PROJECT DESCRIPTION: Adjust the lot lines between four separate parcels covering a total of 610 acres.

Lot Area: Four parcels covering a total of 610 acres.

<u>APN</u>	<u>Existing Area</u>	<u>Proposed Area</u>
104-183-01	130 acres	170 acres
104-183-02	320 acres	320 acres
105-031-01	40 acres	20 acres
105-031-05	120 acres	100 acres

Plan Designations: Coastal Agriculture Exclusive/Grazing lands, 600-acre minimum parcel size.

Zoning: Agriculture Exclusive with a 600-acre minimum parcel size and various combining zones including Archaeological Resources, Beach and Dunes, Offshore Rocks and Intertidal Areas, Coastal Wetland, Flood Hazards, and Streams and Riparian Corridors Protection (AE-600/A, B, O, W, F, R)

LOCAL APPROVALS
RECEIVED:

Lot Line Adjustment No. LLA-20-96; and
Coastal Development Permit No. CDP-23-96.

SUBSTANTIVE FILE
DOCUMENTS:

- (1) Humboldt County CDP-23-96; LLA-20-96;
- (2) Humboldt County Local Coastal Program.

STAFF NOTES

1. Standard of Review.

The subject property is bisected by the boundary between the coastal development permit jurisdiction of Humboldt County and the California Coastal Commission. Although the majority of the subject property lies within the certified Local Coastal Program area of Humboldt County, certain portions of the property are located within the Coastal Commission's retained permit jurisdiction. Permit Application No. 1-98-085 addresses the portion of the development within the Commission's retained jurisdiction. Therefore, the standard of review for the proposed development is Chapter 3 of the Coastal Act.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed lot line adjustment, which proposes an even exchange of land between the applicants and the Bureau of Land Management (BLM). The lot line adjustment will facilitate the protection of a sensitive heron rookery and riparian habitat area by transferring the site to a parcel owned and managed by the BLM as a biological preserve. In return, the open space area to be transferred from the BLM to the private parcel will facilitate continued use of the private parcel for coastal agriculture by providing additional area for grazing and for corrals. Therefore, staff has determined that the proposed project is consistent with the policies of the Coastal Act, including the policies concerning the protection of sensitive habitat areas and coastal agriculture, and recommends approval.

STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

I. Resolution to Approve Permit:

The Commission hereby grants, subject to the condition below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the nearest public road and the sea or the shoreline of any body of water within 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. None Required.
- IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Site Description & Project Description.

The subject property is located along the north bank of the mouth of the Mattole River, off of Lighthouse Road, southwest of Petrolia, in Humboldt County (see Exhibit 1). The subject property is comprised of four parcels, including a 320-acre parcel owned by Michael Evenson and Anthony Smull, and three smaller adjoining parcels totaling 290 acres in size to the west, south, and east of the Evenson/Smull parcel owned by the Bureau of Land Management (BLM) as part of the King Range National Conservation Area (see Exhibit 2).

The western-most BLM parcel (APN 104-183-01) currently extends eastward from a beach along the ocean to the foot of a hillside at Collins gulch. The other two BLM parcels (APNs 105-031-01 and 105-031-05) extend northward and westward from the Mattole River part of the way up the adjoining hillside (see Exhibit 2). The Evenson/Smull parcel occupies a portion of the top of the hillside, reaching a maximum elevation of about 1,000 feet above sea level, and extends down slope areas to the aforementioned BLM parcels and other adjoining parcels owned by others. The southeast corner of the Evenson/Smull parcel extends all the way down to the river. The Evenson/Smull parcel is used for agricultural grazing and the BLM parcels are reserved as open space for habitat protection and recreational uses.

The subject property is bisected by the boundary between the coastal development permit jurisdiction of Humboldt County and the Coastal Commission. Although the majority of the subject property lies within the certified Local Coastal Program area of Humboldt County, certain portions of the property are located within the Coastal Commission's retained permit jurisdiction. Permit Application No. 1-98-085 addresses the portion of the development within the Commission's jurisdiction.

The property contains a variety of coastal resources. As noted previously, the westernmost BLM parcel occupies part of a beach and dune area and portions of the other parcels include riverine habitat along the Mattole. The current boundary between the westernmost BLM parcel and the Evenson/Smull parcel bisects a large riparian habitat area along Collins Gulch. A heron rookery exists in this area. The area in the vicinity of the subject property is known to contain Native American archaeological resources,

although a field archaeological survey conducted of the property did not discover any archaeological resources. The southernmost BLM parcel, APN 105-031-01 contains an historic barn structure, although the barn is not eligible for the National Register of Historic Places as it is not nationally or regionally significant and does not retain structural integrity.

The lot line adjustment is proposed to facilitate an even exchange of property between the BLM and Evenson & Smull. The exchange transfers the westernmost 40 acres of the Evenson/Smull parcel to BLM parcel 104-183-01 to enhance the biological preserve on that parcel. The area to be transferred contains riparian habitat in Collins Gulch, the heron rookery, and frontage on the Mattole River. In return, the Evenson/Smull parcel will gain 20 acres of the southernmost BLM parcel (APN 105-031-01) and 20 acres of the easternmost BLM parcel (APN 105-031-05). These 40 acres will enhance the agricultural use of the Evenson/Smull parcel by adding 20 acres of pasture and a 20-acre corral areas which will make holding, loading, and feeding livestock much easier.

2. Environmentally Sensitive Habitat Area.

Coastal Act Section 30240 states:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As noted above, the subject property contains a variety of environmentally sensitive habitat areas (ESHAs). These ESHAs include extensive riparian habitat along Collins Gulch and the Mattole River, a heron rookery near Collins Gulch, and beach and dune habitat along the ocean. Much of these habitat areas are protected as part of a biological reserve on the BLM property.

The proposed development will serve to better protect the ESHA found at the site. The lot line adjustment would transfer the land areas where much of the ESHA found on the Evenson/Smull agricultural parcel is contained to the westernmost BLM parcel for protection as part off a biological preserve. The area to be transferred includes the heron rookery and most of the riparian habitat along Collins Gulch not already under BLM ownership.

In addition, no physical development that might affect EHSA is proposed as part of the project. Furthermore, given the size of the parcels involved, ranging from 20 to 320 acres, the parcel configuration adjustments would not cause any development that might

be proposed in the future on the parcels to have to locate within or near any of the ESHA on the property.

Therefore, the Commission finds that the proposed development is consistent with Section 30240 of the Coastal Act as the project would not disrupt habitat values, would not result in any new uses being located within or adjacent to environmentally sensitive habitat areas, and would be compatible with the continuance of those habitat and recreation areas.

3. Agricultural Resources.

Coastal Act Section 30241 states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Coastal Act Section 30242 states:

All other lands suitable for agricultural use shall not be converted to nonagricultural 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 proposed development would not result in a conversion of agricultural lands. On the contrary, the proposed development would help facilitate continued agricultural use of the portions of the property that are currently used for agriculture.

The primary use of the property for agriculture occurs on the 320-acre Evenson/Smull parcel, which is used for grazing. The proposed lot line adjustment will result in no net change to the 320-acre size of this agricultural parcel. In addition, the 40 acres of land to be transferred to the BLM parcel to the west consists of riparian habitat that is generally not used for agriculture. Moreover, the 40 acres of area to be transferred to the Evenson/Smull parcel will enhance the agricultural use of the parcel. Twenty acres of the land to be added can be used for pasture and the other 20-acres can be used as corral area which will make holding, loading, and feeding livestock much easier.

Therefore, the Commission finds that the project as proposed would not result in a conversion of agricultural lands contrary to Sections 30241 and 30242 of the Coastal Act. In addition, by replacing a 40-acre portion of the primary agricultural parcel involved in the lot line adjustment that is generally not usable for agriculture with 40 acres of land that can be used for pasture and corral area, the proposed development would help facilitate continued agricultural use of the property consistent with Coastal Act Sections 30241 and 30242.

4. Public Access.

The proposed project is located between the nearest public road and the sea and the Mattole River, an arm of the sea. Section 30604(c) of the Coastal Act requires every permit issued for any development between the nearest public road and the sea or the shoreline of any body of water within the coastal zone to include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3.

Coastal Act Section 30210 states:

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

Coastal Act Section 30211 states:

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 30210 of the Coastal Act requires maximum access and recreational opportunities to be provided for all the people consistent with the need to protect public rights, rights of private property owners and natural resource areas. Section 30211 of the Act requires that development not interfere with the public's right to access gained by use or legislative authorization. In applying Sections 30210 and 30211, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The project will not result in adverse impacts to existing or proposed public access opportunities. One of the four parcels involved, the westernmost BLM parcel, fronts on the ocean and contains part of a beach. Use of the beach by the public for public access purposes would not be affected by the development as this parcel actually increases in size, expanding on its inland side. Each of the other three parcels involved in the lot line adjustment extend to the Mattole River. However, there is no evidence of public access use. In addition, no physical development is proposed as part of the project that would block any current or potential future public access that might be provided along this portion of the river. Therefore, the Commission finds that the proposed project, which does not include any new public access, will not adversely affect public access and is consistent with the public access policies of the Coastal Act.

6. California Environmental Quality Act (CEQA):

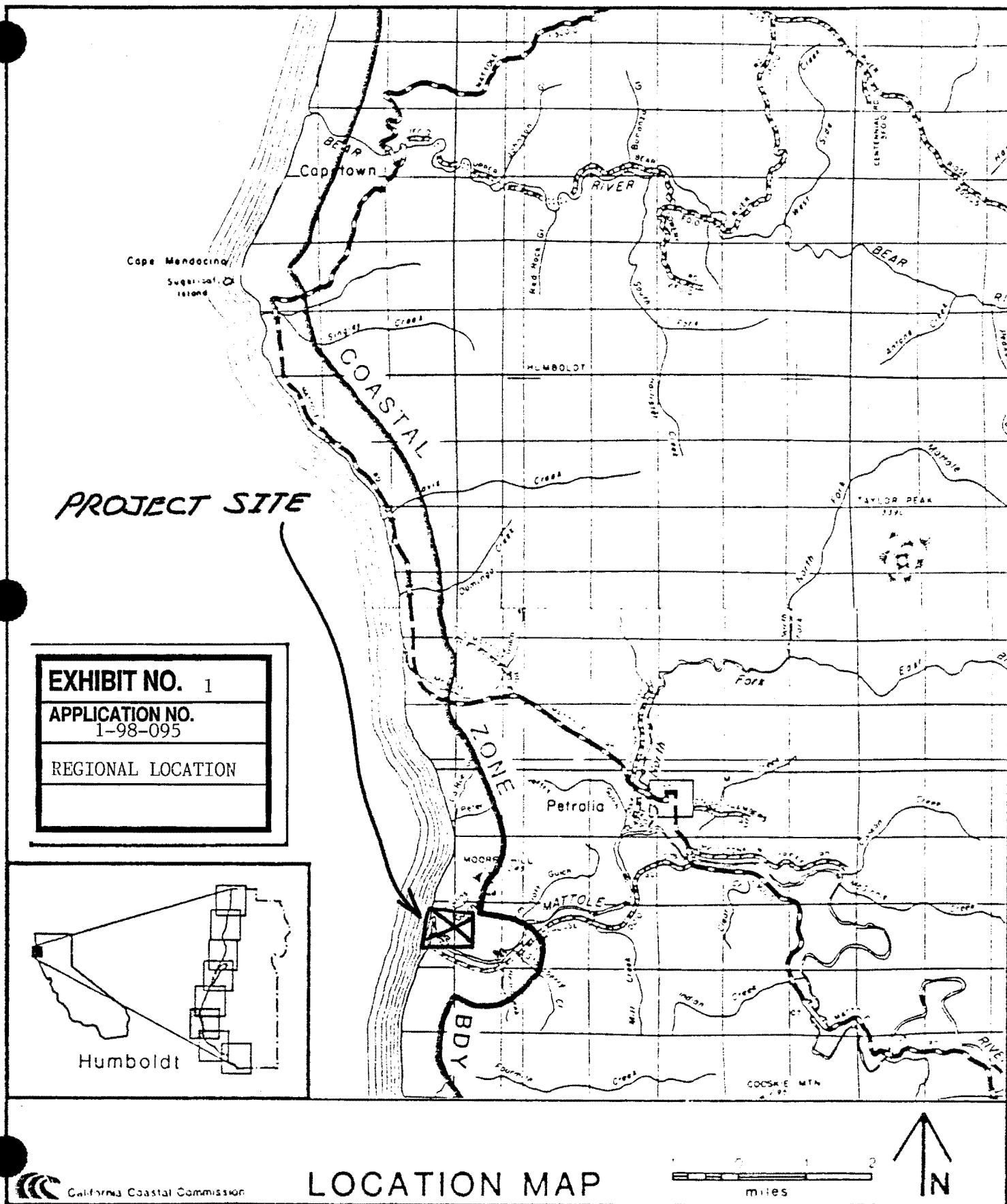
Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the permit, as modified by any conditions of approval, is consistent with any applicable requirement of the CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits approval of proposed development if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The project, as submitted, includes adequate provisions to ensure consistency with the resource protection policies of the Coastal Act and the requirements of Section 21080.5(d)(2)(A) of CEQA. Further, the project, will have no significant adverse environmental impacts. Thus, the Commission finds that the project, as submitted, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

ATTACHMENT

Standard Conditions

1. **Notice of Receipt and Acknowledgment.** This 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.



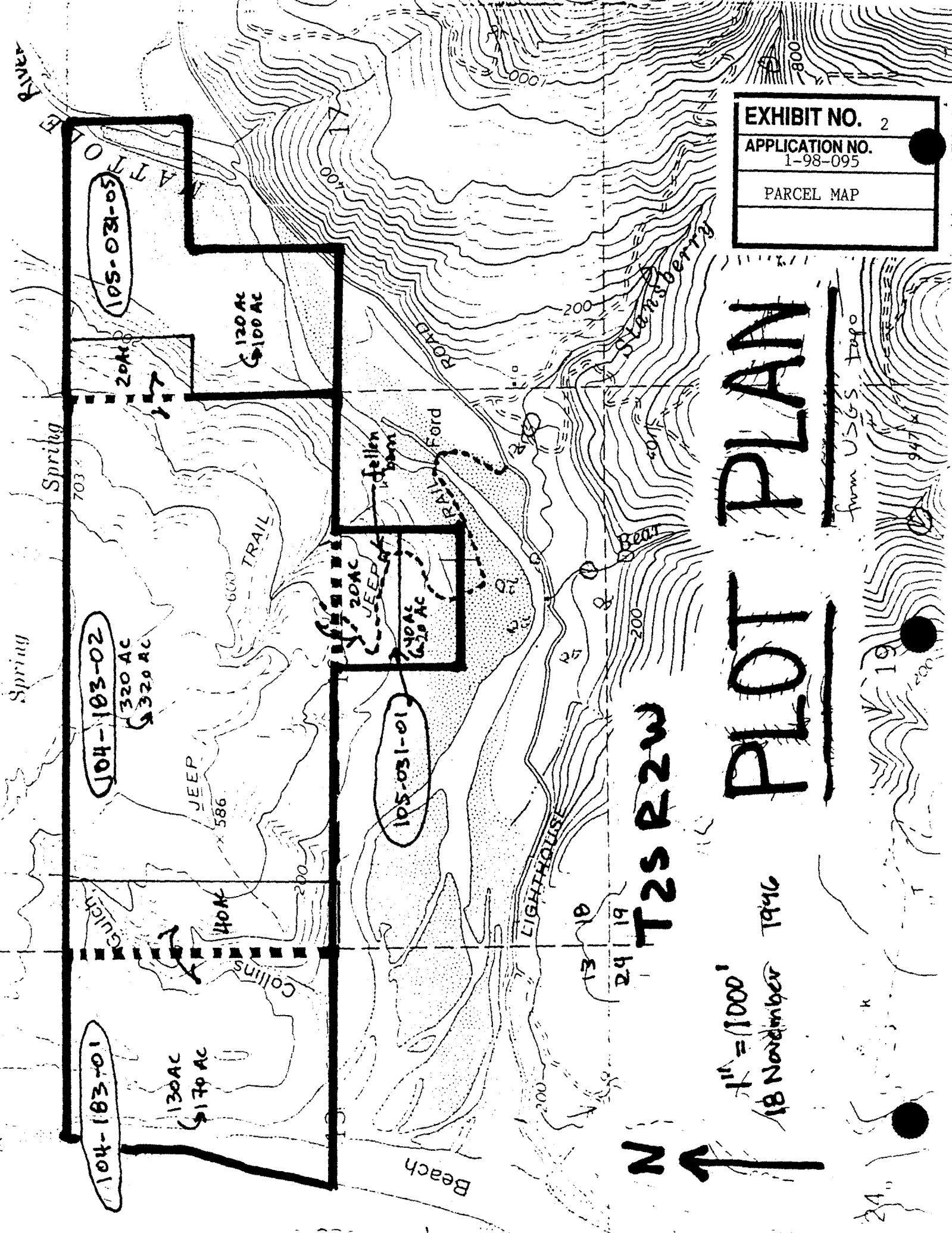


EXHIBIT NO. 2
APPLICATION NO. 1-98-095
PARCEL MAP

PLOT PLAN

T2S R2W

1" = 1000'
18 November 1996

from USGS topo

19

24