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Staff: T.S. Tauber
Staff Report: January 28, 2000
Hearing Date: February 16, 2000
Commission Action:

REVISED STAFF REPORT: REVISED FINDINGS

APPEAL NO.: A-1-HUM-96-70

APPLICANT: STEVE MOSER

LOCAL GOVERNMENT: Humboldt County

LOCAL DECISION: Approval with Conditions

PROJECT NAME: Sand Pointe

PROJECT LOCATION: North side of Murray Road near the Mad River in McKinleyville, Humboldt County, APN 511-11-14.

PROJECT DESCRIPTION: 58-lot subdivision of a 26.5-acre site.

APPELLANTS: Patricia Hassen/Concerned Citizens,
Barbara Kelly/Humboldt Coastal Coalition, and
Lucille Vinyard/Redwood Chapter of the Sierra Club.

**COMMISSIONERS ON THE
PREVAILING SIDE:** Commissioners Kehoe, Nava, Dettloff, Potter, Flemming,
Tuttle, Armanasco, Rose, Staffel, and Wan

SUBSTANTIVE FILE

DOCUMENTS:

Humboldt County Local Coastal Program; Humboldt County Coastal Development Permit No. CDP-39-94; Conditional Use Permit No. CUP-22-94; Major Subdivision Permit No. FMS-11-94; Rezone No. ZR-18-94; Draft Technical Report for the Humboldt County Airports Master Plan by Hodges & Shutt, dated January 25, 1985; Executive Summary of the Humboldt County Airports Master Plan by Hodges & Shutt, dated June 1980; Humboldt County Airport Land Use Compatibility Plan by Hodges & Shutt, dated March 1993; the Arcata-Eureka Airport Master Plan for Humboldt County by Hodges & Shutt, dated May 1993; Volumes I & II of the Draft EIR dated December of 1995; and the Final EIR dated March of 1996.

SUMMARY OF COMMISSION
ACTION:

Approval with Conditions de novo on July 8, 1998

STAFF NOTES:

1. Procedure

At the Commission meeting of July 8, 1998, the Commission considered the project de novo and approved the project with conditions. However, as the Commission's actions on the project 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 on the de novo portion of the hearing.

The Commission opened and continued a public hearing on the revised findings at its December 10, 1999 meeting. The public hearing will continue on February 16, 2000. The purpose of the hearing is to consider whether the revised findings accurately reflect the Commission's previous action rather than to reconsider whether the appeal raises 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. Background

On February 5, 1997, the Commission found substantial issue on the appeal filed for the subject development, finding that the project as approved by the County raised a substantial issue with the County's certified LCP standards regarding seismic hazards, blufftop setbacks, community character, bonus density, and planned unit development. The first de novo hearing on the proposed project occurred on September 11, 1997. Staff had recommended denial of the project

based on inconsistencies with a number of policies of the certified LCP, with particular concerns regarding seismic and geologic hazards. The Commission continued the hearing at the request of the applicants, but directed that the hearing be continued to a northern California meeting to better accommodate interested members of the public from the local area. In response to concerns raised by the Commission, its staff, and the appellants, the applicant modified the project to reduce the number of proposed lots in the subdivision from 63 to 58, redesigned and relocated several lots within the subdivision so that all lots will be a minimum of 50 feet from the surface trace of an earthquake fault, and increased blufftop setbacks. The Commission, at its meeting of July 8, 1998, approved the project with conditions that further modified the project.

3. Continued Revised Findings Hearing

At the Commission meeting of December 10, 1999, the Commission considered the revised findings for the Sand Pointe project (A-1-HUM-96-70). The item was continued and the Commission directed staff to review a transcript of the July 8, 1998 de novo hearing to further address issues raised at the hearing. An official transcript of the Commission's deliberations at the July 8, 1998 de novo hearing was compiled to assist in clarifying these issues and is attached as Exhibit No. 23.

4. Related Agenda Item

Also on this agenda is a briefing to the Commission on Humboldt County's review of the revised tentative map required pursuant to Special Condition No. 7 of the permit. This briefing is a separate item from the revised findings (Item W 17c). The County's action on the revised tentative map does not affect the proceeding currently before the Coastal Commission to consider whether the revised findings accurately reflect the Commission's previous action on July 8, 1999.

SUMMARY OF STAFF RECOMMENDATION:

Staff has thoroughly reviewed the official transcript of the July 8, 1998 de novo hearing as directed by the Commission. After review of the transcript, staff finds that the conditions listed in the last Notice of Intent to Issue a Permit dated January 7, 1999 and listed in the staff report prepared for the December 10, 1999 meeting, accurately reflect the Commission's actions and staff has made only minor additions to the revised findings. Staff recommends that the Commission adopt the revised findings in Section IV below in support of the Commission's actions on July 8, 1998, approving the project with conditions.

The following issues required clarification as requested by the Commission and the appellants:

- 1) Fencing around the subdivision;
- 2) Public access to the Hammond Trail from the north end of the subdivision;
- 3) Public parking within the subdivision;
- 4) Building heights; and

5) Interior parks.

During the July 8, 1998 public hearing on the project, there were various statements made about each of the above issues during the course of the Commission's deliberations. However, only the motions made by the Commission determine the changes or additions to the conditions initially recommended by staff in the written staff recommendations prepared for the Commission's consideration at the July 8, 1998 hearing. Staff has determined that according to the motion made by Commissioner Allen on page 69 of the transcript, and the discussion following on pages 70 and 71, it is clear that the only change made to the fencing was to eliminate the fence along the east side of the Hammond Trail. The motion made by Commissioner Allen did not impact the fencing on the rest of the project. The only condition imposed on the other fences around the project is that they be of open-style construction. The one exception is that the fence required along the 100-foot blufftop setback line shall be at least three feet in height, and also be of open-style construction. Staff has added minor additions which are shown in **bold type** on page 30 of the revised findings relating to the open-style fence requirement contained within Special Condition No. 6.

After similarly reviewing the other issues, staff has concluded that the requirement for a vertical public access easement on the north end of the project connecting to the Hammond Trail and the public parking spaces at the north end were eliminated. Staff also concludes that the Commission did not require the interior parks that were proposed in the original project design. Thus, Special Condition No. 7 does not require these components as part of the necessary revised tentative map.

Furthermore, staff has concluded that the streets within the subdivision were allowed to remain narrow, but were to be made available for public use, which could include parking. Special Condition No. 6 reflects this condition accordingly. Lastly, staff concludes that the building heights were limited to 23 feet by a deed restriction imposed on certain residential lots within the subdivision, and structures on all other lots are limited to 35 feet in height. This requirement is also reflected in Special Condition No. 6.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the revised findings in Section IV below, in support of the Commission's actions on July 8, 1998, approving the project with conditions. The proper motion is:

Motion:

I move that the Commission adopt the revised findings dated November 24, 1999, in support of the Commission's action on July 8, 1998, approving Coastal Development Permit No. A-1-HUM-96-70, with conditions.

Staff recommends a YES vote. Pursuant to Section 30315.1 of the Coastal Act, adoption of findings require a majority vote of the members from the prevailing side present at the July 8, 1999 Commission hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action on the permit are eligible to vote. See the listing on Page 1. Approval of the motion will result in the adoption of revised findings as set forth in this staff report.

COMMISSION ACTION:

The adopted resolution, conditions, and findings in support of the Commission's July 8, 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 Humboldt County LCP, 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:

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

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

- (a) A 5,000-square-foot public park area at the west end of Murray Road, which will include public parking for 5 cars; and
- (b) a 20-foot-wide easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site.

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

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

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

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

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

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

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall submit to the Executive Director for review and approval evidence that the applicant has dedicated to the County of Humboldt a 15-foot-wide strip

of land for public access purposes between the end of Kelly Avenue and the Hammond Trail, along the southern property boundary, and as generally shown on Exhibits 6 and 14.

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

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

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

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

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

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

PRIOR TO ISSUANCE of the Coastal Development Permit, and consistent with the terms of the proposed project description, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director such as Humboldt County, the State Coastal Conservancy, or the McKinleyville Community Services District an open space easement. The open space area will encompass the area extending east from the Hammond Trail right-of-way to the top of the bluff, and inland from the top of the bluff to a point 100 feet east of the bluff edge, as generally depicted in Exhibit No. 5.

Within the open space area, all development as defined in Section 30106 of the Coastal Act is prohibited except for (1) the fences required by Special Condition No. 6(e); (2) any public access improvements approved pursuant to a coastal development permit; and (3) installation, repair, and maintenance of any drainage improvements approved pursuant to any necessary coastal development permit.

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

6. Deed Restriction over Residential Lots:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the following restrictions over the entire area to be subdivided into residential lots:

- (a) Height Limits. All structures on lots located in the areas shown in attached Exhibit "A" shall have a maximum building height of 23 feet. All structures on other lots are limited to 35 feet.
- (b) Lighting. On all parcels, all exterior lights, including any lights attached to the outside of the houses, shall be low-wattage, non-reflective, and have a directional cast downward so as not to shine beyond the limits of the parcel. There shall be no night street-lighting permitted.
- (c) House Size. On all parcels, maximum home size is 5,000 square feet (exclusive of garages and outbuildings).
- (d) Utility Lines. Above-ground power and telephone lines from the two westernmost poles along Murray Road shall be placed underground, and the poles removed. Any new utility lines required for the subdivision shall be placed underground.
- (e) Fencing.
 - (i) There shall be no fencing along the east side of the Hammond Trail between Murray Road and the northern extension of the property, but, rather, a landscape barrier composed of low-growing, natural vegetation which shall be no higher than three feet at maturity.
 - (ii) Fencing shall be erected along the 100-foot blufftop setback line that shall be at least three feet in height, and shall be of open-style construction.
- (f) Streets, Roads, and Public Parking Areas. All streets and roads within the residential lots shall be made available for public use. No locked gates or fences prohibiting public access into the subdivision shall be permitted. Privacy fences

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

The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is required because the change is not substantive in nature.

7. Revised Tentative Map:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director a copy of the revised tentative map for the proposed subdivision that has been approved by the County. The revised tentative map shall incorporate the following: (a) the proposed westernmost 21 parcels shall be eliminated; (b) there shall be no more than 37 lots; (c) the remaining 37 lots may be reconfigured, but the building envelopes must be located at least 100 feet back from the bluff edge, and at least 50 feet back from the fault line; and (d) the proposed recreational parking and storage area shall be eliminated. The revised tentative map shall also be consistent with the other terms and conditions of Coastal Development Permit No. A-1-HUM-96-70 and shall depict all easement areas consistent with Coastal Development Permit No. A-1-HUM-96-70. The applicant shall record the revised map approved by the Executive Director.

All development shall take place consistent with the revised tentative map, as approved by the Executive Director.

8. Development of Improvements Within Park and Trail Areas:

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

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

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

- (b) Hammond Trail Extension: A 10-foot-wide trail extending from the northeastern corner of the subject property west to the developed portion of the Hammond Trail shall be constructed within the existing easement held by the County, and shall be constructed prior to recordation of the final map. The trail shall be graded and, at a minimum, gravelled; if determined by Humboldt County Public Works Department to be appropriate, the trail shall be raised above ground level and a drainage ditch constructed.
- (c) Fencing/Barriers:
 - (i) There shall be no fence constructed along the east side of the Hammond Trail between Murray Road and the northern extension of the property; rather, the applicant shall plant a vegetative barrier composed of low-growing, natural vegetation that shall be no higher than three feet at maturity, and shall be planted prior to recordation of the final map; and
 - (ii) Fencing shall be constructed along the 100-foot blufftop setback line prior to recordation of the final map, shall be at least three feet high, and shall be of open-style construction.
- (d) Utility Lines: Above-ground power and telephone lines from the two westernmost poles along Murray Road shall be placed underground and the poles removed prior to recordation of the final map.

9. Final Site and Drainage Plans:

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

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

10. Runoff Control Measures:

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

- (a) Construction-period sediment controls to minimize sedimentation-related impacts on Widow White Creek, the Murray Road drainage, and the Mad River that include sediment barriers consisting of filter fabric attached to supporting posts that are installed in a continuous fashion along at least the north, west, and south sides of the development, and other Best Management Practices as appropriate.
- (b) Vegetation filter areas adequate in size and designed to remove sediment, organic matter, and other pollutants from runoff from the subdivision before stormwater runoff is discharged from the parcel to drainage facilities along Murray Road.

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT HISTORY

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

In addition, the staff recommendation from the County Planning and Building Department differed with the staff recommendation from the County Public Works Department, including the Aviation Division of the Public Works Department. The Aviation Division was very concerned about possible threats to continued airport operations from the proposed residential density. Specifically, staff at the County Public Works Department were not in favor of the project's

proposed 20 percent bonus density increase, primarily because of airport land use compatibility relating to noise and safety issues and the density of the proposed development.

On July 16, 1996 the Planning Commission deadlocked in a 3 to 3 vote (with one abstention), thus failing to act upon the Final EIR and the proposed project. The tie vote of the Planning Commission represented a functional denial of the project. The Planning Commission's denial of the project was then appealed by the applicants to the Board of Supervisors.

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

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

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

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

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

The project before the Commission de novo is the project as revised by the applicants. As revised, the proposed lot configuration would be redesigned so that no building site is within 50

feet of the active trace of the Mad River earthquake fault, and the blufftop setback would be increased so that all building sites would be set back 25-45 feet from the bluff edge. In addition, the proposed number of lots would be reduced from 63 to 58. Furthermore, the applicants deleted from the application the development of individual homes on the lots within the subdivision; separate coastal development permits will need to be obtained for home construction in the future. Moreover, height limitations are proposed to be imposed through Conditions Covenants & Restrictions (CC&R's) that would limit building heights for many of the lots in the subdivision to 23 feet, to protect ocean views from existing public streets. The lots that would be restricted in this manner are shown in Exhibit No. 7.

B. PROJECT SETTING AND DESCRIPTION

1. Area Location

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

The western property boundary generally parallels a coastal bluff which is adjacent to the Mad River and the Pacific Ocean. The Mad River runs parallel to the coast in this location and is separated from the ocean by a broad sand spit. A portion of the Hammond Trail, which is part of the California Coastal Trail, is located mid-slope on a bluff slope within a cut bench area that was the former right of way for the Hammond Railroad. To the west of the Hammond Trail, between the Mad River and the ocean, is an undeveloped 67± acre parcel owned by the applicant that consists of sandy ocean beach, sand dunes, and the bed of the Mad River. As indicated in a letter dated 9 June 1997 from the staff of the State Lands Commission, the State may hold a fee interest over the bed of the river and a public trust easement over other portions of the parcel. Widow White Creek is located within a ravine, just beyond the northern boundary of the project. The eastern property boundary abuts the Pacific Sunset Subdivision, and the southern property boundary fronts on Murray Road.

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

2. Project Site

The project site is located on a gently sloping, open coastal terrace that is about 50 to 80 feet above sea level. The parcel includes the upper portion of the coastal bluff west of the terrace. The Hammond Trail is located mid-slope on the bluff. The lower portion of the bluff below the Hammond Trail adjoins a low-lying sandy terrace at least 70 feet wide covered with riparian vegetation, that fronts on the east bank of the Mad River.

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

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

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

3. Project Description

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

In addition to approving a coastal development permit, the County also approved Subdivision FSM-11-94 subject to the environmental impact mitigation measures adopted by the Board in certifying the EIR (see Exhibit No. 17).

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

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

Finally, the proposed project also includes the access areas shown on Exhibit No. 6 and further described in Section 4 below, as well as the EIR mitigation measures identified in Exhibit No. 17.

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

The Sand Pointe project, as a Planned Unit Development, is proposed as a secured (fenced and gated) community. The proposal includes a 5 to 6-foot-high perimeter fence with a gated access from Murray Road (see Exhibit No. 5). The development would vary from the requirements of

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

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

4. PUD Bonus Density

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

- (1) an offer to dedicate in fee simple a 67-acre parcel (APN 511-011-05) consisting of lands west of the project site and the Mad River to be conveyed to a suitable public agency or an appropriately qualified non-profit organization (see Exhibits 6 and 12);
- (2) an offer to dedicate an easement for a 5,000-square-foot "resting park" with specified improvements including 5 public parking spaces at the west end of Murray Road and located near the entrance driveway to the subdivision, to the McKinleyville Services District or other suitable public agency or qualified private non-profit organization, and a 25-foot non-buildable greenbelt between the public resting area and the subdivision (see Exhibits 6, 12, 8, & 9);
- (3) the removal of two westerly power/telephone poles along Murray Road and the undergrounding of the above-ground wires along the west end of Murray Road (see Exhibit No. 12);
- (4) an offer to dedicate a 20-foot-wide easement for public access that extends from the west end of Wilbur Avenue along the east side of the subdivision northward to the Hammond Trail Extension (see Exhibits 6 and 12);

- (5) limiting the building height of future homes in the subdivision to 23 feet (from average grade to roof peak) for 34 of the 58 proposed lots; Lots A-1 through A-8, B-8, and C-1 through C-22, and D-1 through D-3 to protect views (see Exhibit No. 7);
- (6) an offer to install a fence on the east side of the Hammond Trail to keep the public off the adjoining slope where foot traffic could trample vegetation and contribute to erosion (see Exhibit No. 12);
- (7) a fee simple dedication to the County of Humboldt of a 15-foot-wide strip of land between Murray Road and the Hammond Trail over which the County currently holds an easement (see Exhibits 6 and 12); and
- (8) provision of internal "view corridors" across the project site.

5. Summary of Applicable Land Use and Zoning Regulations

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

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

C. ANALYSIS OF LCP CONSISTENCY

1. Seismic Hazards:

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

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

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

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

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

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

As previously mentioned, the surface trace of an earthquake fault (the Mad River Fault) runs through the southwesterly portion of the property. The current project plans indicate that all of the proposed 58 lots now have designated building envelopes that are more than 50 feet from the active trace of the earthquake fault. Although no buildings will be located within 50 feet of the fault, the main access road is located along the fault line; however, the project includes an emergency vehicle access route that would connect with Wilbur Avenue.

As discussed in the findings under Section 3 and 4 below, the Commission has reduced the density of the proposed project from 58 lots to a maximum of 37 lots. Special Condition No. 7, which limits the number of lots to 37, also requires the applicant to submit a revised tentative map for the proposed subdivision showing the 37 lots configured so that the building envelopes are located at least 100 feet back from the bluff edge, and at least 50 feet back from the fault line. Therefore, as conditioned, the project is consistent with Section A315-16 of the HCC and MAP Policy 3.28, as the project will minimize risk to life and property by restricting buildings to sites located more than 50 feet from the earthquake fault.

2. Development Density/Airport Safety:

As previously mentioned, the subject property lies entirely within an airport approach zone for the Eureka-Arcata Airport in McKinleyville. (See Exhibits No. 10 and 11 for the location of the airport approach and transitional zones in relation to the project)

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

1. *New development within the Arcata-Eureka Airport approach and transitional zones shall be consistent with the approved off-site development guidelines contained in the adopted County Airport Master Plan. The Airport Land Use Commission will define and formally establish an airport safety zone, adopt specific noise and safety standards, and apply such standards to all new development within these zones.*
2. *Generally, within the airport approach and transitional zones the plan recommends an overall residential density of 1 unit per 2.5 acres.*
3. *The clustering of new development or planned unit development technique shall be encouraged for new development in these zones to mitigate health and safety concerns.*

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

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

Exceptions to the maximum density of one unit per three acres within an approach zone may be permitted subject to approval by the Director of the Department of Public Works.

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

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

The property is subject to several combining zones of the certified HCC. These "overlay or combining zones" are used where special regulations apply to the property. The purpose of the combining zones is to establish regulations for land use and development in special areas that are identified in the Humboldt County LCP. The special zone regulations apply when any of the special area combining zones are combined with a principal zone by the County Board of

Supervisors. The HCC states that "the most restrictive regulation governs" where one or more of the County's regulations conflict with one another or where one or more regulations are applicable to the same matter within a zone.

The property is specifically subject to the AP (Airport Safety Review) combining zone as identified in Section A314-50 of the HCC because the property is located entirely within an airport approach zone. The purpose of the AP zone is to establish regulations to maintain compatibility between the proposed land uses and development and Humboldt County airports and to further minimize risks to life and property under airport approach zones. The airport approach zone restricts density to 1 dwelling unit per 3 acres. The requirements of the AP zone are in addition to the requirements of the principally permitted RS-20, Residential Single Family, one unit per 20,000 square feet. The 1 unit per 3 acre density requirement of the AP zone was established based on the recommendation of the 1980 Airport/Land Use Safety Compatibility Plan. The maximum density for unsubdivided lands within an AP zone is limited to one unit per three acres, unless an exception is made by the Director of the Public Works Department (see Exhibit No. 16).

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

In this case, the project as proposed would allow 2.2 units per acre in the approach zone. As discussed in the findings under Section 3 and 4 below, the Commission has reduced the density of the proposed project from 58 lots to 37 lots resulting in a density of approximately 1.4 units per acre in the approach zone. However, this density would still exceed the generally permitted density of 1 unit per 2.5 acres and the approach zone maximum of 1 unit per 3 acres.

In addition, the approved project density of approximately 1.4 dwelling units per acre is supported by the more recent, 1993 Airport Land Use Compatibility Plan, which suggests a higher density may be allowable within an airport approach zone. The 1993 Airport Land Use Compatibility Plan designates the project site at a density of 4 dwelling units per acre. This 1993 Plan has been adopted by the County for planning considerations at the Arcata-Eureka Airport. According to the applicant, the 1993 Plan is based on updated safety and noise information for the Airport, which

indicated that the lower recommended densities in the 1980 Plan were no longer needed to protect the Airport from incompatible uses.

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

Thus, although the project's approved density of 1.4 dwelling units per acre exceeds (a) the generally permitted density of 1 dwelling unit per 2.5 acres (which translates into .4 dwelling units per acre) called for in MAP Policy 3.28(G), and (b) the permitted density of 1 dwelling unit per 3 acres (which translates into .33 dwelling units per acre) that is required for all new development within an airport approach zone per Section A314-50(D)(3) of the HCC, the Commission finds that since Section A314-50(D) allows exceptions to the maximum density of one unit per three acres within an approach zone if the Director of the Department of Public works approves such an exception. The Director has in fact approved such an exception, and the proposed project is consistent with MAP Policy 3.28(G) and Section A314-50(D)(3) of the certified LCP regarding development densities in airport approach zones.

3. Geologic Hazards and Blufftop Setbacks:

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

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

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

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

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

MAP Policy 3.28(C) states in applicable part:

The developments permitted in the hazard areas shall be sited and designed to assure stability and structural integrity for their expected economic lifespans....Bluff and cliff

developments...shall not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding geologically hazardous areas.

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

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

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

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

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

A line of 50-foot-high, vegetated coastal bluffs is located along the westerly side of the property. The stability of the bluffs is not affected by ocean waves due to an intervening sand bar that is located between the ocean and the Mad River, although there is some evidence showing that the

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

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

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

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

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

A third concern was that the proposed bluff setbacks were established based on a 50-year economic lifespan for future houses in the subdivision when the Commission has often insisted that economic lifespans of at least 75 years be used. Use of too short a lifespan could result in setbacks that are not sufficiently large to protect the future homes from bluff retreat hazards during the later years of the homes' existence.

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

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

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

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

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

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

To address these concerns, the applicant has increased the blufftop setback to 25-45 feet from the bluff edge for buildings within the subdivision, with an average of 35 feet (see Exhibit No. 5), as recommended in the January 1998 Supplement to the Geotechnical Report. The January 8, 1998 supplemental report states:

SHN believes it is important to point out that our previous setback recommendations (shown on the December 1994 Site Map, and discussed extensively in our response letters of June 10 and August 5, 1997) were judged to be adequate for residential structures with a 75-year economic lifespan. However, the revised bluff top setbacks will clearly provide a significant additional margin of safety for future residents. These revised bluff top edge setbacks are still contingent on our previous recommendations (December 1994 R-1 Geologic and Geotechnical Report). Particular attention is directed to the recommended restrictions to disturbing vegetation and concentrating surface runoff in the vicinity of the bluff top.

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

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

However, the Commission finds that the geotechnical investigations that have been performed for the project and the 25-45 foot blufftop setbacks that are currently proposed by the applicant are not sufficient to conform to the requirements of the LCP pertaining to bluff retreat concerns. It has been the Commission's experience, that geologists have no way of absolutely predicting if or when bluff erosion on a particular site will take place, and cannot predict if or when a house or property may become endangered. Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. In this case, a geotechnical report prepared by another professional geotechnical firm, LACO Associates, concludes that a greater setback than that proposed by the applicant's geologist should be considered to account for (1) oversteepened slopes, (2) a reduction in vegetation cover that would result from the project, (3) the increase in soil water, and (4) the possibility that the mouth of the river will migrate back to a position opposite the property sometime during the economic lifespan of the project, which would subject the bluffs to direct wave attack from the ocean, as well as the erosive force of tidal waters and winter flood waters. Therefore, the Commission finds that the subject site is an inherently hazardous piece of property, that portions of the bluffs are clearly eroding, and that the proposed new development may result in a geologic hazard or may someday require a bluff or shoreline protective device, inconsistent with MAP policy 3.28. The Commission further finds that due to the inherently hazardous nature of this site, the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, and in fact an independent geologic report concludes that a more generous bluff setback should be considered, the Commission finds it is necessary to increase the building envelope setback to 100 feet from the bluff edge, rather than 25-45 feet as proposed. Special Condition No. 7 requires that the westernmost 21 parcels shall be eliminated and limits the maximum number of lots to 37, thereby allowing additional area to accommodate the 100-foot setback requirement.

To implement this increased setback, the Commission attaches Special Condition No. 5, requiring the applicant to submit evidence that he has recorded the proposed offer to dedicate an open space easement over the area extending east from the Hammond Trail right-of-way to the top of the bluff, and inland from the top of the bluff to the eastern extent of the blufftop setback that extends approximately 100 feet from the bluff edge of the western row of parcels in the subdivision. Within the open space area, all development as defined in Section 30106 of the Coastal Act is prohibited, including the alteration of landforms, removal of any vegetation, use of heavy machinery or equipment, use of the area for livestock grazing, or the erection of structures of any type, except for (1) the fences required by Special Condition 6(e) along the 100-foot blufftop setback line; (2) any public access improvements approved pursuant to a coastal development permit; and (3) installation, repair, and maintenance of any drainage improvements approved pursuant to a coastal development permit. This condition will ensure that no development takes place within the recommended blufftop setback area that would have adverse impacts on the bluff, such as increased erosion and runoff, thus minimizing the potential geologic hazard.

The Commission further attaches Special Conditions No. 8(c)(ii) and 6(e)(ii), which require that the applicant erect three-foot-high fencing, of open-style construction, along the blufftop setback line on each of the westernmost lots within the subdivision, to ensure a clear delineation of the setback line and to ensure no development takes place seaward of the setback line. The fence will make it clearer to future homeowners of these lots what portion of their property is restricted by the open space easement and precluded from further developing and landscaping.

To ensure the other recommendations of the geologist to reduce bluff erosion are followed, the Commission attaches Special Condition No. 9. The condition requires submittal of final site and drainage plans for the proposed project which shall be consistent with the recommendations made in the Geotechnical Investigation Report and supplement; in particular, the plans shall be consistent with the recommendations regarding site preparation and grading, site drainage, and bluff setbacks.

The Commission therefore finds that as conditioned, the proposed project will minimize risks to life and property in an area of high geologic hazard, will assure stability and structural integrity for the life of the project, and will not create or contribute to geologic instability for the life of the project. As conditioned, the project is consistent with Section 30253 of the Coastal Act (incorporated by reference into the LCP), and with MAP Policy 3.28.

4. Visual Resources/Community Character

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

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to

protect views to and along the ocean and scenic coastal areas...(and) be visually compatible with the character of surrounding areas.

MAP Policy 3.42(A) states in applicable part:

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

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

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

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

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

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

Site controls help achieve continuity and preserve values by means of regulation and design controls. Standards imposed by covenants and subdivision regulations are necessary to set requirements for visual access through the site. The strongest preservation

of visual resources is through the site's reduction of building heights, layout of parks and the street and path systems. These were all placed in such a manner as to best maintain ocean views and retain open space. Additional controls, outlined below, shall be placed on the site to further protect the visual resources both on and off the Sand Pointe subdivision site.

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

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

In addition to the differences between the proposed project density and the density of surrounding residential development, the project also differs from the surrounding character in its close proximity to the bluff edge. The proposed 25-45 foot setback along the bluff edge is much closer than that incorporated into other residential development along the bluffs of the Mad River. For example, the bluff setback of the subdivision to the south, Knox Cove, and the two residences to the south directly adjacent to the Sand Pointe site, is approximately 75 feet, as is the average setback of bluff-top homes along the Mad River to the north.

The Pacific Sunset Subdivision is also notable for its absence of fences, its lack of high hedges and other screening elements, its feeling of open space in and around the homes, and its public accessibility and public parking within the subdivision. By contrast, the proposed subdivision would be surrounded with a 5 to 6-foot-high fence with a security gate, closely spaced homes, an RV parking and storage facility, and no public access through the subdivision. The proposed RV parking and storage area is unique to this project and similar facilities are not found anywhere in the vicinity of the project. Also in contrast with the surrounding residential area are the proposed private, narrow streets that would prevent public access through the Sand Pointe subdivision. The Pacific Sunset subdivision to the east provides public access and parking along standard, wide

streets. In addition to the Pacific Sunset subdivision, the residential neighborhood adjacent to the site to the south, on the other side of Murray Road, is also not a locked-gate community.

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

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

To address concerns regarding the protection of visual resources and community character, the Commission attaches Special Condition No. 7(b) which requires the applicant to submit a revised tentative map showing a decrease in the proposed density of the subdivision from 58 lots to a maximum of 37 lots. Special Condition No. 7(c) allows for the remaining 37 lots to be reconfigured in any way, so long as the building envelopes are located at least 100 feet back from the bluff edge, and at least 50 feet back from the fault line. The decreased density will maintain community character by conforming to the average density and lot size of surrounding development. In addition, the decreased density will further protect views to and along the ocean by allowing for more view corridors throughout the subdivision. Requiring the building envelopes to be setback 100 feet from the bluff edge will allow for the proposed project to be more consistent with the average 75-foot bluff setback of surrounding residential development to the north and south along the Mad River in the project vicinity.

To protect the visual character of the Hammond Trail and to preserve the feeling of natural open space, the Commission imposes Special Condition 6(e)(i) to eliminate the fence along the east side of the trail as proposed by the applicant, and rather, require a vegetative barrier no higher than three feet. The Hammond Trail is not bordered by a fence at any other location and to do so along the portion of the trail in front of the proposed project would impose a significant visual obstruction and distract from the natural setting of the trail. Therefore, the vegetative barrier is more protective of visual character and is also sufficient to perform the intended function of the fence, which is to prevent trail users from wandering off the trail and up the face of the bluff.

To further address concerns regarding protection of visual resources and consistency with community character, the Commission attaches Special Condition No. 6(f), which requires submittal of final site plans showing no locked gates or fences prohibiting public access into the subdivision, and any perimeter fences shall be of open-style construction. **The open-style fences will sufficiently provide a delineation of property boundaries, but will not create a feeling of public exclusion. The open fencing will allow the public to see into the subdivision and will encourage public use of the roads and viewing corridors within the project. Furthermore, the open-style fences will be more consistent with the character of the surrounding area, such as the open style of the adjacent Pacific Sunset subdivision. In addition, the open-style fences will allow for small wildlife to pass through the subdivision.** Furthermore, Special Condition No. 6(f) requires that all streets and roads within the residential lots shall be made available for public use and parking, consistent with surrounding development. Allowing the public to drive and park in the subdivision will make the proposed project more compatible with the character of the community, such as Pacific Sunset subdivision to the east, which offers public accessibility and parking on all of the streets and roads through the residential area.

The Commission also attaches Special Condition No. 7(d) which eliminates the RV parking and storage area originally proposed in the northeastern corner of the subdivision. Because there are no other RV parking and storage areas in the surrounding area, and because the appearance of numerous and densely parked RVs and storage facilities at the site is more consistent and compatible within a commercial or industrial area than in a residential area, the Commission finds that it is not consistent with the surrounding residential character of the area.

As noted above, the applicant has voluntarily agreed to impose certain building limitations on the future development of homes within the subdivision and to underground existing power poles along Murray Road to help ensure compatibility of the development with the character of the area. To ensure that these measures are implemented, the Commission attaches Special Condition No. 6, which requires the applicant to record a deed restriction over the subdivision that includes the proposed provisions restricting building height limits on certain lots to 23 feet, and 35 feet on all other lots; limiting the maximum house size within the subdivision to 5,000 square feet (exclusive of garages and outbuildings); requiring that all exterior lights, including any lights attached to the outside of the houses, shall be low-wattage, non-reflective, and have a directional cast downward so as not to shine beyond the limits of the parcel; prohibiting any night street-lighting, and requiring that above-ground power and telephone lines from the two westernmost poles along

Murray Road will be placed underground, the poles removed, and any new utility lines required for the subdivision be placed underground. Special Condition No. 8(d) also requires that the removal of the utility poles and the undergrounding of the existing lines be performed pursuant to approved plans prior to recordation of the final parcel map.

In conclusion, the Commission finds that as proposed, the project is not consistent with LCP policies relating to visual resources and community character. However, by decreasing the density of the project from 58 lots to 37 lots, increasing the building setback from the bluff edge from 25 to 100 feet, eliminating the fence on the east side of the Hammond Trail, eliminating the RV parking and storage area, prohibiting night-lighting, eliminating the locked gate and allowing the public to drive and park within the subdivision, the project can be found to be protective of visual resources and consistent with surrounding residential community character.

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

5. Bonus Density and Planned Unit Development

As proposed, the project also raises the issue of whether the project provides "extraordinary public benefits" to justify a 10 percent bonus density increase under the property's P (Planned Unit Development) combining zone.

A. Applicable LCP Policies

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

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

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

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

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

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

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

- (1) Permitting more flexibility to cope with difficulties due to topography and other natural or man made features;*
- (2) Provide for clustered development in concert with the provision of residential amenities such as open space, recreation areas, and neighborhood commercial services;*
- (3) Encourage a more creative approach to land development through waiver of development standards and application of less rigid development criteria where such flexibility can better provide for the protection and enhancement of designated sensitive habitats and cultural resources.*

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

- (1) Site Adaptation. To the maximum extent possible, the plan and design of the development shall assure that natural features of the land and environment are preserved.*
- (2) Lot Arrangement. All lots within the development shall be designed and arranged to provide maximum feasible access to or frontage on open space or recreational areas, and to provide maximum south orientation as required by Chapter 2.5, Division 2, Title III of the Humboldt County Code.*

B. Analysis of Bonus Density and Planned Unit Development Proposal

1. "Extraordinary Public Benefits"

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

public benefits." Although the LCP does not provide any specific proportionality test, the policy does require protection of visual resources and sensitive habitats beyond that already required by the LCP.

The applicant has submitted a list of "extraordinary public benefits" included in the project description and listed on page 15 of this report. One public benefit proposed by the applicant is the fee simple dedication of a 67-acre parcel (APN 511-011-05) located west of the project site, between the Hammond Trail and the Pacific Ocean. The usable area of this dedication is limited somewhat by the fact that part of the bed of the Mad River is included in this 67-acre parcel. Recent and comparable appraisals submitted by the applicant's agent at the request of staff show that the 67-acre property is worth around \$100,000 dollars. The 67 acres, due to its zoning designation and the fact that a portion of it is underwater and is thus undevelopable anyway, is unlikely to be developed and would most likely remain vacant even if the portion not already owned by the public is not dedicated to the public. Nonetheless, the dedication of the parcel will ensure that the 67-acre parcel will be preserved as open space which will benefit the public as they use the Hammond Trail, other public access facilities in the area, and as they visit the area.

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

As discussed in the findings above, the Commission has imposed conditions that reduce the density from the proposed 58 lots to a maximum of 37 lots for the project to be consistent with visual resource policies and new development policies relating to geologic hazards. This reduction in density makes the project as approved consistent with the LCP requirements that density be limited to 0 to 2 units per acre (Residential Estates and Land Use Designation) and allows for the average lot size to conform to zoning requirements of the RS-20 zone (Residential Single-Family, minimum lot size of 20,000 square feet). Therefore, because the Commission has found it necessary to limit the number of lots to 37 for the project to be consistent with other applicable policies of the LCP, the density bonus requested by the applicant to justify 58 lots rather than the 53 lots allowed by the base zoning is no longer at issue.

While the proposed public benefits are no longer necessary to satisfy the "extraordinary public benefits" requirement associated with the proposed density bonus, they are part of the project description as submitted by the applicant. As discussed elsewhere in the findings, the Commission finds that these benefits are essential elements of the project that help the Commission find the project consistent with other requirements of the certified LCP and the public access and recreation policies of the Coastal Act.

2. Planned Unit Development Design Guidelines

Although the density bonus provisions of the LCP are no longer at issue, the project is still a Planned Unit Development (PUD) and must be consistent with the other LCP policies that relate to Planned Unit Development. In particular, the proposed project must comply with the Design Guidelines under Section A314-62(F) outlined on page 30.

The Commission finds that the dedication of the 67-acre parcel that includes part of the river and sand spit originally offered by the applicant and reflected in Special Condition No. 2 will assure that natural features of the land and the environment are preserved consistent with Design Guideline No.1 of Section A314-62(F). Furthermore, requiring that the bluff face and the adjacent portion of the blufftop be dedicated as open space as required by Special Condition No. 5 will ensure that the subdivision will be arranged to provide maximum feasible access to or frontage on open space or recreational areas consistent with Design Guideline No. 2 of Section A314-62(F). In addition, the other benefits offered by the applicant including the reservation and improvement of the resting park, the 25-foot wide greenbelt, the 20-foot-wide easement for public access that extends from the end of Wilbur Ave., and the dedication of the 15-foot-wide strip of land between Murray Road and the Hammond Trail will also ensure maximum feasible access to or frontage on open space or recreational areas. Therefore, the Commission finds that the project, as conditioned, is consistent with the Design Guidelines required for Planned Unit Development as stated in Section A314-62(F) of the certified LCP.

7. Public Access

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

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

(A) The purpose of these regulations is to specify the nature and location of development subject to coastal public access requirements, to set forth standards for the incorporation of coastal accessways into new development projects, and to prescribe the legal methods and instruments to be used in affecting the public access dedication...

(C) New development on parcels containing the accessways recommended for dedication in the applicable coastal land use plan shall include an irrevocable offer to dedicate an easement for public access to and along the coast...

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

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

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

The proposed development shall be sited and designed so as not to block or interfere with use of such accessway; or

An equivalent accessway shall be provided, including dedication of an easement as described in Section 314-6 of this Division, if the applicable Resource Protection Impact Findings are made. (Equivalent accessway means public access of equivalent type, intensity, and area of use to the same destination.)

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

Where potential public prescriptive rights of access to the shoreline are affected by new developments, the applicant shall either:

- 1. Site and design the project to maintain the accessway, or*
- 2. Provide an equivalent accessway to the same destination including dedication of an access easement as described in Section 3.55, or*

3. *Demonstrate that either the State of California has quit-claimed any interest it may have in the accessway or a court of competent jurisdiction has determined that prescriptive rights do not exist along the accessway.*

McKinleyville Area Plan (MAP) Policy 3.50 incorporates Coastal Act Section 30212.5 which states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

MAP Policy 3.54 states in applicable part that:

New development on parcels containing the accessways identified in Chapter 4 shall include an irrevocable offer to dedicate an easement...for public use...Such offers shall run for a period of 21 years and shall be to grant and convey to the people of the State of California an easement for access over and across the offer's property.

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

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

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

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

A coastal hiking, biking, and equestrian trail has been proposed in the California Recreation Trails Plan and the adopted Humboldt County Trails Plan. In the

McKinleyville Planning Area, this is proposed to run along the Little River and Clam Beaches and then follow the old Hammond Railroad right-of-way to the Mad River.

The MAP Access Inventory for the trail also recommends:

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

McKinleyville Area Plan (MAP) Policy 4.54.29 states that:

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

RECOMMENDATION:

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

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

The Commission finds that the addition of 37 households within the subject area will result in a burden on existing public access by significantly increasing the number of users. Assuming there are at least three people occupying each of the 37 homes contemplated on the 37 lots, and assuming all three use the public access facilities at least occasionally, the development will result in an increased burden of at least 111 people on existing public access and recreational facilities. Furthermore, with the development of the proposed subject site, the public may feel excluded from using the area if it is not clearly designated and improved for public access use.

The proposed project is directly adjacent to a segment of the Hammond Trail which provides access to and along the Mad River. This portion of the Hammond Trail also provides unobstructed views of the Pacific Ocean and a wealth of wildlife viewing opportunities. The Hammond Trail and existing public access points in this area already experience a high level of

use, which is limited primarily by minimal parking. Residents living close to a public access facility are often the most frequent users of that access and recreation area. Therefore, the residents of the additional 37 households within the proposed subdivision will have an increased impact on current levels of trail use. The Hammond Trail at this location will not only be impacted by the residents of the subdivision, but guests of the residents as well. In addition, users of this segment of the Hammond Trail park along the end of Murray Road in an undesignated, informal parking area, or within the Pacific Sunset subdivision. The popular, informal parking area along the side of Murray Road is directly adjacent to the proposed entrance to the subdivision, making it a potentially convenient location for guests of the residents to park as well, thereby further limiting parking for non-resident access users.

As discussed above in section 5, the applicant has originally included as part of the project several public access and recreation provisions to justify the proposed 10% density increase above what is normally allowed for the zoning, pursuant to HCC Section A314-62(E)(1). Although as conditioned, the density bonus originally proposed for the project is no longer a consideration, the public access and recreation provisions remain, consistent with the terms of the project description.

The applicant has offered to dedicate the 67-acre parcel located west of the project site, between the Hammond Trail and the ocean as public open space. The applicant has also offered to dedicate and improve a 5,000-square-foot resting park at the west end of Murray Road, which will include lawns, an underground sprinkler system, two picnic tables, two sitting benches, shrubbery to block the view of vehicles from Murray Road, and parking for the Hammond Trail. In addition, the applicant has offered to provide a 25-foot non-buildable greenbelt easement between the public resting area and the subdivision. Furthermore, the applicant proposes a fee simple dedication to the county of a 15-foot-wide strip of land between Murray Road and the Hammond Trail. Moreover, as stated in Special Condition 1(b), the applicant has offered to dedicate a 20-foot-wide Hammond Trail easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site.

The Commission finds that the proposed dedication of the 67-acre parcel west of the project site will enhance public access. Much of this parcel is already available for public use by virtue of the fact that it is subject to the public trust and as discussed previously, is largely undeveloped. However, the dedication of this entire parcel to the public and subsequent use for passive public recreation (thus, no construction of buildings) will serve to benefit the public by preserving a scenic, undeveloped public park between the Hammond Trail and the ocean, and thus a clear, unobstructed view to the west.

The Commission finds that the public access enhancements proposed by the applicant along the end of Murray Road at the southwest end of the development, including development of the resting park, the greenbelt open space easement, and the offer to dedicate a 15-foot-wide area in fee simple to Humboldt County, would certainly be beneficial as they would facilitate continued public access use of that site. There is a need for public access parking as Murray Road is a

primary access point to the Hammond Trail and the resting park would create a useful staging area for people coming to use the trail. A developed trail through an easement held by the County for public access use already exists in this location and is used daily by the public. The proposed dedication would simply grant fee simple rights to the County for lands over which the County already holds an easement. Thus, the end of Murray Road would continue to serve as a connection to the Hammond Trail even without the applicant's proposed enhancements.

Similarly, the Commission finds that the proposed offer to dedicate a vertical easement from the end of Wilber Avenue in the Pacific Sunset Subdivision to the future extension of the Hammond Trail along the north end of the site would be beneficial for public access use. The acceptance of the easement and future development and opening of a trail for public use would help provide an opportunity for the public to access the Hammond Trail in another location.

Although the above mentioned benefits will help offset the burdens that the proposed subdivision development will impose on public access use of the area, the Commission finds that the burden cannot be fully offset without the applicant also improving a 10-foot-wide trail area extending from the northeastern corner of the subject property west to the Hammond Trail within an existing easement area as required by Special Condition No. 8(b). The required trail segment would be constructed in an area that already appears to be used informally by pedestrians on occasion. The greatest effect that the proposed project's introduction of additional public access users would have on access facilities would be to crowd the trail and worsen bottlenecks along the trail. Improving the trail would facilitate public access circulation through and around the proposed subdivision, providing for a continuous loop system. The loop system would have the effect of spreading out public access users along the trail and eliminating dead ends in the current public access system that creates bottlenecks for users. Improvement of this trail segment would delineate a clear trail that is available for public use and would provide an all-weather surface, thereby encouraging public use. Therefore, the Commission finds that with this trail improvement and with the other public access improvements proposed by the applicant, the burdens the proposed subdivision would impose on existing public access facilities in the area in the form of increasing the number of users and reducing public access parking opportunities would be sufficiently off-set to reduce the impact to a level of insignificance.

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

Special Condition No. 2 requires that the applicant submit evidence that an offer to grant the entirety of APN 511-011-05 (approximately 67.27 acres) in fee to a public agency has been

recorded consistent with the applicant's proposal, including the existing trail leading from the Hammond Trail to the beach.

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

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

Special Condition No. 8 requires that the applicant submit plans approved by Humboldt County for the development and improvement of: (a) the public resting park, which will include lawns, an underground sprinkler system, two picnic tables, two sitting benches, shrubbery to block the view of vehicles from Murray Road, and a parking lot for 5 cars for public use to be located in line with the right-of-way of Kelly Avenue; and (b) a 10-foot-wide trail extending from the northeastern corner of the property west to the developed portion of the Hammond Trail.

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

County staff indicated that of the 23 surveys which were returned, 18 people indicated that they had used the site. County staff found a trail on the east side of the property, that became well worn from the end of Wilbur Avenue and continuing northward into the Widow White riparian corridor beyond the property's north boundary. County staff concluded that

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

Where there is substantial evidence of the existence of a public access right acquired through use, and a proposed development would interfere with that right, the Commission may deny a permit

application under Public Resources Code Section 30211. As an alternative to denial, the Commission may condition its approval on the development being modified or relocated in order to preclude the interference with any right of way that may exist. This is because the Commission has no power to extinguish existing public rights, even though it may authorize development which affects the exercise of those rights.

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

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

Finally, the applicant proposed a private, locked-gate community, which would prohibit all public pedestrian and vehicular access into the subdivision. The Commission, however, is requiring that the subdivision not be gated, and that public pedestrian and vehicular access be permitted. Given the increased burdens on recreation facilities which will result from the approved development, gates which preclude pedestrian and vehicular access cannot be approved consistent with the access and recreation policies of the Coastal Act and the certified LCP.

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

7. Protection of Water Quality:

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

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

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

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

The Final EIR for the site recommended a number of mitigation measures to address concerns with runoff. To ensure that the proposed subdivision does not result in increased stormwater runoff pollution of the nearby Mad River, the Commission has attached a special condition that is consistent with the recommendations of the EIR.

To ensure that the proposed project is sited and designed in such a manner that it will not create or contribute significantly to problems of erosion, sedimentation, and stormwater runoff impacts, the Commission attaches Special Condition No. 10, which requires submittal of a runoff control plan. The condition requires that the runoff control plans include construction period sediment controls. The controls must include the installation of continuous sediment barriers along the north, west, and south sides of the development and other Best Management Practices as appropriate. The condition also requires that the project include the installation of vegetation filter areas adequate in size and designed to remove contaminants before runoff is discharged from the parcel to drainage facilities along Murray Road.

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

8. Planning and Locating New Development:

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

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

MAP Policy 3.21(B) states in applicable part:

...division of lands within the Urban Limit to the densities indicated in the Land Use Designations, are contingent on the ability of the area to accommodate that development or that density. More specifically, no lands within the Urban Limit shall be developed or divided as allowed by the Area Plan, unless the following findings are made in addition to any other findings required by this chapter Section 3.40.

- a. That water supply and adequate provision for sewage disposal, as required by the use at the density permitted in the Area Plan, is available to the development or division.*
- b. That the carrying capacity of major roads of coastal access corridors is sufficient for all permitted uses, or that improvements to an adequate level can be provided at a cost affordable within the reasonable expectation of the County, or if an incorporated city where the Urban Limit surrounds the city.*

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

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

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

9. California Environmental Quality Act (CEQA).

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

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

- (1) the applicant shall submit for the review and approval of the Executive Director evidence that an irrevocable offer to dedicate a public access and public recreation easement to a public agency or private association has been executed and recorded over a 5,000-square-foot public park area at the west end of Murray Road, which will include public parking for 5 cars, and a 20-foot-wide easement extending along the eastern property boundary north from the west end of Wilbur Avenue to the proposed Hammond Trail at the north end of the Sand Pointe site;
- (2) the applicant shall submit for the review and approval of the Executive Director evidence that an irrevocable offer to grant in fee to a public agency has been executed and recorded over the entirety of APN 511-011-05 (approximately 67.27 acres), including the existing trail leading from the Hammond Trail to the beach;
- (3) the applicant shall submit for the review and approval of the Executive Director evidence that the applicant has dedicated to the County of Humboldt a 15-foot-wide strip of land for public access purposes between the end of Kelly Avenue and the Hammond Trail, along the southern property boundary, for public access purposes;
- (4) the applicant shall submit for review and approval of the Executive Director evidence that an irrevocable offer to dedicate an open space easement to Humboldt County or to a public agency or non-profit organization has been executed and recorded over the 25-foot-wide non-buildable green belt area to be established between the public resting area and the subdivision;
- (5) the applicant shall submit for the review and approval of the Executive Director evidence that an irrevocable offer to dedicate an open space easement to the County of Humboldt or a public or private entity has been executed and recorded over the area extending east from the Hammond Trail right-of-way to the top of the bluff, and inland from the top of the bluff to the eastern extent of the blufftop setback that extends 100 feet from the bluff edge;
- (6) the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting restrictions on development within the subdivision, including restrictions on height limit, lighting, house size, utilities, and fencing; in addition, all streets and roads within the residential lots shall be made available for public use, and no locked gates or fences prohibiting public access into the subdivision are permitted;
- (7) the applicant shall submit for the review and approval of the Executive Director two copies of a revised tentative map consistent with the approved Coastal Development Permit;

(8) the applicant shall submit for the Executive Director's review and approval, final plans that have been approved by Humboldt County, showing the designs, locations, and construction schedule for access improvements for the public resting park and parking spaces; construction of the Hammond Trail Extension extending from the northeastern corner of the subject property west to the developed portion of the Hammond Trail; fencing along the blufftop setback line on each of the westernmost lots within the subdivision; and utility lines.

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

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

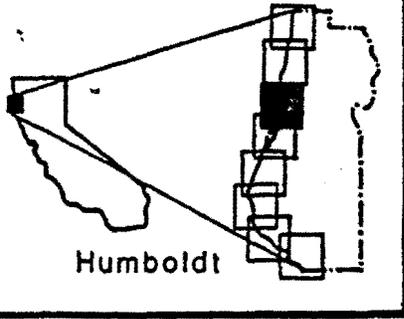
There are no other feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project with the proposed amendment can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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.

A B C D E F G H I J K L M N O



Approximate location of the project site

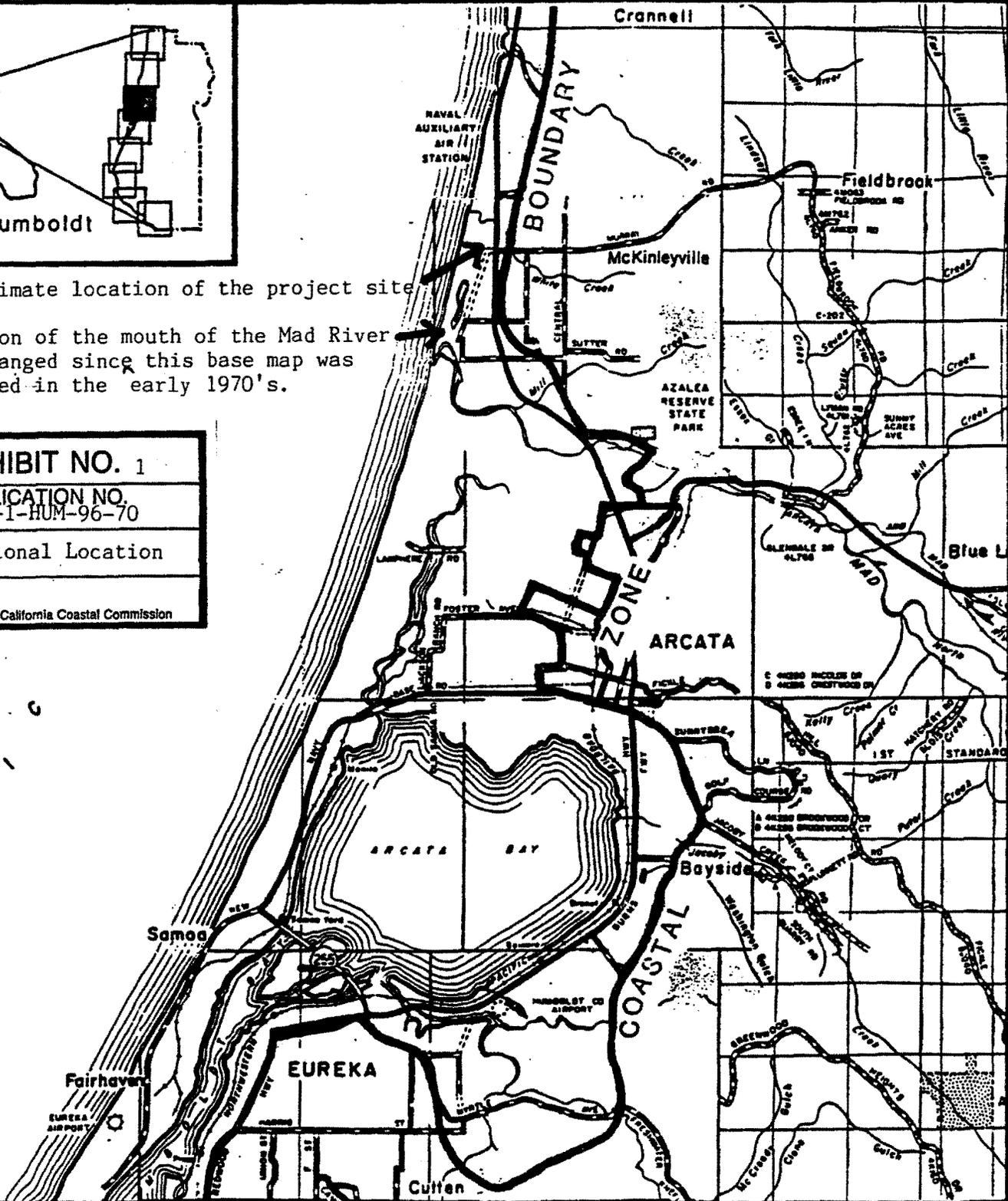
Location of the mouth of the Mad River has changed since this base map was prepared in the early 1970's.

EXHIBIT NO. 1

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

Regional Location

California Coastal Commission



California Coastal Commission

LOCATION MAP



0" = 1" = 406000m E. 408 5' 409 410

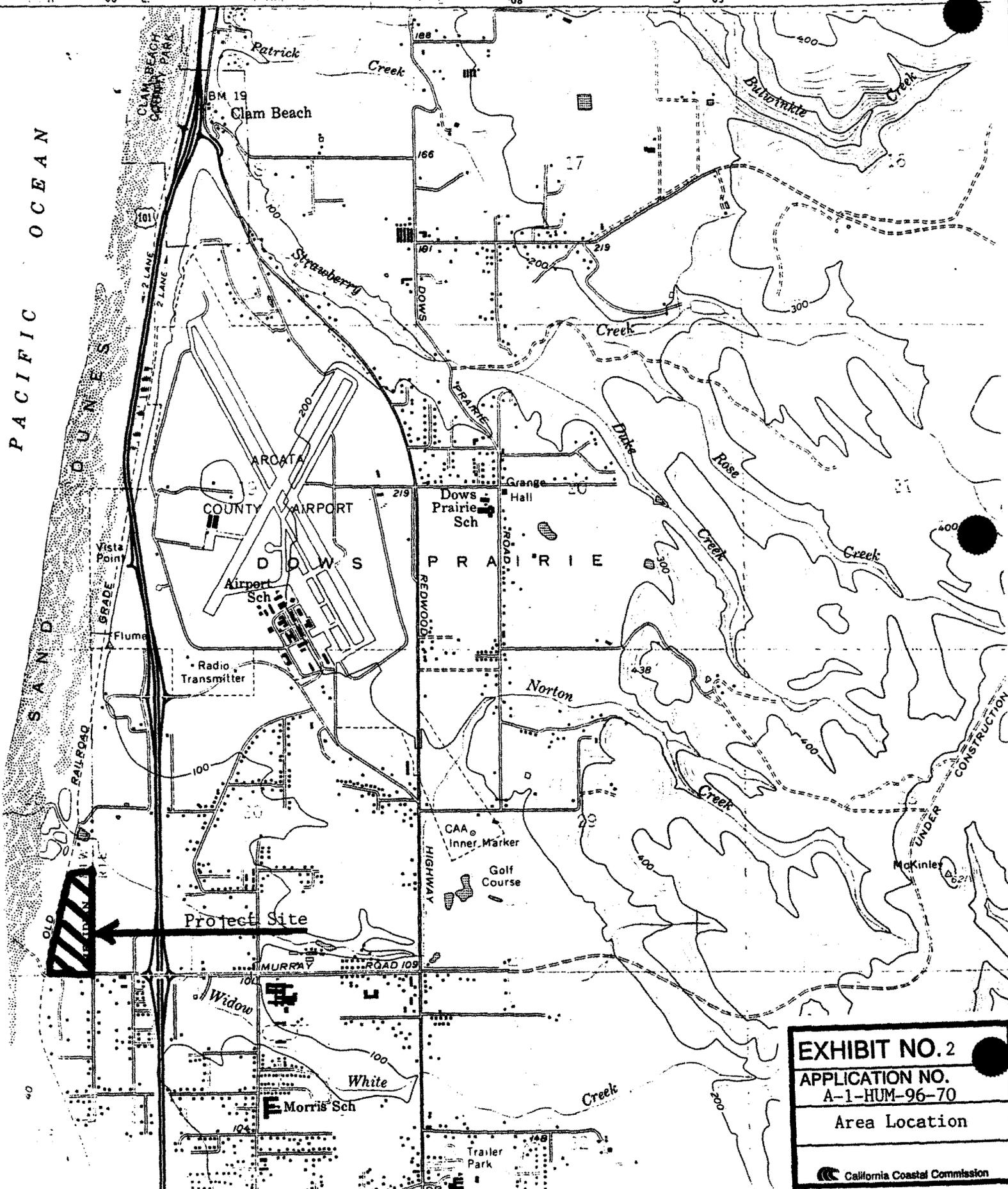


EXHIBIT NO. 2
APPLICATION NO.
A-1-HUM-96-70
Area Location

California Coastal Commission

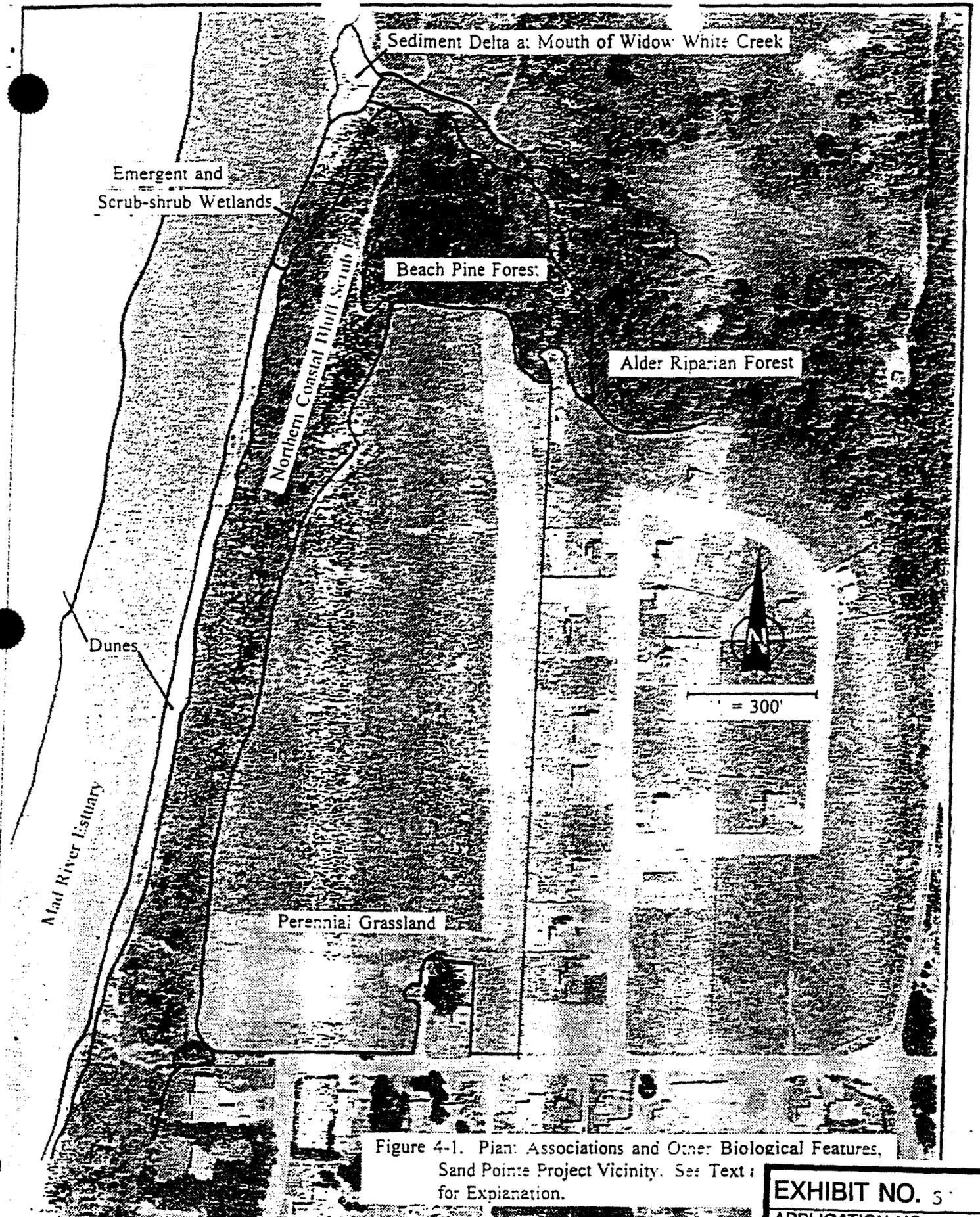
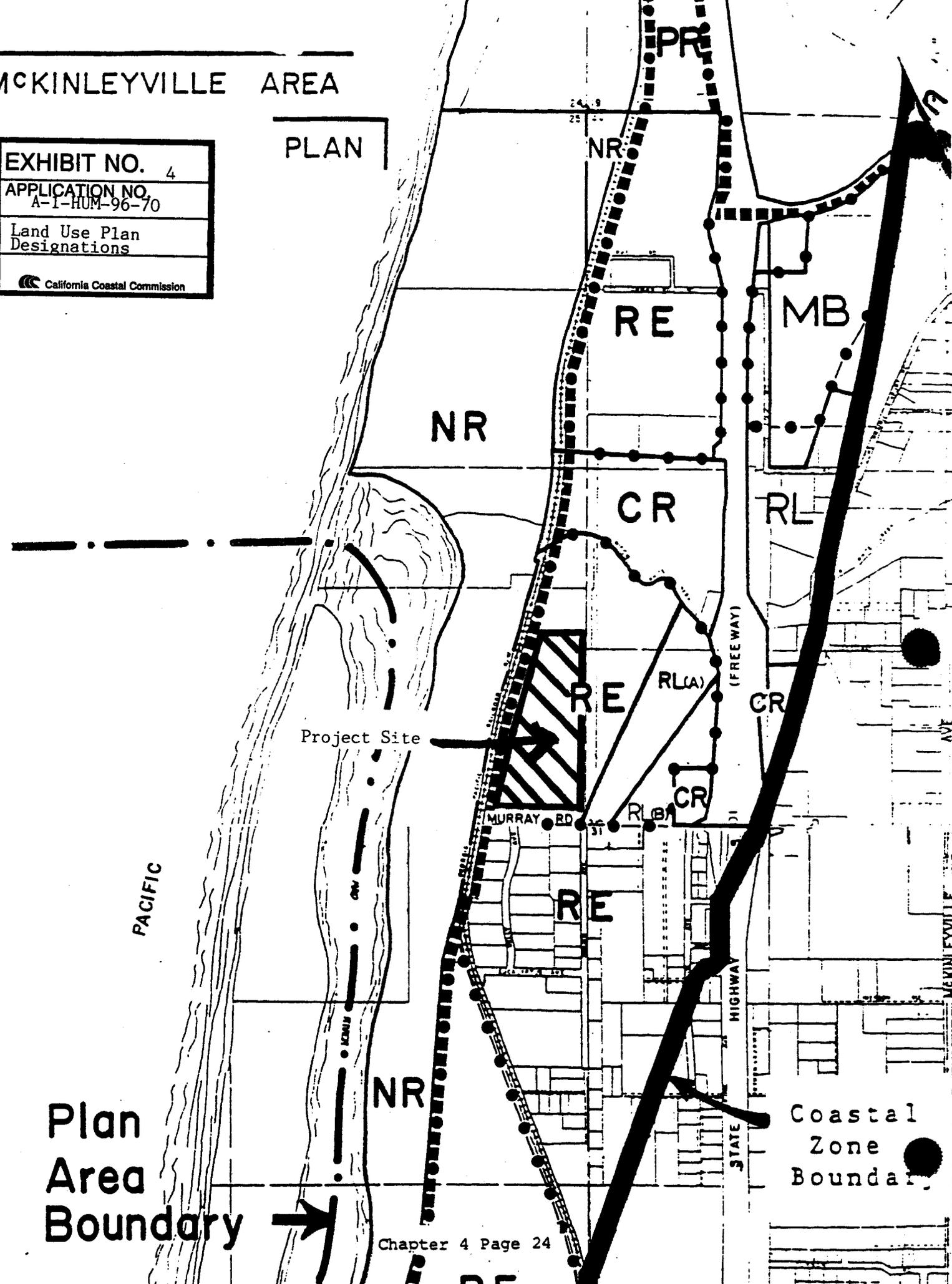


Figure 4-1. Plant Associations and Other Biological Features, Sand Pointe Project Vicinity. See Text for Explanation.

MCKINLEYVILLE AREA

PLAN

| |
|---|
| EXHIBIT NO. 4 |
| APPLICATION NO. A-1-HUM-96-70 |
| Land Use Plan Designations |
|  California Coastal Commission |



Plan Area Boundary

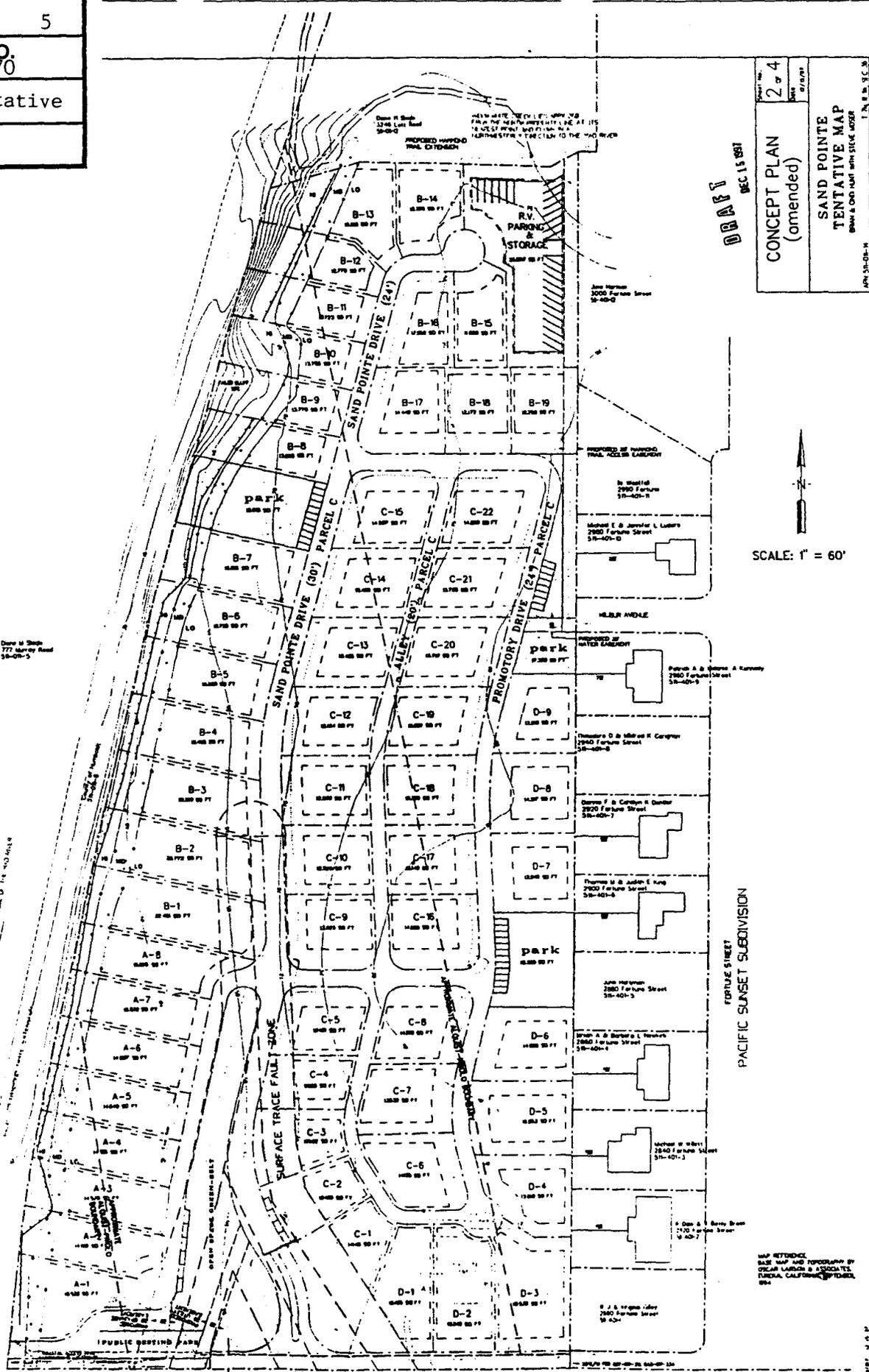
Coastal Zone Boundary

EXHIBIT NO. 5

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

Modified Tentative

Map



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

CONCEPT PLAN (amended)
 SAND POINTE TENTATIVE MAP
 DRAWN AND MADE WITH STATE LICENSE
 APR 31-05-94
 I. N. B. S. C. S.

SCALE: 1" = 60'

PACIFIC SUNSET SUBDIVISION

MAP REVISIONS:
 BASE MAP AND REVISIONS BY
 CLEAR VENTURE & ASSOCIATES
 FURCA, CALIFORNIA (SP7202),
 1997

EXHIBIT NO. 6

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

Proposed Public

Access Offers

PROPOSED PUBLIC ACCESS OFFERS

SAND POINTE
MODIFIED TENTATIVE MAP

Sheet No.:

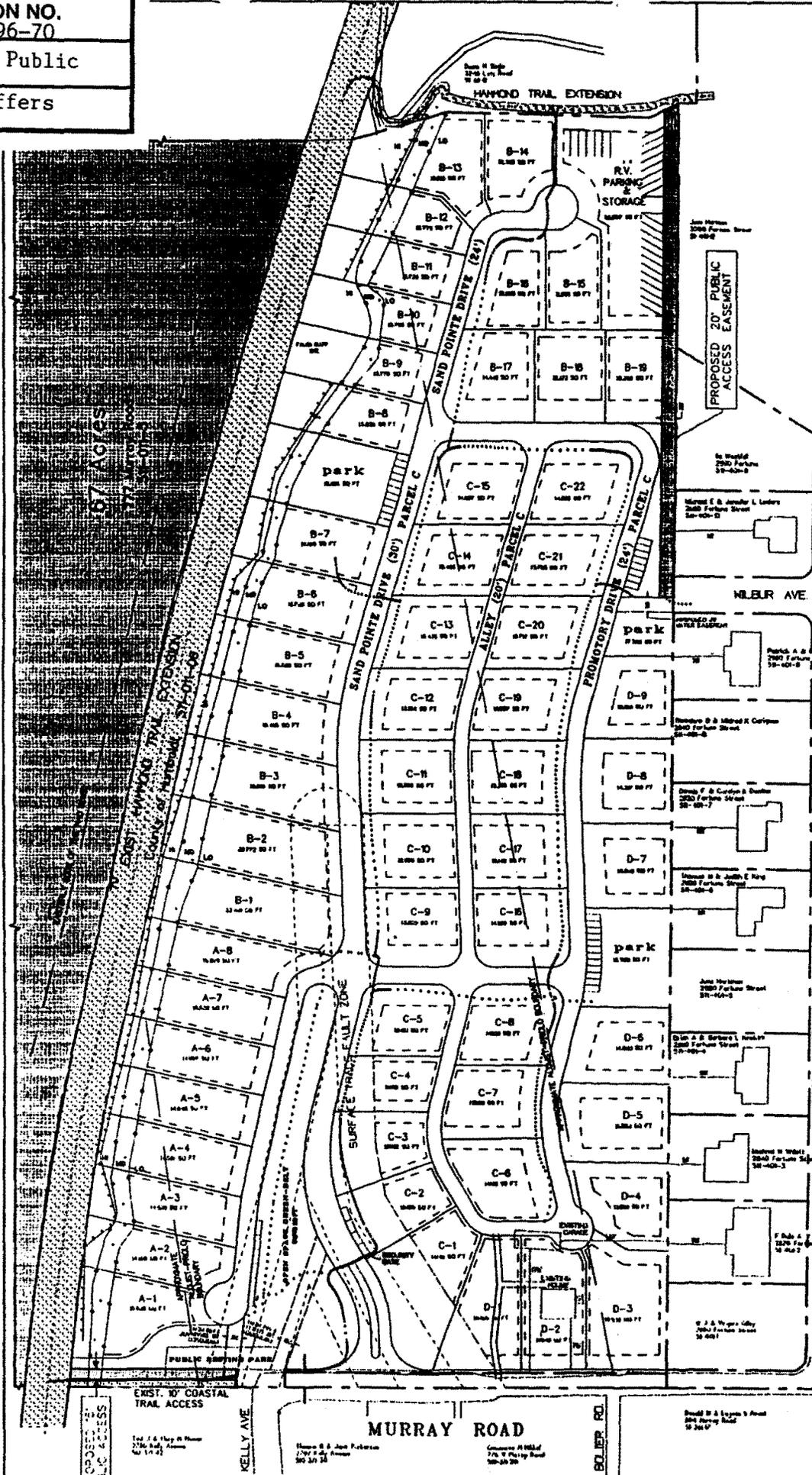
of

Date: JANUARY 1998

(amended 12/15/97)

APN 511-011-14

BRIAN & CHDI HUNT WITH STEVE MOSER



APPROXIMATE SCALE (FEET)

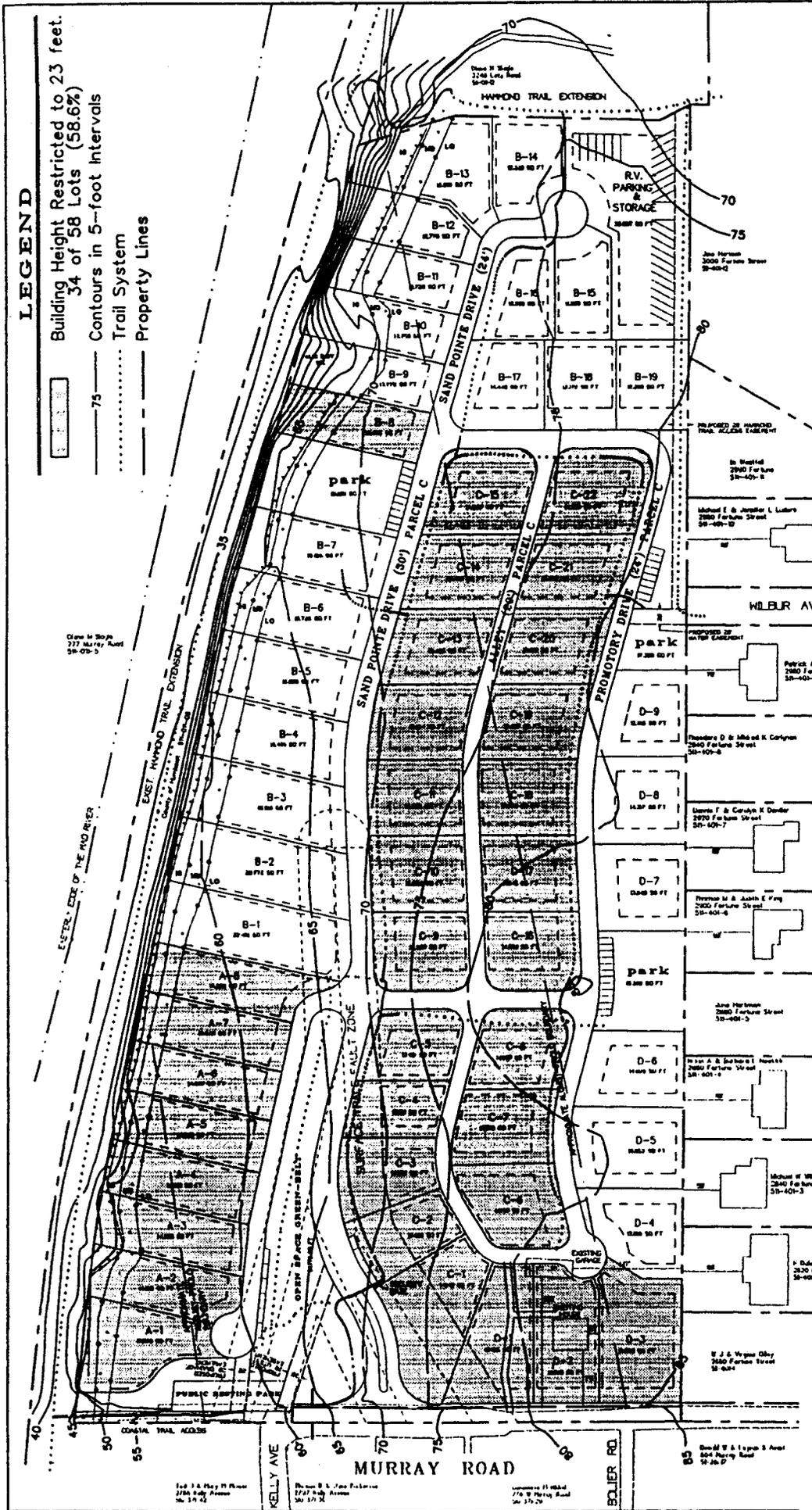


LEGEND

- Existing Public Access
- Additional Public Access Offered by Sand Pointe
- Trail System
- Property Lines

MAP REFERENCE:
BASE MAP AND TOPOGRAPHY BY:
OSCAR LARSON & ASSOCIATES,
EUREKA, CALIFORNIA, SEPTEMBER 1994

REVISIONS BY BOESE ENGINEERING 12/26/98
HUNT/HUNT/MOSER 970178R.GCD 01/26/98



LEGEND

- Building Height Restricted to 23 feet.
- 34 of 58 Lots (58.6%)
- Contours in 5-foot intervals
- Trail System
- Property Lines

BUILDING HEIGHT RESTRICTIONS

SAND POINTE

MODIFIED TENTATIVE MAP

(amended 12/15/97)

BRIAN & CINDI HUNT WITH STEVE MASER

APN 511-011-14

Sheet No. _____ OF _____

Date: JANUARY 1998

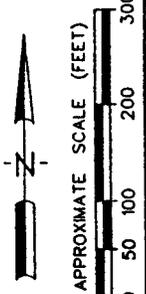


EXHIBIT NO. 7

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

Current Building Height Restrictions

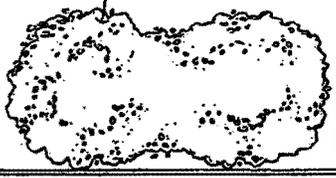
On Modified Tentative Map

1597
:GCD 01/26/98

| |
|-------------------------------|
| EXHIBIT NO. 8 |
| APPLICATION NO. A-1-HUM-96-70 |
| Proposed Hammond Trail Park |

SAND POINTE

EXISTING TREES



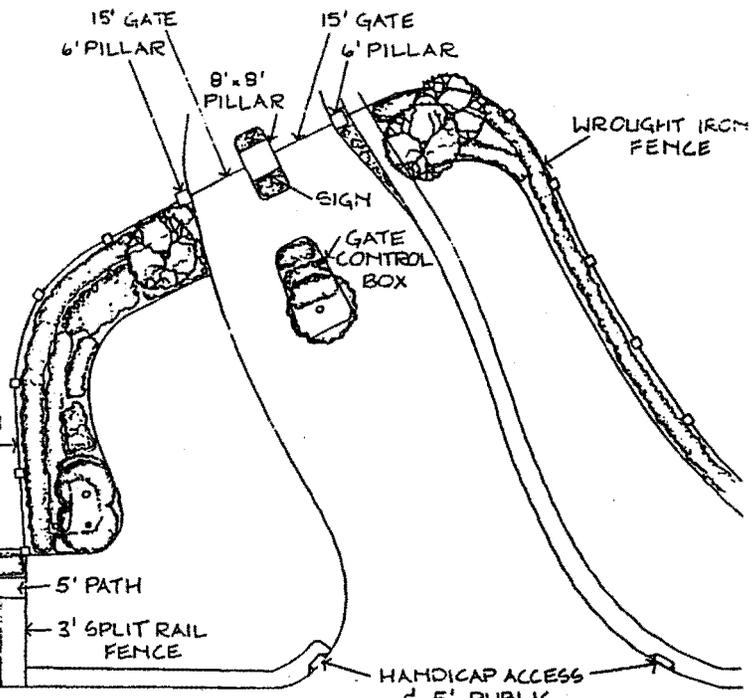
HAMMOND TRAIL

6' SOLID BOARD FENCE



2 PICNIC TABLES & TRASH CONTAINER

WROUGHT IRON FENCE



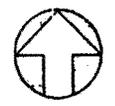
MURRAY ROAD

KELLY AVE

HAMMOND TRAIL PARK

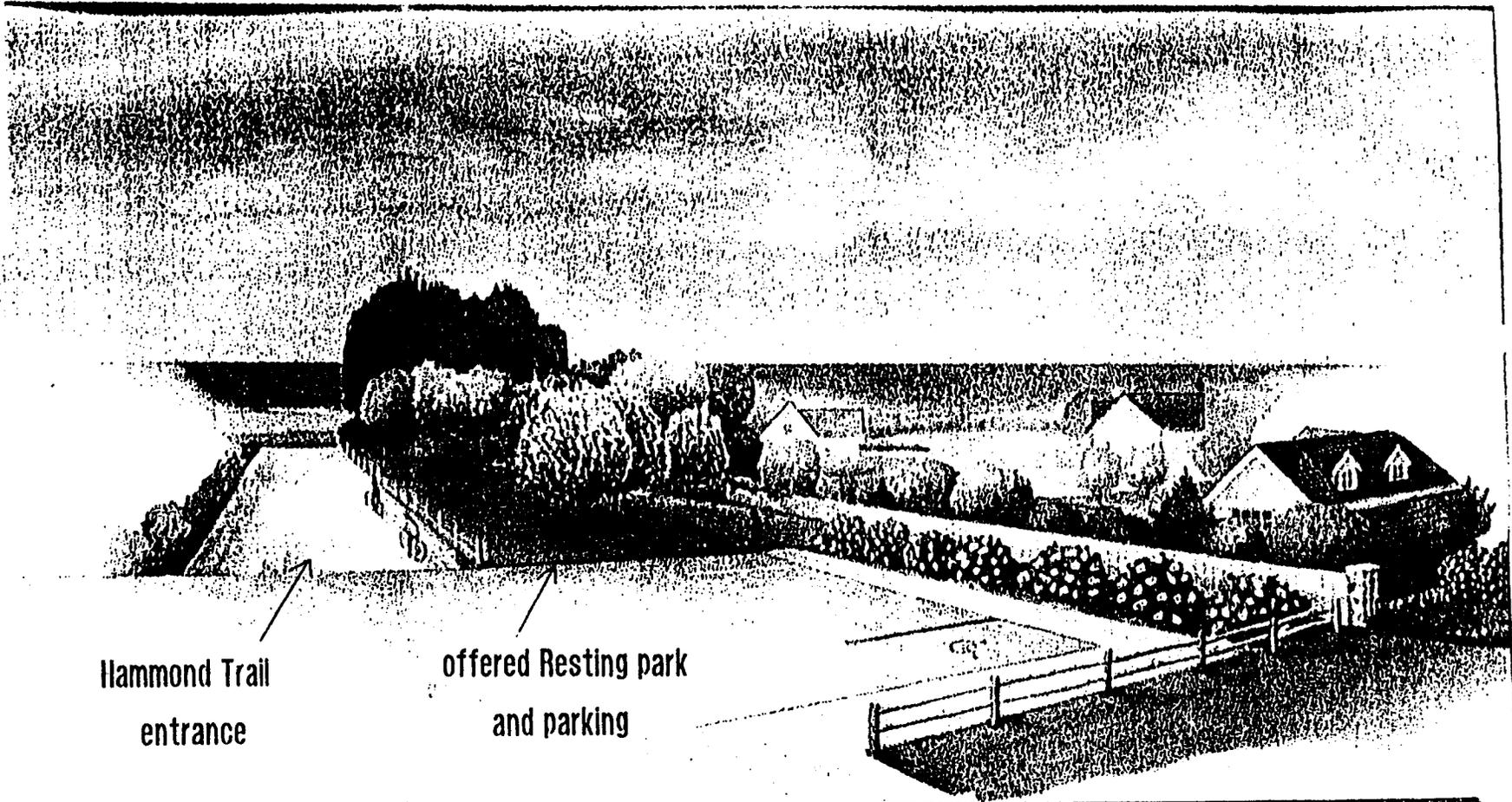
SCALE: 1" = 30'-0" DATE: OCT 24 1995

BY: DESIGN/WORK



NORTH

EXHIBIT NO. 9
APPLICATION NO.
A-1-HOM-96-70
Rendering of
Proposed Resting
Park and Fencing



Hammond Trail
entrance

offered Resting park
and parking



type of fence between neighborhoods

RV storage area as seen
from Pacific Sunset

PACIFIC OCEAN

AIRPORT

PR

PR

Approximate Boundary of the Airport Special Study Area.

24 19
25

NR

RE

Airport Transition Zone

NR

CR

Airport Transition Zone

8-2 units
acre

0-8 units
acre

Airport Approach Zone

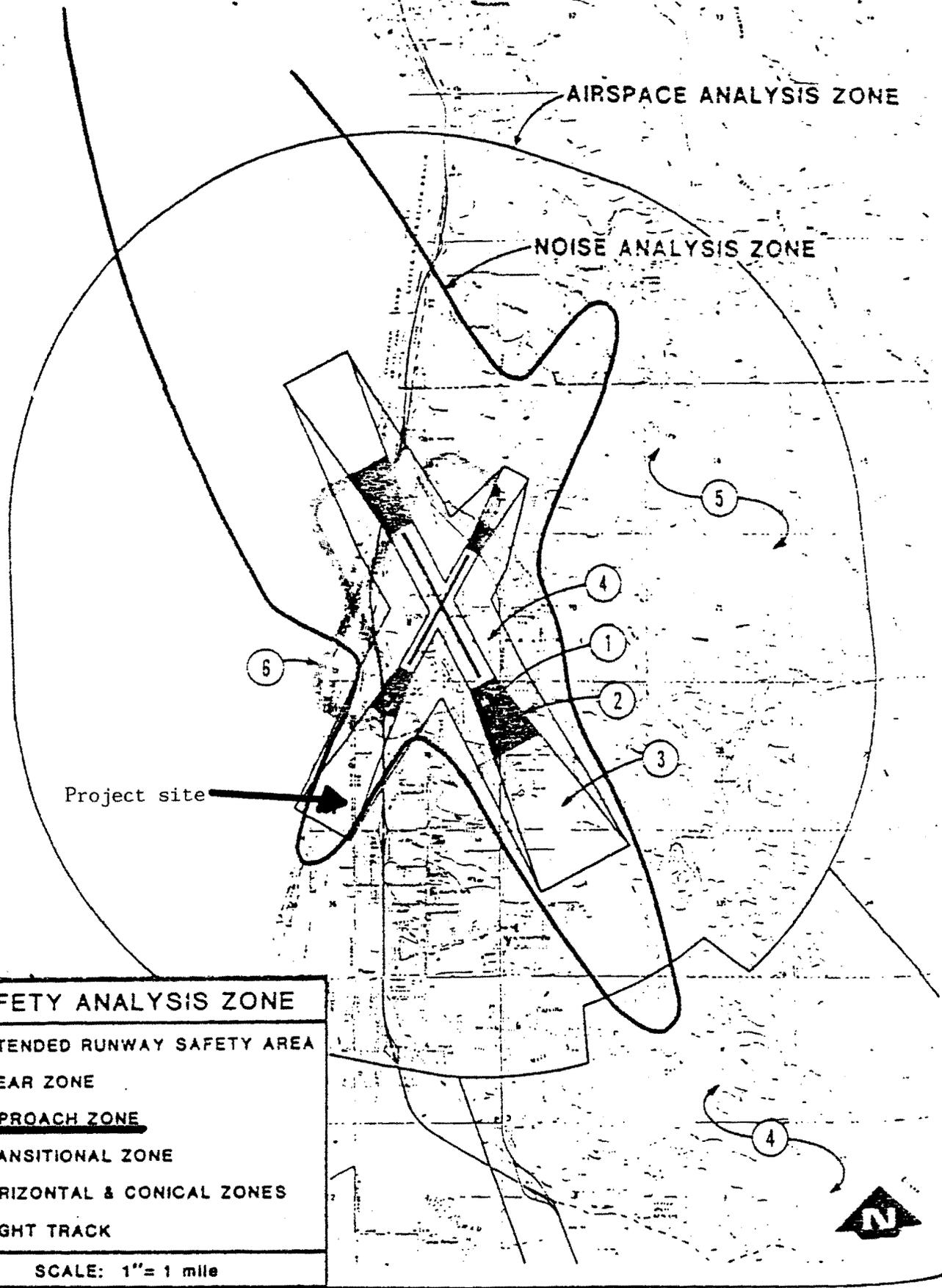
Project Site

(FREEWAY)

CR

CR

EXHIBIT NO. 1
APPLICATION NO.
A-1-HUM-96-70
Airport approach and
transition zones



SAFETY ANALYSIS ZONE

1-EXTENDED RUNWAY SAFETY AREA
 2-CLEAR ZONE
3-APPROACH ZONE
 4-TRANSITIONAL ZONE
 5-HORIZONTAL & CONICAL ZONES
 6-FLIGHT TRACK

SCALE: 1" = 1 mile

SAF

1-EX
 2-CL
 3-AP
 4-TR
 5-HO
 6-FLI

AREA OF INFLUENCE - ARCATA AIRPORT

EXHIBIT NO. 11

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

Airport Safety Zones

California Coastal Commission

23
 -144-

EXTRAORDINARY PUBLIC BENEFITS
TO JUSTIFY DENSITY BONUS

PUD Bonus Density.

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

A. Benefits Offered by Applicant

- (1) an offer to dedicate in fee simple a 67-acre parcel (APN 511-011-05) consisting of lands west of the project site and the Mad River to be conveyed to a suitable public agency;
- (2) an offer to dedicate a 5,000-square-foot "resting park" with specified improvements including 5 public parking spaces at the west end of Murray Road and located near the entrance driveway to the subdivision, to be dedicated to the McKinleyville Services District or other suitable public agency or qualified private non-profit organization, and a 25-foot non-buildable greenbelt easement between the public resting area and the subdivision;
- (3) the removal of two westerly power/telephone poles along Murray Road and the undergrounding of the above-ground wires along the west end of Murray Road;
- (4) an offer to dedicate a 20-foot-wide easement for public access that extends from the end of Wilbur Street along the east side of the subdivision northward to the Hammond Trail;
- (5) limiting the building height of future homes in the subdivision to 23 feet (from average grade to roof peak) for 34 of the 58 proposed lots; Lots A-1 through A-8, B-8, C-1 through C-22, and D-1 through D-3 to protect views;
- (6) an offer to install a fence on the east side of the Hammond Trail to keep the public off the adjoining slope where foot traffic could trample vegetation and contribute to erosion;
- (7) a fee simple dedication to the County of Humboldt of a 15-foot-wide strip of land between Murray Road and the Hammond Trail over which the County currently holds an easement; and
- (8) provision of internal "view corridors" across project site.

EXHIBIT NO. 12

APPLICATION NO.
A-1-HUM-93-70

Extraordinary
Public Benefits



CONSULTING ENGINEERS
& GEOLOGISTS

John R. Selva, PE.
K. Jeff Nelson, PE.
Roland S. Johnson, Jr. C.E.G.

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

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

Reference: 094117.100

January 8, 1998

Steve Moser
1836 Central Avenue
McKinleyville, CA 95519

| | |
|-----------------------------------|---------------|
| EXHIBIT NO. | 13 |
| APPLICATION NO. | A-1-HUM-96-70 |
| Supplement to | |
| Geologic Reports (Page 1 of 4) | |

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

Dear Mr. Moser:

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

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



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| EXHIBIT NO. 13 |
| APPLICATION NO. A-1-HUM-96-70 |
| Supplement to |
| Geologic Reports (Page 2 of 4) |

Steve Moser
January 8, 1998
Page -2-

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

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



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| EXHIBIT NO. 13 |
| APPLICATION NO. A-1-HUM-96-70 |
| Supplement to |
| Geologic Reports (Page 3 of 4) |

Steve Moser
January 8, 1998
Page -3-

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

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

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

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



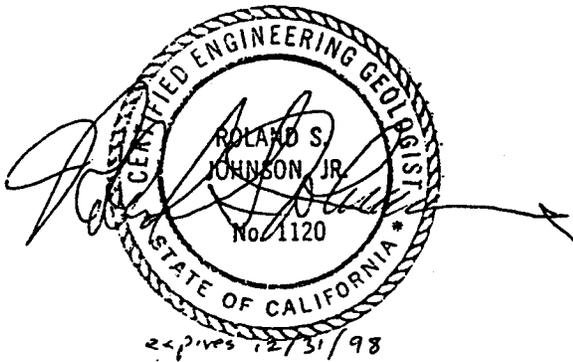
Steve Moser
January 8, 1998
Page -4-

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

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

Sincerely,

SHN CONSULTING ENGINEERS
& GEOLOGISTS



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

RSJ:ls
Attachments

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|-----------------------------------|
| EXHIBIT NO.13 |
| APPLICATION NO. A-1-HUM-96-70 |
| Supplement to |
| Geologic Reports (Page 4 of 4) |



Oscar Larson & Associates
Consulting Engineers & Land Surveyors

| |
|---|
| EXHIBIT NO. 14 |
| APPLICATION NO. A-1-HUM-96-70 |
| 1998 Amendment to |
| Application (Page 1 of 10) |

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

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

Reply to: OL:01198:MGM:6357

19 January 1998

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

Dear Messrs. Merrill and Muth:

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

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

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

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

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

- Supplement to Preliminary R-1 Geologic and Geotechnical Report and Earthquake Fault Zone, Fault Evaluation Report for the Proposed Sand Pointe Development Project, APN 511-11-14, McKinleyville, Humboldt County, California (January 8, 1998); and
- A document (6 pages) entitled "Maintenance of Community Character for Sand Pointe Subdivision," prepared by Design Works, Arcata, California; Mary Gearheart, Principal).

These documents are found as Attachments B and C respectively.

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

Messrs. Bob Merrill and Jim Muth
North Coast Area
California Coastal Commission
19 January 1998
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You had also requested that we provide the information and various documents/citations the County used concerning the Airport Compatibility issue. The information was used by the County's Airport Land Use Commission when it determined that development up to 2.4 dwelling units per acre is compatible with the County's adopted (1980) Airport Plan, and by the Board of Supervisors in making the LCP consistency findings for the project.

Please find the requested information as Attachment E.

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

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

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

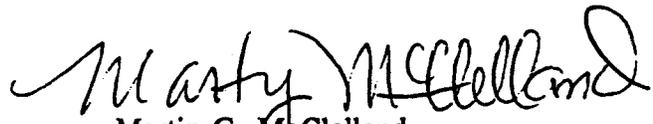
Mr. Moser intends to review this information with you on 22 January 1998. If you have additional requests, please feel free to contact me.

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

Thank you for your continuing assistance.

Sincerely,

OSCAR LARSON & ASSOCIATES


Martin G. McClelland
Operations Manager

MGM:ikmy

Encl.

copy: Jim Baskin, County Planning
Steve Moser

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ATTACHMENT A

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

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

- ◆ Our base application made to the County of Humboldt (February 1995) as modified and conditioned during the County's approval process. The modifications and conditions are found within the following County documents:
 - Planning Staff report to the Planning Commission (for Commission meeting of 30 May 1996) and subsequently used at the hearing conducted by the Board of Supervisors.
 - Board of Supervisors Order dated 3 September 1996, approving the Airport Land Use Commission's finding concerning compatibility with the adopted Airport Master Plan.
 - Board of Supervisors Order dated 3 September 1996, approving the certification of the Environmental Impact Report and approving the project, as conditioned.
 - Board of Supervisors Resolution No. 96-76, dated 24 September 1996, certifying the completion of and making findings and adopting a statement of overriding considerations as to the Final Environmental Impact Report and adopting a Mitigation and Monitoring Program for the implementation of the proposed project.
 - Board of Supervisors Resolution, 5 November 1996, which:
 - approved submittal of a zone reclassification to the California Coastal Commission (Resolution 96-86);
 - readopted Ordinance 2131 which established the 'Q' qualified combining zone which prohibits second or secondary dwelling units;
 - amended the Record of Action of 25 September 1996 (Board action 3 September 1995);
 - approved Exhibits A-1 and A-2, Conditions of Project Approval.
- ◆ Modifications to the Sand Pointe subdivision in response to neighborhood and Coastal Commission staff concerns and to further the implementation of the Coastal Act policies concerning geologic hazards, public access, and public views:
 1. Additional trenching and geotechnical investigation by SHN and a reviewing geologist to more definitively establish the extent of the fault trace.

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2. Increased the setbacks from the fault trace to a consistent 50 feet throughout the project.
 3. Established the high, medium, and low bluffline stability zones and moved the building setbacks farther away from the bluffline.
 4. Decrease the number of lots from 63 to 58. The total parcel size is 26.5 acres. The zone allows up to 2 units per acre or 53 lots. The maximum density bonus is 20% or 10 additional lots based upon the creation of extraordinary public benefits. We are now reducing our request to a 10% density bonus or 5 additional lots for a total of 58.
 5. The change includes a decrease by one of the number of lots adjacent to the Pacific Sunset subdivision. We slightly increased the size of the park here and realigned the lots to more easily allow a visual corridor for the neighbors.
 6. In the center portion of the subdivision (old tentative map, lots C-9 through C-17) we eliminated two of these lots and increased most of the side yard setbacks to 15 feet.
 7. In the southwest portion of the property we have decreased the density between the fault trace and the bluffline and have established a much larger greenbelt/non-buildable area.
 8. Dedicate to the County of Humboldt a 15-foot wide strip of land between Murray Road and the Hammond Trail for additional access to the trail.
 9. We have increased the total number and area of lots with building height restrictions to enhance the view from Murray Road (see attached map).
 10. We have restricted the fencing and landscaping heights in the side yards to create a more open feeling and consistency of design with the surrounding area.
 11. Maximum home size is 5,000 square feet (exclusive of garages and out-buildings).
- ◆ In addition to the Geologist's recommendations, the project includes the following additional Bluff Protection Measures:
- Increased storm water flows directed to onsite facilities (reduce/eliminate surface flow to/over bluff face).
 - Vegetation disturbance prohibition (by easement) within geologist's recommended "bluff edge" setback and face of bluff.
 - Fence installation (along east edge of Hammond Trail-County property) to protect vegetation from intrusion by those using the public access trail.
- ◆ Our request does not include individual residential structures (houses, garages) at this time.

MAINTENANCE OF COMMUNITY CHARACTER FOR
SAND POINTE SUBDIVISION

Changes made in response to Board of Supervisors hearing:

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

In response to Coastal Commission staff and neighborhood concerns, the following changes have been made:

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

GENERAL

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

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

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

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SIDE YARD SETBACKS

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

Lots D-3 - D-9

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

Lots C-10 - C-14, and C-21 -C-17

Side yard setbacks have been increased to 15 feet in the center to further decrease the building bulk on the project site. Landscaping requirements shall be the same as for all other lots in the subdivision.

LANDSCAPE MATERIALS

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

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

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

SUBDIVISION PERIMETER FENCING

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

East Line Fencing (Except for Storage Area at Northeast corner)

The fencing along the eastern line of the subdivision shall be constructed of open board construction that meets the following criteria.

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

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

Storage Area Fencing and Landscaping

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

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

South Entrance and North Line Fencing

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

INTERIOR INDIVIDUAL LOT FENCING

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

Privacy Fencing

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

Fencing is not to extend further than 30 feet in any direction away from the house.

Privacy fencing is not to extend into side yard setbacks.

All fencing or screening exceeding 3 feet in height is not to exceed a total linear length of 90 feet.

All fencing is to be subject to subdivision design review and must have the following architectural elements: post caps, board toppers and square edged posts.

Fencing is to be wood construction, painted to match house or left natural.

Perimeter Fencing

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

All fencing is to be approved by the subdivision's design review committee.

Fencing is to be wood construction, stained white or left natural.

Fence style is to be limited to open picket or post and rail constructed of pickets, split or smooth finish rails with square edged posts.

ARCHITECTURAL ELEMENTS

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

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

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

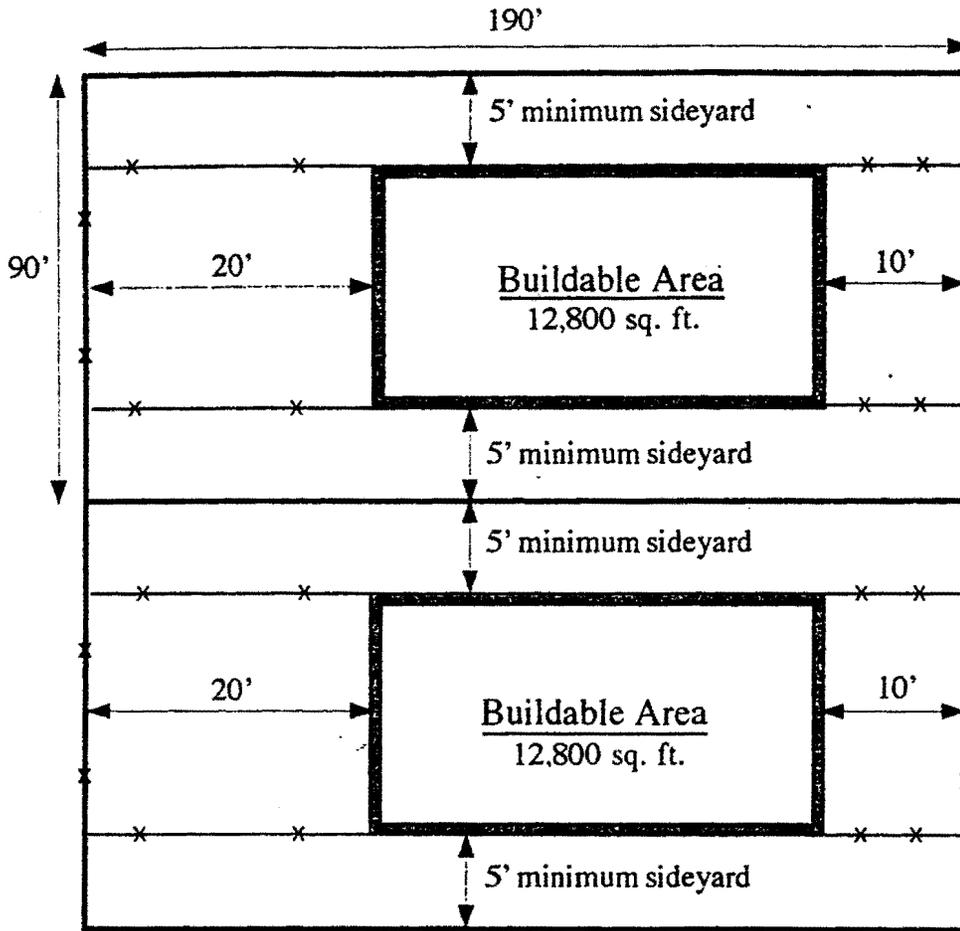
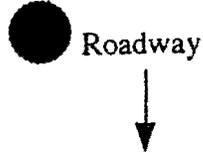
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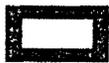
**Typical Site Plan for Lots: A1 - A8,
B1 - B19, C1, C2, C9, C15, C16,
C22, & D1 - D2**



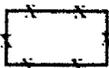
KEY:

Typical Lot Areas:

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



Typical Buildable Area



Front & Rear Yard Setbacks

Allowable:

- Fences and screens up to 6 ft. in ht., not to exceed a total of 90 linear ft.
- Architectural elements up to 12 ft. in ht.

Sideyard Setback:

5 - 15 ft., depending on lot location

Allowable:

- Fences up to 3 ft. ht.
- Landscaping up to 7 ft. ht.

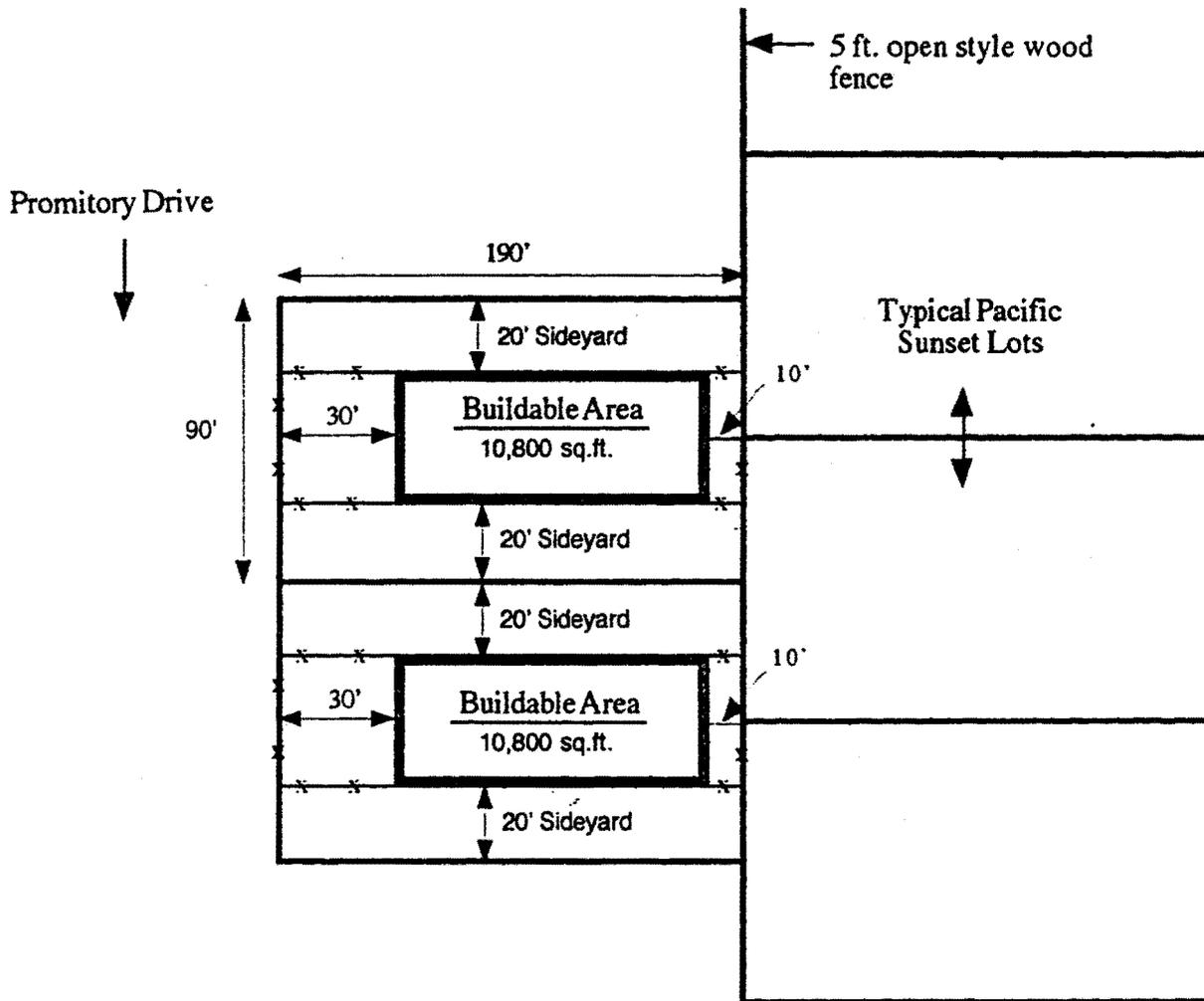


North

Not to scale

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| <p>Application</p> |

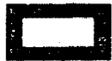
Typical Site Plan for Proposed Lots: D3 - D9



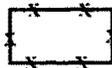
KEY:

Typical Lot Areas:

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



Typical Buildable Area



Front & Rear Yard Setbacks:

Allowable:

- Fences and screens up to 6 ft. in ht., not to exceed a total of 90 linear ft.
- Architectural elements up to 12 ft. in ht.

Sideyard Setback

20 ft.

Allowable:

- Fences up to 3 ft. ht.
- Landscaping up to 7 ft. ht.

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North

Not to scale

**DEPARTMENT OF CONSERVATION
DIVISION OF MINES AND GEOLOGY**

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



March 26, 1998

RECEIVED
MAR 30 1998

CALIFORNIA
COASTAL COMMISSION

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

Dear Mr. Muth:

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

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

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

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

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

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

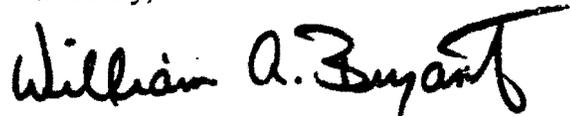
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| EXHIBIT NO. 15 |
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| Mines and Geology |
| Letter (Page 1 of 9) |

Mr. Muth
March 26, 1998
Page 2

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

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

Sincerely,



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

encl.

cc: M. Reichle
SHN/R. Johnson

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| EXHIBIT NO. 15 |
| APPLICATION NO A-1-HUM-96-70 |
| Mines and Geology |
| Letter |

REC'D JAN 23 1998

GIBLIN ASSOCIATES

POST OFFICE BOX 6172
TELEPHONE (707) 528-3078

SANTA ROSA, CA 95406
FACSIMILE (707) 528-2837

CONSULTING
GEOTECHNICAL
ENGINEERS

January 14, 1998

Job No. 1306.6.8

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

Gentlemen:

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

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

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

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| Mines and Geology |
| Letter |

SCOPE

We have performed the following scope of services:

1. A detailed review of the fault evaluation report, associated maps, aerial photographs used by the investigators, and subsurface logs; and assessment of the adequacy of the documentation and the appropriateness of the depth of study conducted in consideration of the use proposed for the project site.
2. A review of pertinent regional geologic literature, maps and other reference materials.
3. An on-site review of the project area during excavation and logging of Trenches 4 and 5 with the author of the subject investigation, Roland S. Johnson, Jr., to observe fault features, as well as geomorphic features that may be fault-related.
4. Preparation of this written review.

FINDINGS AND CONCLUSIONS

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

EXHIBIT NO. 15

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

Mines and Geology

Letter

GIBLIN ASSOCIATES

CONSULTING
GEOTECHNICAL
ENGINEERS

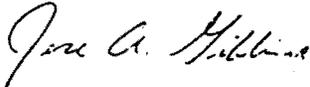
Planning and Building Department
January 14, 1998
Page Three

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

Yours very truly,
GIBLIN ASSOCIATES


Jim Glomb

Certified Engineering Geologist No. 1154



Jere A. Giblin
Geotechnical Engineer No. 339

JDG/JAG:nay.77

Copies Submitted: 4

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

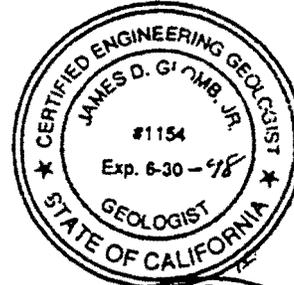


EXHIBIT NO. 15

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

Mines and Geology

Letter

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



February 23, 1998

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

Dear Mr. Johnson,

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

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

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

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

Sincerely,

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

cc: M. Reichle

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| EXHIBIT NO. 15 |
| APPLICATION NO. A-1-HUM-96-70 |
| Mines and Geology |
| Letter |



CONSULTING ENGINEERS & GEOLOGISTS

Jean H. Schuge, P.E.
Jeff Nelson, P.E.
Registered Professional Engineers in C.F.G.

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

480 Hersted Drive
Redding, CA 96002-01
(916) 221-5171
FAX (916) 221-0135

Reference: 094117.100

March 23, 1998

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

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

Dear Mr. Bryant:

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

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

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| EXHIBIT NO. 15 |
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William A. Bryant, A-P Program Manager
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2. What is the evidence for or against Holocene displacement along the antithetic fault?
Since development of the pedogenic soil profile has been shown to have taken substantially longer than 11,000 years, there would have to be evidence of displacement within the pedogenic soil profile to conclude that Holocene (or post Holocene) displacement occurred. As noted above, the pedogenic soil profile is intact. Therefore, we can conclude that Holocene displacement did not occur.

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

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

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CONSULTING ENGINEERS & GEOLOGISTS

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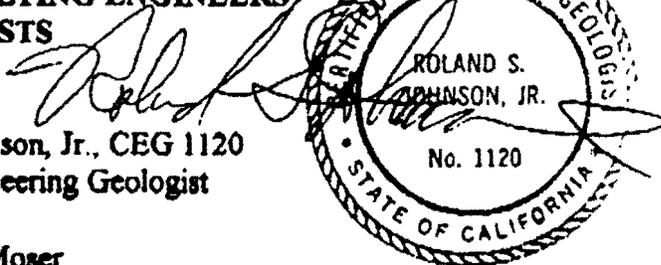
5. If the antithetic fault exhibits Holocene offset, what is the possibility that displacement is transferred from the principal east-dipping fault to the antithetic fault? As discussed above, evidence points to no Holocene offset of the antithetic fault. However, if it had then the antithetic fault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

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

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

Sincerely,

SHN CONSULTING ENGINEERS & GEOLOGISTS



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

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| EXHIBIT NO.15 |
| APPLICATION NO. A-1-HUM-96-70 |
| Mines and Geology |
| Letter |



COUNTY ADMINISTRATIVE OFFICE
COUNTY OF HUMBOLDT

825 5TH STREET, ROOM 111
EUREKA, CALIFORNIA 95501 PHONE (707) 445-7266

May 6, 1997

RECEIVED
MAY 08 1997

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

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Muth:

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

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

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

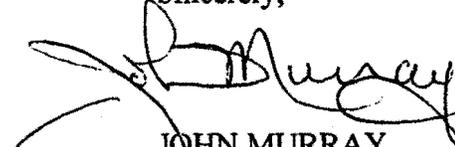
My department was initially very concerned about the potential effect of the project on the long-term operation and safety of the Airport.

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

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

Thank you for the opportunity to comment.

Sincerely,


JOHN MURRAY
Acting County Administrative Officer

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| EXHIBIT NO. 16 |
| APPLICATION NO. A-1-HUM-96-70 |
| Correspondence |
| |

A:SandPointe



PLANNING DIVISION
OF THE PLANNING AND BUILDING DEPARTMENT
COUNTY OF HUMBOLDT

3016 H STREET
EUREKA CA 95501-4484 PHONE (707) 445-7541 FAX (707) 445-7446

RECEIVED

OCT 01 1996

CALIFORNIA
COASTAL COMMISSION

September 25, 1996

CALIFORNIA COASTAL COMMISSION
Attn. North Coast District
45 Sansome Street Suite 2000
San Francisco, CA 94105-2219

SUBJECT: Zoning Reclassification, Tentative Subdivision Map, Coastal Development Permit, Conditional Use Permit

NOTICE OF ACTION TAKEN

CONTACT: Jim Baskin, Planner II

Applicants: Steve Moser, Brian Hunt, Cindi Hunt

Address: 1836 Central Avenue
McKinleyville, CA 95519

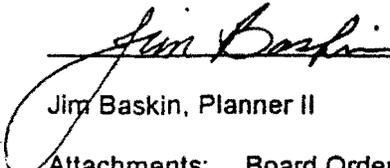
Case Nos. ZR-18-94
FMS-11-94
CDP-39-94
CUP-22-94

File No. APN 511-011-14

Following a noticed hearing, the Humboldt County Board of Supervisors approved the referenced application on September 3, 1996.

Sincerely,

HUMBOLDT COUNTY PLANNING & BUILDING DEPARTMENT
Thomas D. Conlon, Planning Director



Jim Baskin, Planner II

Attachments: Board Order No. N-1 + N-1(a)
Staff Report
Exhibit "A" - Conditions of Approval
Tentative Subdivision Map
Location Map
Coastal Access Surveys

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| EXHIBIT NO. 17 (Page 1 of 22) |
| APPLICATION NO. A-1-HUM-96-70 |
| Notice of Action, Tentative Map |
| Conditions, and Mitigation Measures |

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of Tuesday, September 3, 1996

SUBJECT: BOARD ACTION ON ZONING RECLASSIFICATION/APPEAL OF PLANNING COMMISSION'S DENIAL BY NON-ACTION OF MOSER-HUNT SAND POINTE MAJOR SUBDIVISION, CONDITIONAL USE, AND COASTAL DEVELOPMENT PERMITS; FILE NO. APN 511-011-14; CASE NOS. ZR-18-94, FMS-11-94, CDP-39-94, CUP-22-94; STEVE MOSER, BRIAN HUNT, AND CINDI HUNT, APPLICANTS; MCKINLEYVILLE AREA (CONTINUED FROM THE MEETINGS OF AUGUST 13, 20 AND 27, 1996)

- ACTION:**
1. Considered all testimony received, letters, staff reports, and related information.
 2. Approved the Airports Land Use Commission's finding of August 20, 1996, that a 0 to 2.4-dwelling-unit-per-acre density designation for the subject area is compatible with the adopted airport master plan.

Adopted on motion by Supervisor Kirk, second by Supervisor Neely, and the following vote:

AYES: Supervisors Dixon, Heider, Fulkerson, Neely, and Kirk
NAYS: None
ABSENT: None
ABSTAIN: None

STATE OF CALIFORNIA)
County of Humboldt)

I, LORA FREDIANI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

LORA FREDIANI

Clerk of the Board of Supervisors of the County of Humboldt, State of California

Lora Frediani
September 25, 1996

(N-1a)

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| EXHIBIT NO. 17 |
| APPLICATION NO. A-1-HUM-96-70 |
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BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of Tuesday, September 3, 1996

SUBJECT: BOARD ACTION ON ZONING RECLASSIFICATION/APEAL OF PLANNING COMMISSION'S DENIAL BY NON-ACTION OF MOSER-HUNT SAND POINTE MAJOR SUBDIVISION, CONDITIONAL USE, AND COASTAL DEVELOPMENT PERMITS; FILE NO. APN 511-011-14; CASE NOS. ZR-18-94, FMS-11-94, CDP-39-94, CUP-22-94; STEVE MOSER, BRIAN HUNT, AND CINDI HUNT, APPLICANTS; MCKINLEYVILLE AREA (CONTINUED FROM the MEETINGS OF AUGUST 13, 20 AND 27, 1996)

- ACTION:**
1. Approved a resolution to certify the Environmental Impact Report and to adopt Findings, the Mitigation Monitoring Plan, and Statement of Overriding Considerations (to be brought back for final adoption as a consent item on September 17, 1996).
 2. Found the amenities and dedications offered constitute "extraordinary public benefits", and granted the requested density bonus.
 3. Found that no substantial evidence of historical prescriptive public access has been presented.
 4. Found that it is in the public interest to grant a 50% credit to Parkland In-Lieu fees based on the provision of private recreational facilities.
 5. Approved the zoning reclassification, and scheduled the adoption of the applicable ordinance as a consent item on September 17, 1996).
 6. Approved the tentative subdivision map as conditioned in Exhibit "A" (attached).
 7. Directed the applicants and the County to look into the possibility of a fence at the lower portion of the bluff (east side of the Hammond Trail).
 8. Directed that the fence on the east side of the project site be of a five-foot height with open style (except for the portion fencing the RV storage area).
 9. Directed that an open space easement encompassing vegetation that currently exists be dedicated to the McKinleyville Community Services District for maintenance and management.
 10. Directed that the County be held harmless as to the maintenance and liability of the 67-acre park area that is to be dedicated as a public benefit.

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| EXHIBIT NO. 17 |
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11. Approved the conditional use and coastal development permits as conditioned in Exhibit "A".
12. Directed the Clerk of the Board to give notice of the decision to interested parties, and to publish a summary of the Ordinance within fifteen (15) days after adoption by the Board of Supervisors.
13. Directed the Planning Division to prepare and file a Notice of Determination pursuant to the California Environmental Quality Act.

Adopted on motion by Supervisor Kirk, second by Supervisor Neely, and the following vote:

AYES: Supervisors Dixon, Heider, Neely, and Kirk
 NAYS: Supervisor Fulkerson
 ABSENT: None
 ABSTAIN: None

STATE OF CALIFORNIA)
 County of Humboldt)

I, LORA FREDIANI, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

attachments

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

LORA FREDIANI

Clerk of the Board of Supervisors of the County of Humboldt, State of California

Lora Frediani

September 25, 1996

(N-1)

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REVISED EXHIBIT "A-1" ***SECTION 1: TENTATIVE MAP CONDITIONS OF APPROVAL**

APPROVAL OF THE TENTATIVE MAP IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PARCEL OR FINAL MAP MAY BE RECORDED:

1. All taxes to which the property is subject shall be paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the parcel or final map to satisfy this condition. This requirement will be administered by the Department of Public Works.
2. The applicants shall secure from the Board of Supervisors an ordinance rezoning the project site from Residential Single-Family - 20,000 Square Foot Minimum Parcel Size with Airport Protection, Geologic Hazard, Archaeologic Resource Protection, Flood Hazard, Noise Impact, and Coastal Streams and Riparian Corridor Protection Combining Zones, (RS-20/AP,G,A,F,N,R) to Residential Single-Family - 20,000 Square Foot Minimum Parcel Size with Airport Protection, Geologic Hazard, Archaeologic Resource Protection, Planned Development, Coastal Streams and Riparian Corridor Protection, and Qualified Combining Zones (RS-20/AP,G,A,P,R,Q) or other zoning designation(s) consistent with a comprehensive view of the General Plan.
3. The phase-specific conditions on the enclosed Department of Public Works referral dated March 6, 1996 (Exhibit "B"), shall be completed or secured to the satisfaction of that department. Prior to performing any work on the improvements, contact the Department of Public Works.
4. The frontage street "Murray Road " shall appear on the final map. Additionally, the applicants shall obtain approval from the Planning Division's Cartographic Systems Section for the names of the private interior roads. The precise spelling of the names as approved shall appear on the final map.
5. The phase-specific conditions on the enclosed McKinleyville Community Services District referral dated May 9, 1996 (Exhibit "C"), shall be completed or secured to the satisfaction of that agency. Prior to performing any work on the improvements, contact the MCSD. (Note: The MCSD facilities extended to the parcel north of the project site (APN 511-011-12) shall be limited in size to service a single (1) dwelling.)
6. Sewer, water, street lights, and available utilities shall be extended onto each lot to the specifications of the affected agencies providing the facilities and utilities and to the satisfaction of the Department of Public Works. The improvements shall be inspected by the affected agency and a certificate of acceptance of the improvements from the agency shall be filed with the County Public Works Department prior to the recordation of the map. Streetlighting shall be installed as may be required by MCSD. (Note: See Condition No. 9.A.(12), below, regarding streetlighting requirements.)
- ~~7. The applicants shall make an irrevocable offer of dedication to the McKinleyville Community Service District for the "resting park". The term of the dedication offer shall be for a period of not less than 21 years from the date of project approval. The offer of dedication shall appear on the final map. The applicants may also enter into an agreement with the MCSD for the operation and maintenance of the park as proposed in the planned development proposal. (Note: See Section II, No. 2, below)~~

EXHIBIT NO. 17**APPLICATION NO.**
A-1-HUM-96-70

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8. Accessways, fire hydrants, cul-de-sac striping and emergency vehicle turn-arounds as may be required by the Arcata Fire Protection District shall be installed to the satisfaction of the AFD, McKinleyville Community Services District, and the Department of Public Works.
9. The applicant shall submit three (3) copies of a Development Plan for the specifically approved Planned Development to the Planning Division for review and approval. Approval of the Development Plan shall be obtained prior to the commencement of site preparation work and/or the construction of any improvements on the project site. The map shall be drawn to scale and give detailed specifications as to the development and improvement of the site, and shall include the following site development details:

A. Plot Plan Elements

- (1) Topography of the land in 1-foot contour intervals.
- (2) Proposed access, traffic, pedestrian ways and related easements, as detailed in the "Traffic and Circulation Plan", Permit Application Exhibit "G", as modified by the Department of Public Works and "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B" pp. 1-16).
- (3) Location of waterline and sewer easements in favor of McKinleyville Community Services District.
- (4) Off-street parking area detail and improvement for two (2) vehicles on each residential lot. Off-street parking area detail for five (5) spaces — 4 standard, 1 handicapped — along the north side of Murray Road adjacent to the "resting park".
- (5) On-street (pocket) parking area detail and improvement for a total of forty (40) vehicles along the interior access roads, as illustrated in the "Off-Street Parking Information Plan", Permit Application Exhibit "E".
- (6) Building "envelopes" (dwelling site locations with applicable yard setback standards as designated on the "Planned Unit Development 'P' Overlay Justification", Permit Application Exhibit "D", "view corridors" and 10-foot setbacks for lots accessing from alleys, as detailed in the "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B" pp. 1-16).
- (7) Building height limitations for each lot, as designated in the "Planned Unit Development 'P' Overlay Justification", Permit Application Exhibit "D", Figure D-7, and "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B" pp. 1-16).
- (8) All non-residential lot components, including "open-space", "resting" parks, "view parks", recreational vehicle parking areas, and coastal access corridors.
- (9) Project phasing, as detailed in the "Development Phasing Plan", Permit Application Exhibit "F".
- (10) Location of project entry signage, as detailed in the "Signage Plan", Permit Application Exhibit "I".
- (11) Location and "typical" improvement standard for fencing, screening, and gating as detailed in the "Security Plan", Permit Application Exhibit "J" and "Project Refinements, Amendments, and Clarifications", DEIR, Volume 1 Appendix "B"

EXHIBIT NO. 17

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pp. 1-16), as modified by the Board of Supervisors. (Note: Fencing height along the eastern property line was subsequently limited to five (5) feet as part of the approval motions of the project by the Board of Supervisors on September 3, 1996).

- (12) ~~Exterior lighting, including location and "typical" improvement standards as required by the McKinleyville Community Services District and detailed in the "Outdoor Lighting Design Specifications for Sand Pointe", DEIR, Volume 1 Appendix "B" pp. 1-16).~~
- (13) Location of unstable slope stability hazard areas as identified by the geotechnical report (SHN, 1994).
- (14) Location of thrust and ~~reverse~~ fault traces, and building exclusion zones as identified in the fault evaluation report (SHN, 1994).

B. Landscaping Plan Elements

- (1) Delineation of landscaped areas along streets, pathways, RV parking lot, within parks, and at the entrance to the development, and related improvements typicals (i.e., irrigation lines, trelliswork, bedding construction).
- (2) Planting Schematic showing the location and extent of mature landscape vegetation, coded by reference numbers, letters, or species acronym (e.g., "Bp" for *Baccharis pusillus*)
- (3) Planting Schedule indicating the common and scientific plant names, mapping code, type, habit, planting size, mature size, and special maintenance and upkeep information as applicable (integrated pest management techniques, exclusion of the use of inorganic fertilizers, phenoxyacetic defoliant, and other biocidal compounds).
- (4) Itemized provisions for landscaping maintenance (e.g., frequency of watering, fertilizing, pruning) by the owners association.

C. Notations

- (1) "Construction of site improvements are subject to the recommendations of the approved preliminary geotechnical report and the fault evaluation report (SHN, 1994) for the subdivision. Contact the Planning Division for specific information."
- (2) "All road construction shall be subject to the following mandatory mitigation measures:
 - Limitation of soil exposure time and the extent of the disturbed area;
 - Minimizing uninterrupted slope length through surface roughening and the use of serrated slopes;
 - Grading operations shall not occur during the rainy season (November through April).
 - Disturbed slopes once at final grade shall be immediately replanted with vegetation native to the surrounding area;

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- Control of runoff through controlled water and drainage systems with dissipated discharges and receiving streambank protection shall be utilized as needed;
 - Runoff shall be diverted away from graded areas and areas traveled during project development; and
 - Temporary and permanent sediment control will be pursued through the use of dikes, filter beams, and sediment basins, as needed.
- (3) "All new development on the parcels are subject to the following coastal natural drainage mitigation measures:
- Dissipation and, where feasible, screening of the discharges from storm water outfalls, culverts, gutters, and the like; and
 - Except for removal as provided consistent with the Streams and Riparian Corridors Protection Regulations, natural vegetation within and immediately adjacent to the bankfull channel shall be maintained.
- (4) "The project site is not located within an area where known cultural resources have been located. However, as there exists the possibility that undiscovered cultural resources may be encountered during construction activities, the following mitigation measures are required under state and federal law:
- If cultural resources are encountered, all work must cease and a qualified cultural resources specialist contacted to analyze the significance of the find and formulate further mitigation (e.g., project relocation, excavation plan, protective cover).
 - Pursuant to California Health and Safety Code §7050.5, if human remains are encountered, all work must cease and the County Coroner contacted."
- (5) "The McKinleyville Union School District have indicated that "curbside" pick-up and drop-off of school children will not be provided within the gated bounds of the development. A centralized bus stop will be made on Murray Road, near the front gate of the site."

D. Other Elements

- (1) A zoning compliance table, as follows:

| Standard/Requirement | RS Zone | Project |
|----------------------|------------------------|--|
| Minimum Lot Area | 20,000 sq. ft. | 9,900 sq. ft. (Lot C4) |
| Minimum Lot Width | 75 ft. | ~55 ft. (Lot D3) |
| Maximum Density | 1 d.u./lot +1 DU w/ SP | 22 63 lots w/ 1 d.u./lot; no SDUs; 41 lots w/ 2 d.u. (locations unspecified) |
| Maximum Lot Depth | 3 • Lot Width | 3.14 • Lot Width (Lot B1) |
| Minimum Front Yard | 20 ft. | 20 ft. |

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| | RS-2000 | RS-2000 |
|--------------------------------|--|---|
| Minimum Rear Yard | 10 ft. | 10 ft. |
| Minimum Ext. Side Yard | 20 ft., or 10 ft. if main bldg. >= 25 ft. rear line | 20 ft. |
| Minimum Int. Side Yard | 5 ft. | 5 ft. <u>Note variable side yards</u> |
| Double Frontage Lots | 20 ft.; 10 ft. if abutting an alley | 20 ft.; 10 ft. for lots abutting alleys |
| Flaglots | As determined by Planning Director & Dept. Public Works | Not Applicable |
| Maximum Ground Coverage | 35% | 35% per lot |
| Maximum Building Height | 35 ft. | ~23 ft. (Lots A1-A4, A7-A10, B7, C1-C24); 35 ft. (all other lots) |
| Main Building Types | Residential Single Detached, Limited Mixed Residential Nonresidential, Nonresidential detached or Multiple/Group | Residential Single Detached |

(2) Four (4) authorizing signature blocks for the Humboldt County Planning & Building Department, McKinleyville Community Services District, Arcata Fire Protection District, Sheriffs Office approvals.

10. The applicant will cause to be recorded a *Notice of Development Plan* on forms provided by the Humboldt County Planning and Building Department. The Development Plan will also be noticed on the Final Map.
11. The recommendations set forth in the fault evaluation report and preliminary "R-1" geologic and geotechnical report (SHN, 1994) for the residential structural improvements on parcels to be created shall be implemented as a condition to the issuance of permits or other grants of approval for the development or improvement of the site(s). The referenced parcels shall not be created unless the report concludes that each individual parcel is suitable for conventional residential purposes.
12. The applicant shall cause to be record a *Notice of Geologic Report* for Lots 1 through 63 on forms provided by the Humboldt County Planning and Building Department. Document processing, notary, legal description review fees (presently \$109), recording fees (variable), and copies of applicable deeds must accompany the Notice. The Geologic Report shall also be noticed on the Final Map. Contact the Department of Public Works concerning the wording of the statement. This condition may be satisfied in conjunction with Condition #10 with a combined Notice.
13. A fee of \$875.00 must be paid to the County Recorders Office at 825 Fifth Street, Room 108 in Eureka. This fee is required by state law for processing the environmental document through the Department of Fish & Game. A copy of your receipt must be submitted to the Planning Division to satisfy this condition. (Note: Notice of Determination and associated CDFG fees recorded/paid on 9/12/96).
14. A Parkland In-lieu fee pursuant to formulas established under HCC §314-29 shall be paid to the County Planning & Building Department, 3015 H Street, Eureka, CA.

15. The applicant shall remit a land value assessment fee in the amount of \$30 to cover the Assessor's Office cost in making the fair market value determination required for the Parkland In-Lieu Fee. This fee may be paid to the Planning and Building Department, 3015 H Street, Eureka, CA . The fund shall be deposited in Assessor's Revenue Account No. 1100-602-060 (Assessor's Fees).
16. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$2,520.00) as required by the County Assessor's Office shall be paid to the County Planning & Building Department, 3015 H Street, Eureka, CA. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's costs in updating the parcel boundaries.
17. The applicant shall reimburse the Planning Division for any processing costs that exceed the application deposit. ~~The excess processing costs accrued and projected to date (May 30, 1996) are \$5,500.00.~~
18. The applicant shall submit three (3) copies of a fencing plan prepared by a licensed civil engineer for the improvements to be made to the Hammond Trail corridor. The report will specifically address design and mitigation features necessary to install the fencing without causing adverse environmental impacts to the coastal bluff.
19. All construction plans shall bear the following note: "The work to be performed under these plans shall be subject to the required mitigation measures detailed on the project Development Plan and Mitigation Monitoring Plan on file with the Humboldt County Department of Planning & Building."
20. The applicants shall secure from the Airport Land Use Commission a resolution stating that the requested increased land use density to 2.4 dwellings per acre is compatible with the Eureka-Arcata Airport. (Note: This condition was satisfied on August 20, 1996 by the 3-2 affirming vote of the ALUC.)
21. The final map shall show an easement over the westerly portion of the project site (APN 511-011-14) in favor of the County of Humboldt for protection of vegetation.
22. The subdivision is subject to the required environmental impact mitigation measures adopted by the Board of Supervisors.

SECTION II: DENSITY BONUS JUSTIFICATIONS

THE GRANTING OF THE 20% DENSITY BONUS TO ALLOW FOR 2.4 DWELLING UNITS PER ACRE IS CONTINGENT UPON THE FOLLOWING OFFERS OF DEDICATION AND SITE IMPROVEMENTS LISTED BELOW:

1. An offer of fee-simple ownership to a public agency or suitable private not-for-profit entity of the approximately 67.27 acre parcel known as Assessors Parcel Number (APN) 511-011-05, located in Section 25, Township 7 North, Range 1East, Humboldt Base & Meridian.
2. An offer of dedication of an easement to the McKinleyville Community Services District for the creation of an Open Space Management Zone of the approximate 5,000 square foot "resting park" along the southwestern side of APN 511-011-14, and associated site improvements (split rail fencing, benches, sodded turf, etc.) as detailed within the project description.

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- 3. The removal of two westerly existing combined electrical power / telephone / cable television poles along the Murray Road frontage of the project site and their replacement with undergrounded equivalents.
- 4. The offer of dedication of an easement for public access from the end of Wilber Street along the east side of APN 511-011-14 northward to the revised Hammond Trail alignment on APN 511-011-12. (Note: Applicants have stated their agreement to include neighboring owners/residents of the adjacent Pacific Sunset subdivision in the review of the final design of this access facility.)
- 5. A self-imposed 23-foot height limit (from average grade to roof peak) on Lots A-1 through A-4, A-7 through A-10, B-7, and C-1 through C-24.
- 6. An offer to install a fence located adjacent to the improved portion of the Hammond Trail.

SECTION III: INFORMATIONAL NOTES

Informational Notes:

- 1. To reduce costs the applicant is encouraged to bring in written evidence* of compliance with all of the items listed as conditions of approval in this Exhibit that are administered by the Planning Division (Namely: Conditions 2, 4-19) for review as a package as early as possible before the desired date for final map checking and recordation. Post application assistance by the Planner on Duty, or by the Assigned Planner, with prior appointment will be subject to a Special Services Fee for planning services billed at the County's current burdened hourly rate. There is a \$60 charge for the first post project approval meeting. Please contact the Planning Division at (707) 445-7541 for copies of all required forms and written instructions.

* Each item evidencing compliance should note in the upper right hand corner:

Assessor's Parcel No. _____, Exhibit "A", Condition _____
(Specify) (Specify)

- 2. Before any grading work may be initiated, the applicant must obtain all necessary permits under the National Pollution Discharge Elimination System (NPDES) for mitigation of stormwater runoff. Contact the North Coast Regional Water Quality Control Board for appropriate application forms and details.

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EXHIBIT "A-2"

APPROVAL OF THE COASTAL DEVELOPMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS:

1. All recommendations set forth in the "R-1" geotechnical and geologic evaluation (SHN, 1994) shall be implemented as a condition to the issuance of permits or other grants of approval for the development or improvement of the site(s).
2. All exterior lighting shall be shielded such that it is not directed off of the parcel.
3. Connection to McKinleyville Community Services District water and sewer service shall be required before the building permit is finalized.
4. All development pursued under the coastal development and conditional use permits is subject to the environmental impact mitigation measures adopted by the Board of Supervisors.

Informational Notes:

1. The Coastal Development Permit (CDP) for development of a single family dwelling on each of Lots 1 through 63, inclusive, of this subdivision shall be valid for 24 60 months following the recordation of the final map for that each phase. Construction of a single dwelling on any one lot within a given map phase shall vest the CDP for all dwellings under that phase. If construction of a residence in reliance upon the permit has not commenced within this period, the CDP for that ~~lot~~ phase shall expire and become null and void; provided, however, that the period within which such construction or use must be commenced may be extended as provided by H.C.C. Section A315-24.
2. The applicant shall be responsible for all staff costs involved in carrying out responsibilities for mitigation monitoring set forth in Exhibit "E", "Mitigation Monitoring and Reporting Program." These costs shall be charged using the most current County burdened hourly rate. A deposit may be collected to cover anticipated costs, if required by the Planning Director.
3. This permit does not authorize the development of second dwelling units on any lot in the subdivision.

* These Exhibits reflect changes made to the conditions of project approval made by the Board of Supervisors on September 3, 1996. Added text is underlined, deleted text is shown in ~~strikethrough~~.

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RESOLUTION NO. 96-76

ATTACHMENT C

STATEMENT OF MITIGATION MEASURES AND MONITORING PROGRAMS

SAND POINTE DEVELOPMENT PROJECT

SCH No. 95033058

The following mitigation measures are adopted by the County of Humboldt (County) as conditions of approval for this project, together with the monitoring programs specified. These measures were identified, or are based on measures identified, in the Final Environmental Impact Report for the project, and are within the jurisdiction of Humboldt County for implementation.

The measures identified in this statement reflect the interests of the County in ensuring a project which meets the legal obligations of the County. Other mitigation measures may legitimately be required for this project by other responsible agencies with regulatory or trustee authority for the proposed project; any such measures are not within the jurisdiction of the County for implementation, but such measures can be, and should be, implemented by the responsible agencies.

The proposed project incorporates a number of voluntarily included features which have the effect of reducing potential environmental effects. These voluntary features are described fully in the Final EIR, and are specifically identified here as functioning in the manner of mitigation measures, by allowing the project to avoid or reduce significant environmental effects. Should any of those voluntarily included features not be reflected in the Final Map for the project, then the County shall, prior to approving the recordation of the Final Map, incorporate alternative or additional measures (and monitoring programs) which have the same degree of effectiveness in reducing environmental effects as do the voluntarily proposed project components described in the Final EIR.

I. PHYSICAL ENVIRONMENT

A. Geology, Seismicity, and Tsunami

1. Mitigation Measures

- a. The consulting geologists' recommendations for foundation design and grading in preparation for project roadways, buildings, and other components shall be implemented as part of any grading and building permits issued by the County for this project.
- b. The major utility systems to be placed under the jurisdiction of the McKinleyville Community Services District (water and sewer) shall be designed so that the pipelines which cross the fault are capable of being

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isolated following rupture by fault movement. (This measure was modified in the Final EIR, in response to a comment, to include the natural gas pipelines in the project site.)

2. Monitoring Program

- a. The County Department of Planning and Building Services shall monitor construction documents and subsequent building and grading permit applications to verify that the requirements of the mitigation measures are incorporated into project construction plans; the requirements of the mitigation measures also shall be incorporated into all subsequent building and grading permits.

B. **Soils, Stability, and Erosion**

1. Mitigation Measures

- a. No grading shall occur in the "high" or "moderate" bluff slope failure hazard areas.
- b. The roots of the vegetation growing in the "high" and "moderate" bluff slope failure hazard areas shall be protected from disturbance. Vegetation removal on the bluff face shall not occur as part of this project, for any reason.
- c. Runoff on the project site shall not be concentrated in a manner which would cause it to be directed onto the "high" or "moderate" bluff slope failure hazard areas. Runoff which might be concentrated to flow over the bluff edge and down the bluff face shall not occur.

2. Monitoring Program

- a. The requirements of the mitigation measures shall be incorporated as deed restrictions into the title documents for all parcels along the western margin of the project site; the County Planning Division shall verify the presence of the restrictions in the title documents prior to recordation of the Final Map for the project.
- b. The County Department of Planning and Building Services shall monitor construction documents and subsequent building and grading permit applications to verify that the requirements of the mitigation measures are incorporated into project construction plans; the requirements of the

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mitigation measures also shall be incorporated into all subsequent building and grading permits.

- c. County building inspectors shall inspect the project construction phases as necessary to verify that the requirements of the mitigation measures are enacted when the project's construction phase is carried out.

C. Air Quality (PM10)

1. Mitigation Measures

- a. Water shall be applied to disturbed land surfaces during construction, at a frequency high enough to maintain soil cohesion and to reduce blowing dust to the extent practicable.
- b. Construction waste or debris, or vegetation waste, shall not be burned except on "permissive burn days" designated by the North Coast Unified Air Quality Management District.
- c. Wood-burning appliances (such as stoves) installed on this site shall meet EPA and/or State of California requirements for particulate emissions. (This measure was modified in the Final EIR to incorporate a definition of "wood-burning appliances," as defined in the comment letter from the North Coast Unified Air Quality Management District in the Final EIR.)

2. Monitoring Program

- a. The applicant's construction manager shall include the first and second mitigation measures into the contract with the construction contractor. The construction manager shall verify contractor compliance with these measures.
- b. The third mitigation measure shall be included in the CC&Rs for each parcel created by the project; this inclusion shall be verified before recordation of the Final Map.
- c. The County Building Division shall verify that all three mitigation measures are reflected in any building or grading permits issued for the project.

D. Hydrology, Drainage, and Water Quality

1. Mitigation Measures

- a. The applicant shall provide for approval by the County Planning Department and the Department of Fish & Game a construction-period sediment control plan, identifying the specific Best Management Practices to be implemented to avoid sedimentation-related impacts. The plan shall be revised no less frequently than once per year, and may be revised sooner if changes in circumstances indicate a need for alternative BMPs.
- b. The applicant shall submit erosion and sediment control monitoring reports, no less frequently than once per quarter during the active construction season, to the County Planning Department and the (California) Department of Fish & Game. These reports shall identify any failures to control erosion and sedimentation which occurred during the previous quarter, shall identify remedial actions taken, and shall indicate steps which are being included in the project construction process to avoid future failures. The construction process may be halted by the County if satisfactory reports are not provided, or if suitable measures are not implemented.
- c. Onsite detention swales shall be included in the project design, in order to reduce the percentage of incident rainfall running off the site, increase infiltration, trap sediments mobilized during site occupancy, and provide for biological treatment of biological and some chemical wastes resulting from project site occupancy.
- d. An energy-dissipation device shall be constructed at the end of the existing Murray Road storm drain. The device's design shall be approved by the County Public Works Department.
- e. Segments of the existing storm drain system in Murray Road near the project site shall be augmented or replaced with larger components. Specific design elements shall be approved by the County Public Works Department.

Monitoring Program

- a. The Building Division shall not issue any grading or building permits for the project until an acceptable sediment control plan is submitted for the project; initially, the state-required Storm Water Pollution Prevention Plan may be accepted. The Building Division shall verify that the submitted plan is

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acceptable to the Planning Division. If the submitted plan is not acceptable, no permits shall be issued. If necessary updates and revisions are not provided, the Building Division may suspend any issued permits and shall not issue additional permits until a satisfactorily updated plan is submitted.

- b. The satisfactory completion of the quarterly monitoring reports shall be verified by Planning Division personnel, who shall request that the Building Department issue a notice to suspend construction activities on the project site if adequate reports are not submitted. In addition, the Building Division shall refrain from issuing any new permits until quarterly reports satisfactory to the Planning Division are provided.
- c. The design for a system of onsite detention swales shall be submitted to the Planning Division, which shall verify its inclusion into the project design and construction documents. The Planning Division shall verify the inclusion of the third mitigation measure into the project design prior to recordation of the Final Map. The Building Division shall issue no grading or building permit which does not specifically include the onsite detention swale system, pursuant to the approved design.
- d. The Public Works Department shall approve the specific design for the storm drain facilities constructed with the project, including the design for the Murray Road drainage facilities and the energy dissipation device to be constructed at the Murray Road storm drain outfall.
- e. Construction of the Murray Road facilities shall be verified as complying with the mitigation measures by inspection by Public Works Department personnel, prior to acceptance by the County. No Final Map shall be recorded prior to the acceptance of these facilities by the County.

II. BIOLOGICAL ENVIRONMENT

A. Plants, Animals, Biological Associations, and Biodiversity

Mitigation Measure

- a. Cats owned by residents in and visitors to the Sand Pointe project site shall not be permitted to roam freely outside of their owners' yards under any circumstances. In addition, owners and visitors shall not provide food for free-roaming domesticated or feral cats.

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2. Monitoring Program

- a. This mitigation measure shall be incorporated as a restriction into the deed for any parcel created by the project, and it shall also be incorporated into the CC&Rs for each parcel created, and the Planning Division shall verify its inclusion prior to recordation of the Final Map.
- b. The Compliance Division of the Planning and Building Department shall promptly notify both the Planning Division and the Building Division upon receiving any valid complaints that the mitigation measure is not being met. The Planning and Building Department shall act promptly to suspend any active grading or building permits, and shall refrain from issuing new permits, until compliance with the mitigation measure is achieved.

B. Aquatic Resources, Wetlands, and Water Quality

1. Mitigation Measures

- a. The applicant shall provide for approval by the County Planning Department and the Department of Fish & Game a construction-period sediment control plan, identifying the specific Best Management Practices to be implemented to avoid sedimentation-related impacts. The plan shall be revised no less frequently than once per year, and may be revised sooner if changes in circumstances indicate a need for alternative BMPs. (This is the same mitigation measure as measure 3.4.4.1.)
- b. The applicant shall submit erosion and sediment control monitoring reports, no less frequently than once per quarter during the active construction season, to the County Planning Department and the Department of Fish & Game. These reports shall identify any failures to control erosion and sedimentation which occurred during the previous quarter, shall identify remedial actions taken, and shall indicate steps which are being included in the project construction process to avoid future failures. The construction process may be halted by the County if satisfactory reports are not provided, or if suitable measures are not implemented. (This is the same mitigation measure as measure 3.4.4.2.)
- c. Onsite detention swales shall be included in the project design, in order to reduce the percentage of incident rainfall running off the site, (to) increase infiltration, (to) trap sediments mobilized during site occupancy, and (to) provide for biological treatment of biological and some chemical wastes

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resulting from project site occupancy. (This is the same mitigation measure as measure 3.4.4.3.)

2. Monitoring Program

- a. The Building Division shall not issue any grading or building permits for the project until an acceptable sediment control plan is submitted for the project; initially, the state-required Storm Water Pollution Prevention Plan may be accepted. The Building Division shall verify that the submitted plan is acceptable to the Planning Division. If the submitted plan is not acceptable, no permits shall be issued. If necessary updates and revisions are not provided, the Building Division may suspend any issued permits and shall not issue additional permits until a satisfactorily updated plan is submitted.
- b. The satisfactory completion of the quarterly monitoring reports shall be verified by Planning Division personnel, who shall request that the Building Department issue a notice to suspend construction activities on the project site if adequate reports are not submitted. In addition, the Building Division shall refrain from issuing any new permits until quarterly reports satisfactory to the Planning Division are provided.
- c. The design for a system of onsite detention swales shall be submitted to the Planning Division, which shall verify its inclusion into the project design and construction documents. The Planning Division shall verify the inclusion of the third mitigation measure into the project design prior to recordation of the Final Map. The Building Division shall issue no grading or building permit which does not specifically include the onsite detention swale system, pursuant to the approved design.

III. HUMAN ENVIRONMENT

A. Utilities and Public Services

I. Mitigation Measures

- a. An energy-dissipation device shall be constructed at the end of the existing Murray Road storm drain. The device's design shall be approved by the County Public Works Department. (This is the same mitigation measure as measure 3.4.4.4.)

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Statement of Mitigation Measures and Monitoring Programs
Sand Pointe Development Project
Page 8

- b. Segments of the existing storm drain system in Murray Road near the project site shall be augmented or replaced with larger components. Specific design elements shall be approved by the County Public Works Department. (This is the same mitigation measure as measure 3.4.4.5.)
- c. The project owners/developers shall provide access cards, access codes, or appropriate devices necessary to provide access to each emergency service (fire, sheriff, and ambulance) serving the project site; the access codes or devices shall be kept current, and if the means of gaining ingress should change, the revised codes or devices shall be provided to emergency service providers.

2. Monitoring Program

- a. The Public Works Department shall approve the specific design for the storm drain facilities constructed with the project, including the design for the Murray Road facilities and the energy dissipation device to be constructed at the Murray Road storm drain outfall.
- b. Construction of the Murray Road facilities shall be verified as complying with the mitigation measures by inspection by Public Works Department personnel, prior to acceptance by the County. No Final Map shall be recorded prior to the acceptance of these facilities by the County.
- c. The County Planning Division shall verify the inclusion of the third measure as a CC&R prior to recordation of the Final Map for the project. In addition, the Planning Division shall verify the construction of the access provisions called for by this measure prior to the acceptance of the County-required improvements. The Planning and Building Department shall verify the provision of updated access codes or devices for emergency service providers throughout the life of the project, and shall withhold building permits for individual parcels until updated codes or devices are provided.

B. Transportation and Circulation

1. Mitigation Measures

- a. The applicant shall construct a parking lot, associated with the proposed "resting park" near the Murray Road entrance to the Hammond Trail, to be located in line with the right-of-way of Kelly Avenue; the design for the

parking area shall be approved by the County Public Works Department (Added in response to a comment from the Department of Public Works.)

- b. The Wilbur Street right-of-way shall be posted with "no parking" signs, and may (subject to the approval of the County Public Works Department) be reduced in width consistent with allowing only emergency vehicle access to the Sand Pointe project site and pedestrian/equestrian access to the Wilbur Street trailhead of the Hammond Trail (Added in response to a public comment in the Final EIR.)

2. Monitoring Program

- a. The Planning Division shall verify the inclusion of the Murray Road parking lot in the approved design prior to the recordation of the Final Map. The parking lot design shall be approved by the Department of Public Works, and the constructed lot shall be inspected by Department of Public Works staff prior to acceptance of project improvements by the County.
- b. The sign posting in the second measure shall be completed prior to the acceptance of project improvements by the County. The design to carry out the right-of-way reduction (if this is approved by decision-makers) shall be approved by the Department of Public Works, and any construction needed to carry out the width reduction shall be inspected by Department of Public Works staff prior to acceptance of the Sand Pointe improvements by the County.

C. Recreation and Coastal Access

1. Mitigation Measures

- a. The applicant shall construct a parking lot, associated with the proposed "resting park" near the Murray Road entrance to the Hammond Trail, to be located in line with the right-of-way of Kelly Avenue; the design for the parking area shall be approved by the County Public Works Department (added in response to a comment from the Department of Public Works).
- b. The Wilbur Street right-of-way shall be posted with "no parking" signs, and may (subject to the approval of the County Public Works Department) be reduced in width consistent with allowing only emergency vehicle access to the Sand Pointe project site and pedestrian/equestrian access to the Wilbur

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Street trailhead of the Hammond Trail (added in response to a public comment in the Final EIR).

2. Monitoring Program

- a. The Planning Division shall verify the inclusion of the Murray Road parking lot in the approved design prior to the recordation of the Final Map. The parking lot design shall be approved by the Department of Public Works, and the constructed lot shall be inspected by Department of Public Works staff prior to acceptance of project improvements by the County.
- b. The sign posting in the second measure shall be completed prior to the acceptance of project improvements by the County. The design to carry out the right-of-way reduction (if this is approved by decision-makers) shall be approved by the Department of Public Works, and any construction needed to carry out the width reduction shall be inspected by Department of Public Works staff prior to acceptance of the Sand Pointe improvements by the County.

D. Construction Noise

1. Mitigation Measures

- a. Limit the period during which construction equipment may be operated to daytime hours (7:00 AM to 5:00 PM), weekdays.
- b. Construction personnel shall conduct their work activities in a manner which minimizes noise generation.
- c. Notify neighbors adjacent to the parts of the project site subject to heavy equipment use prior to initiating such use.

2. Monitoring Program

- a. The owner's construction supervisor shall verify compliance with these measures during the construction process. If the Building Division receives evidence that the measures are not being complied with, the Division shall suspend issued permits until contractor compliance with the measures is verified.

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CONCERNED CITIZENS of MCKINLEYVILLE

• 3767 Erlewine Circle, Sacramento, CA 95819-1518 • phone (916) 451.4742 • fax (916) 452.4370 • email REMREF2@worldnet.att.net •

Friday, July 23, 1999

JUL 27 1999

Commissioner David Potter
California Coastal Commission
1200 Aguajito Road, Suite 001
Monterey, CA 93940

RE: Clarification of Special Conditions - Sand Pointe A-1-HUM-96-70

Commissioner Potter:

I am one of the members of the Concerned Citizens of McKinleyville. We made a presentation to the Coastal Commission July 8, 1998 in San Francisco as the appellants to the Sand Pointe development proposed for Humboldt County. On that date, the Commission approved the project 10-1 with conditions. When the draft version of the "Notice of Intent to Issue Permit" came out last August, we contacted you with our concerns regarding the Special Conditions contained therein. We felt then, as we do now, that those conditions as interpreted by staff, do not fully represent your motion or the vote of the Commissioners at that hearing.

We have listened again to the tapes (we also had an unofficial transcript made by a retired court recorder) plus we have read and reread the staff report. We still feel quite certain that even the "Corrected Revised Notice of Intent to Issue Permit" (enclosed, dated Jan. 7, 1999) does not represent the sentiment of the Commissioners present last July (Wan, Potter, Flemming, Tuttle, Allen, Detloff, Nava, Kehoe, Rose, Staffel, Armanasco).

I have contacted Bob Merrill and provided him with a copy of our specific concerns, which are listed below. He and I spoke several weeks ago, with the understanding that he would get back to me with answers to our questions. Apparently he has been very busy and has not been able to return my calls. There is some urgency to this matter as the developer is preparing to proceed with a modified project at the Humboldt County planning level based upon those Special Conditions. He is hoping for a possible Planning Commission hearing in September. I understand from Bob Merrill that the Commissioners do not normally review the Notices of Intent, but if they are not accurate, or need to be revised or amended, then what is the proper procedure? Should the next step be initiated by us -- by you, the maker of the motion -- by staff -- or by the Commissioners at the August meeting?

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| EXHIBIT NO. | 13 |
| APPLICATION NO. | A-1-HUM-96-70 |
| MOSER | |
| CORRESPONDENCE | (page 1 of 3) |

As the maker of the motion, you are our first contact after staff with our concerns and questions. Briefly, the issues that may not be accurately or thoroughly represented in the conditions as stated on the audiotape of the hearing or contained in the staff report are:

- **Perimeter fencing** When the staff recommendation was made to remove the parking lot for those accessing the Hammond Trail from the northeast corner of the Sand Pointe property, was it also the intent of the Commissioners to allow fencing and eliminate all foot access to the trail from that end of the subdivision? Upon review of the audio tapes, ALL FENCES EXCEPT the 3-ft. boundary fencing delineating the 100-ft. blufftop setback (plus the 3-ft. vegetative barrier along the Hammond Trail) were to be eliminated. As written, the Special Conditions do not prohibit perimeter fencing; therefore, there will be no trail access from within the subdivision.
- **Wilbur Avenue becoming the de-facto parking lot for Hammond Trail access** With the removal of the northeastern parking contained within Sand Pointe and the possible addition of a perimeter fence, all parking for that access will now be on Wilbur Avenue. Did the Commissioners intend for the adjacent Pacific Sunset subdivision to mitigate the parking for Sand Pointe?
- **No parking allowed on publicly accessed Sand Pointe Drive running parallel to the ocean** If the streets remain in private ownership and are merely 20' wide with a 4' shoulder, can they be posted with NO PARKING signs because the streets would be too narrow to accommodate parked cars safely? Is this "public access" as the Commissioners intended?
- **Location of, and improvements to, the Hammond Trail extension north of Wilbur Avenue** Was it the intent of the Commissioners to have the extended trail area improved rather than left in its current native condition, which we understand the developer may be proposing?
Was there any determination as to exactly where the east-west extension of the trail must be located? The maps presented at the July '98 hearing showed it to be immediately adjacent to the north property line. Is there a concern if it goes farther to the north, proceeding through a grove of trees parallel to Widow White Creek on property owned by someone else and within a fragile riparian area?
- **Drainage swales, open ditches, a shortened length of storm drain within the subdivision and no improvements to the drainage at Murray Road** Even if the project is less dense than originally proposed, are these issues adequately addressed to your satisfaction?

- **Three ft. fencing of "open style construction" to be erected along the blufftop setback line** Will a fence constructed of 3-ft. metal poles with 1-inch rope draped between them be a durable structure into the future and accomplish the purpose as voted upon? The conditions are silent on materials.
- **Lot size requirements** The "P" designation previously approved by the Commission requires (according to Humboldt County Code) that "Planned Unit Developments shall be permitted on lots of 20,000 sq. ft. or larger". You stated that you did not care how many lots were out there, but the number was merely not to exceed 37 -- and presumably not violate Humboldt County Code. The Commission very clearly decided the subdivision was to be similar to the surrounding development in lot sizes, which is 20,000+ sq. ft. When you calculated the average lot size would be approximately 2/3 of an acre, they agreed and added that there should be NO MORE than 2 lots/acre (20,000 sq. ft), "to be in line with community character". Accordingly, there should be no lots permitted of less than 1/2 acre. The Special Conditions do not state such.
- **Elements contained in the original proposal** Can the developer remove the 3 parks from the original project design as approved or must these elements remain in a subdivision map modification? Is this addressed in the Standard Conditions?

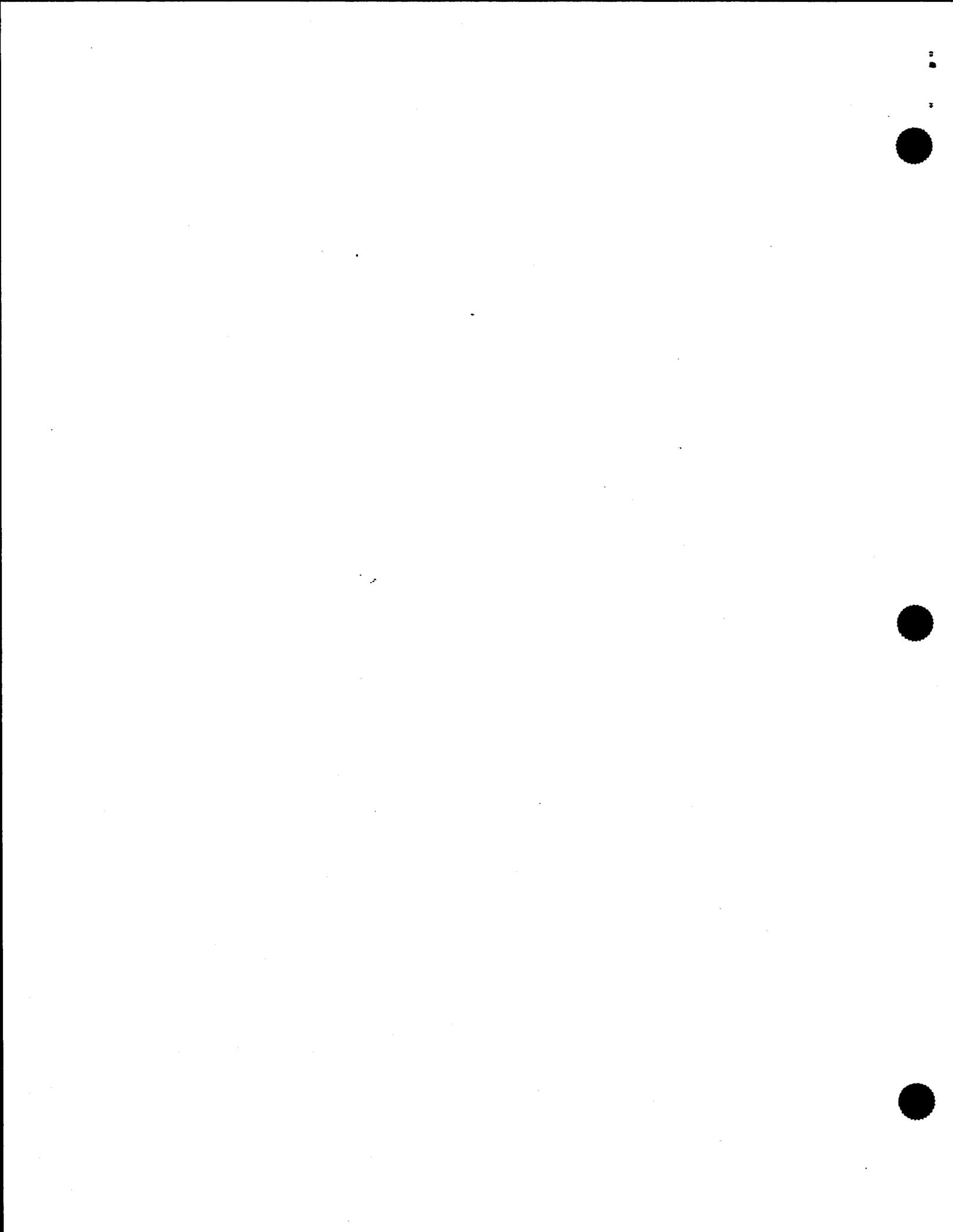
I would be very pleased to discuss these with you at your convenience. I can be reached at (916) 451.4742 and by fax at (916) 452.4370. Thank you for any assistance you can give!



Selby J. Fermer
Concerned Citizens of McKinleyville

cc: Robert Merrill
North Coast Director
California Coastal Commission

attachment



NUMERICAL LEGEND

to accompany map for presentation

by

Selby Fermer

Received at Commission
Meeting

DEC 10 1999

From: *Selby Fermer*

(1) (2) (3)

Parkland contained within the original Sand Pointe subdivision proposal as presented to Coastal Commission 7/8/98

(4) (5) (6) (7) (8)

Parking Pods for visitor vehicles contained within the original Sand Pointe subdivision proposal as presented to Coastal Commission 7/8/98

(9)

Location of the staff-recommended parking lot prior to elimination due to proportionality 7/8/98 – originally designated as RV parking and storage area

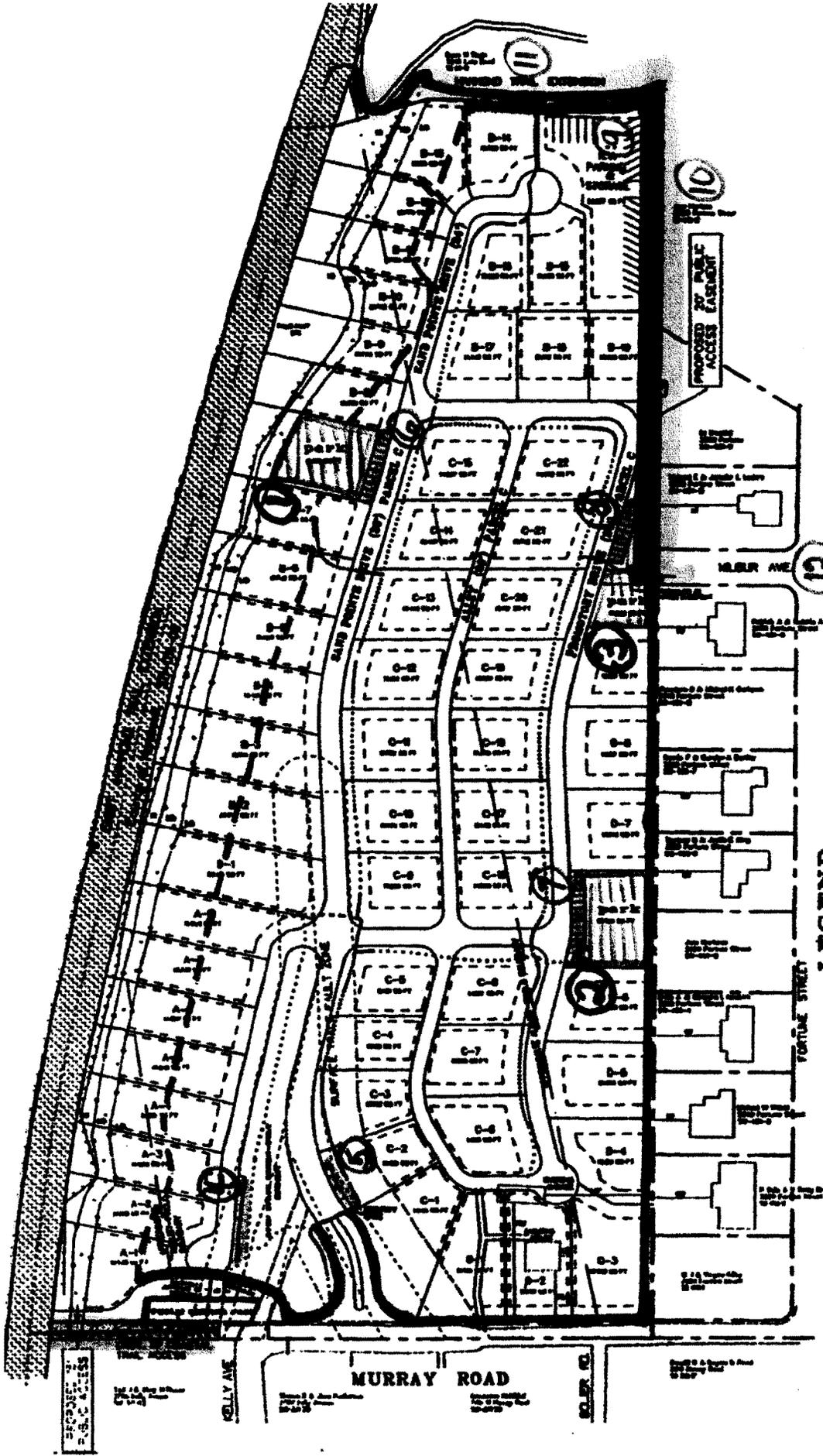
(10) (11)

Hammond Trail extension and additional public access required by Special Conditions #s 3 and 8b, respectively

(12)

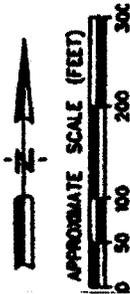
Wilbur Avenue, dead-end street within adjoining Pacific Sunset subdivision – as currently conditioned, becomes the defacto parking lot for only access to the northern terminus of the Hammond Trail and extension

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| EXHIBIT NO. 19 |
| APPLICATION NO. A-1-HUM-96-70 |
| MOSER |
| CORRESPONDENCE (page 1 of 2) |



PUBLIC ACCESS

SAND POINTE



LEGEND

-  Existing Hammond Trail
-  Additional Trail Access
(Special Conditions # 1b, 3, 8b)
-  Parkland w/in Sand Points
(Original project elements)
-  Parking Pods w/in Sand Points
(Original project elements)
-  Resting Park on Murray Road
(Special Condition # 1a)
-  Perimeter Fencing - approximate location
(Pedestrian, equestrian, and vehicle access AT ENTRANCE ONLY)
-  3 ft. fence delineating the 100 ft. blufftop building-setback line and open space easement
(Special Conditions # 6, e, f) - approximate location

PROPOSED FOR PUBLIC ACCESS EASEMENT

PUBLIC ACCESS

KELLY AVE

MURRAY ROAD

SEWER

FORT RAE STREET



HUMBOLDT COASTAL COALITION

P.O. Box 714
Eureka, CA 95502

RECEIVED
DEC 06 1999

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

December 6, 1999

Re: Sand Pointe Subdivision, Permit # A-1-HUM-96-070

Chairman Wan and Members of the Coastal Commission:

The Humboldt Coastal Coalition commends the Commission for greatly improving this subdivision plan from the original proposal, especially for reducing the density, eliminating the locked gate, requiring a greater setback and lessening the subdivision's potential for negative impacts on the adjacent Hammond Coastal Trail.

We are eagerly awaiting the completion of the Hammond Trail as far as Clam Beach, and would like to be certain that the trail segment adjoining this subdivision gets built before lots get sold in the subdivision, because coastal trails have priority over private developments in the Coastal Act.

We are curious about why the developer proposes to relocate the Hammond Trail into the nearby woods instead of immediately beside the northern edge of the subdivision. We assume that the developer plans to build a six-foot perimeter fence between the northern edge of the subdivision and the trail, thereby blocking any access from the northern end of the subdivision to the trail. We would prefer to see more convenient access for those who want to walk to the north. Was it your intent to permit this reduced access?

We agree with the developer that the existing low-growing native vegetation along the immediate east side of the Hammond Trail is more natural and desirable than uprooting the native vegetation to plant a barrier of cultivated plants. We would suggest that the developer donate some fraction of what that landscaping would have cost to either the California Native Plant Society's local chapter or to the Friends of the Dunes to finance the planting of a few native plants on existing trail scars where young people have tried to scale the bank to regain lost public access to the upper level. A planting project using

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(707) 839-53.
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EXHIBIT NO. 20

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

MOSER

CORRESPONDENCE
(page 1 of 2)

schoolchildren would help teach young people to cherish the bank vegetation and stop trying to scale the cliff. In any case, the motivation to see what's on top will be gone once the subdivision has been built. Hammond Trail users have so far been very respectful of nearby private property and are unlikely to try to trespass into developed areas.

We would appreciate a clarification of an apparent inconsistency between special condition #5, which requires the dedication of a 100-foot-wide area from the top of the bluff edge east, to a public agency, as an open-space easement, and the reply letter to Mr. Moser by Coastal Planner Jo Ginsberg (erroneously dated Jan. 7, 1998, should have been 1999), saying it was the Commission's intent that all building envelopes must be located at least 100 feet back from the bluff edge. Does this mean that there is to be no setback at all between the house and the open space easement? Was that the Commission's intent? Most lots have at least a few feet of setback between the building envelope and the edge of the lot. Is there to be no public access to this 100-foot setback area? Is the landscaping there to be native? We notice that the developer has removed the former parks and parking spaces within the subdivision. Does that conform to your intent?

We wish to correct one fact error we noticed: the minimum lot size of the subdivision immediately south of Sand Pointe is one acre, not one-half acre.

Thank you for this opportunity to comment on the revised Sand Pointe subdivision plan.

Sincerely,

Barbara Kelly

Barbara Kelly,

Corresponding Secretary

for the Humboldt Coastal Coalition.

RECEIVED

DEC 06 1999

CALIFORNIA
COASTAL COMMISSION

Redwood Chapter
Sierra Club

December 6, 1999

California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, CA 95104-2219

Re: Appeal No. A-1-HUM-96-70
Revised Findings
Steve Moser/Sand Pointe

Members of the Commission,

In response to the Revised Findings for the Steve Moser/Sand Pointe project, the Sierra Club has some remaining concerns.

On page 9 (c) Fencing/Barriers

In regard to planting a vegetative barrier (rather than fencing along the east side of the Hammond Trail), we are suggesting a word change from "natural" vegetation to NATIVE low growing vegetation.

We are quite familiar with the bank conditions along the trail and feel it is imperative to have NATIVE vegetation that can help stabilize the still eroding slopes. There is already a severe problem throughout Humboldt County with invasive plant species.

In regard to fencing along the 100 foot blufftop setback line (prior to recordation of the final map), it needs to be clarified about the height of the fence. We believe the intent of the vote on special conditions (7-8-98) was that any fence constructed SHALL BE NO MORE than three feet high..... rather than "at least".

We have reviewed the tapes of that meeting and find some uncertainties.

We respectfully request your consideration of our views, especially clarifying the height of the fence referred to earlier.

Thank you.



Lucille Vinyard, for the Redwood Chapter, Sierra Club
Home address: 68 Metsko Lane, Trinidad, CA 95570

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| APPLICATION NO. | A-1-HUM-96-70 |
| MOSER | |
| CORRESPONDENCE | (page 1 of 1) |



Patricia G. Hassen
2975 Fortune Street
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(707) 839-8241 (707) 839-5188 Fax #

December 7, 1999

California Coastal Commission
North Coast District Office
710 E Street Suite 200
Eureka, CA 95501

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| EXHIBIT NO. | 22 |
| APPLICATION NO. | A-1-HUM-96-70 |
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| CORRESPONDENCE | (page 1 of 2) |

REVISED FINDINGS

PERMIT NUMBER: A-1-HUM-96-070
APPLICANT(S:) Mr. Steve Moser

PROJECT DESCRIPTION:

To divide a 26.5 acre, bluff top property into 37 lots at a subdivision called "Sand Point".

Members of the Commission,

My name is Patricia Hassen I am here today representing the Concerned Citizens.

Barbara Kelly, representing the Humboldt Coastal Coalition and Lucille Vinyard, representing the Redwood Chapter of the Sierra Club were unable to attend this meeting. Their letters were forwarded to this Commission earlier this week.

First, I would like to COMMEND the Staff and the Commissioners on the excellent way in which they handled the Sand Pointe project. Along with the 3 1/2 hour meeting in San Francisco on July 8, 1998 in which you as Commissioners made some remarkable decision in order to complete this project.

We understand that you the voting Commissioners on this project were furnished copies of the tapes and the unofficial transcribed written report of the July Meeting. I hope you were able to review the tapes and/or read the written transcription. That we the appellants had transcribed by a retired legal secretary.

After reviewing the tapes, transcription, staff reports, Notice of Intent to issue Permit (8/24/98) and Corrected Notice of Intent to issue Permit (1/7/99), We feel there maybe a difference of Interruption of what the Commissioners relayed from their decision on the staff report and the changes that were made during the San Francisco Meeting when you made the 3 motions on this project.

Clarification is needed on gates and fencing, the 3 parks, completion of the Hammond Trail, both located inside the Sand Pointe Subdivision and the 3 ft. fencing located along the 100 ft. setback.

IN DISCUSSION and STAFF REPORT:

1. No locked gates or fences: Is this one entity? Gates gone, then are fences gone?
2. Revised Tentative Subdivision Map: Considering the 100 ft. setback and 50 ft. on each side of the fault line is this still 26.5 acre subdivision for purposes of reconfigured of the 37 lots.
3. The Hammond Trail: Is this to be completed on County owned land in front of the trees and the north end of the subdivision. Thus making sure of public access through Sand Pointe. From South (Murray Rd.) to North (end of Sand Pointe Subdivision).
4. Fencing and 100 ft. Set back: Can the structure be built right up to the 3 ft. fencing at the 100 ft. Set back.

These 4 items are only some of our remaining concerns on this project. We wish to thank the Commission and staff for listening to our concerns and hope you will be able to clarify these issue for us.

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STATE OF CALIFORNIA
COASTAL COMMISSION

ORIGINAL

| | | |
|-----------------------------|---|----------------------|
| STEVE MOSER, |) | |
| |) | |
| SAND POINTE SUBDIVISION, |) | Appeal No. A-1-96-70 |
| |) | De Novo Hearing |
| COMMUNITY OF MC KINLEYVILLE |) | |
| |) | |
| COUNTY OF HUMBOLDT |) | |

REPORTER'S TRANSCRIPT OF PROCEEDINGS

[Fragmented portion]

Wednesday
July 8, 1998

Agenda
Item No. 14.a.

Hyatt Regency Hotel
No. 5 Embarcadero Center
San Francisco, California

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| EXHIBIT NO. 23 |
| APPLICATION NO. A-1-HUM-96-70 |
| MOSER |
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A P P E A R A N C E S

COMMISSIONERS

Sara Wan, Vice Chair
Penny Allen
David Armanasco
Shirley Dettloff
Nancy Flemming
Christine Kehoe
Pedro Nava
Dave Potter
Annette Rose, Alternate
Timothy J. Staffel
Andrea Tuttle

Bill Brennan, Transportation & Housing Agency
Jim Branham, Resources Agency

STAFF:

Peter M. Douglas, Executive Director
Ralph Faust, Chief Counsel
Matthew Rodriguez, Deputy Attorney General
Steve Scholl, District Director
Robert Merrill, Coastal Staff Analyst

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STAFF

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1 California Coastal Commission

2 July 8, 1998

3 Sand Pointe (Steve Moser) Appeal No. A-1-96-70

4 * * * * *

5 [Portion covering Commissioner remarks following
6 the public hearing]

7 VICE CHAIR WAN: ...we are onto deliberations
8 here, okay, comments from Commissioners.

9 Commissioner Dettloff.

10 CHIEF COUNSEL FAUST: Madam Chair, excuse me --
11 your counsel.

12 Before Commissioner Dettloff begins, let me just
13 report that the Commission had a closed session just before
14 lunch, and in that closed session they discussed the matter
15 of potential litigation against the Department of Energy, but
16 took no action.

17 Madam Chair, that concludes my report on the
18 closed session.

19 CHAIR WAN: Thank you.

20 COMMISSIONER DETTLOFF: Mine is not a comment. It
21 is a question of staff, and it has to do -- in fact, I have
22 several questions.

23 The first one are the setbacks. We had a lot of
24 testimony this morning, and these appear to be very fragile
25 bluff areas, and I believe that the setback that we require,

1 in looking at the map, is going to be almost consistently 25
2 feet. There are some areas, I noticed, but very few lots
3 would be impacted with a further setback. Could you go over
4 what your rationale was to feel that 25 feet was sufficient
5 to give protection to the homes, and protection to that
6 bluff? what reports you are basing your decisions on?

7 COASTAL STAFF ANALYST MERRILL: Sure, I would be
8 happy to.

9 Prior to the September '97 hearing, there had been
10 a number of geologic investigations that were undertaken, and
11 at that meeting the staff had recommended denial, partly on
12 the basis of concerns about the bluff setback issue. We had
13 understood that the setback was not based on a 75-year
14 lifespan. We were also concerned that there were apparent
15 inconsistencies between what was stated in the EIR, as to
16 what the setback would be, and what was shown in the
17 illustration of the setback, and so we had recommended denial
18 in response to those concerns in the report, and others had
19 raised.

20 The applicant did go back and do a supplemental
21 geologic report. They did investigate it further, with the
22 result being that they pushed the setbacks back to where they
23 are now, to the 20- to 40-foot range, and they indicated that
24 this would be suitable based on the 75-year lifespan of the
25 project. By moving the setbacks back, they were then made

1 consistent with the EIR description of the setbacks.

2 And, one issue that has been suggested is the
3 concern about wave erosion against the bluff, and there have
4 been concerns that the mouth of the Mad River would, at some
5 point, move back to the area in front of the subdivision, and
6 contribute much greater erosive forces to the site.

7 And, we have looked at a couple of different
8 documents that address the movement of the Mad River. There
9 is a thesis by a graduate student that looked at that issue
10 and confirmed that the mouth has migrated over time. It is
11 really quite remarkable that in recent years it has moved as
12 much as several hundred feet a year, up until the time that
13 CalTrans put in a rock slope revetment at a location further
14 north to protect the highway, which had the effect of
15 stopping the northward migration. And, there is some
16 indication that perhaps at some day it might change again.
17 Perhaps the river might, on a particular heavy year, blow
18 through the sandspit at the point where it turns north.

19 But, all of the information that has been
20 collected is not definitive as to what will happen, and when,
21 and there is nothing on the record that suggests that within
22 the 75-year lifespan that we are incorporating into the
23 project that there definitely would be a movement of the
24 mouth to the point directly opposite the development, and
25 without -- although it may be a concern in years beyond that,

1 there isn't really any demonstration that that is going to be
2 a concern during the life of the project, and since we had no
3 other geologic information, that is of a more timely nature
4 than what we received from the geologist after the September
5 hearing, we are going on the best, latest information
6 available.

7 COMMISSIONER DETTLOFF: My second question, and
8 this may be more of a county condition.

9 When we looked at it -- and I don't know if your
10 information would have been taken then from whatever the
11 county's decisions were -- but, on the height limitations,
12 and those requirements on the project which is adjacent -- I
13 believe it is called Pacific Sunset -- did we factor into any
14 of your decisions the fact that when that was built there was
15 a certain density requirement? there was a height
16 requirement, and also this developer was made to put certain
17 improvements into a street location, which now appears to be
18 going no where, were those considerations that our staff
19 looked at, as you made your decisions?

20 COASTAL STAFF ANALYST MERRILL: Well, certainly
21 the architectural characteristics and height limits of
22 Pacific Sunset all form part of the community character of
23 the area, and certainly if one were to view that as the
24 definition of the character of the area, then that might be a
25 concern that would lead the Commission to want to limit the

1 heights in a similar manner.

2 But, Pacific Sunset subdivision is not the only
3 residential development in the area. There are other
4 residential developments to the south, and there are a
5 variety of heights that are included in those houses. They
6 are not all like Pacific Sunset. And, there seems to be a
7 mix of different heights, different styles, and so we felt
8 that the height issue, from a community character standpoint,
9 was really less clear, that there had to be a specific limit,
10 that you could to pick a height, as they had suggested, and
11 that could arguably be consistent with community character.

12 COMMISSIONER DETTLOFF: And, my last question, if
13 we do not gate -- do not have a gated community, would there
14 be any requirements that those streets, the private streets,
15 then would have to be widened to meet whatever the street
16 widths are in that county?

17 COASTAL STAFF ANALYST MERRILL: We don't have a
18 requirement in our recommendation. It may be that as a
19 result of whatever action is taken today, they may need to go
20 back to the county for a revision to their tentative map
21 approval. I suppose that is something that the county might
22 consider at that point, but we haven't recommended any
23 specific requirement.

24 COMMISSIONER DETTLOFF: You are just saying no
25 gates, and whatever -- because one of their arguments was

1 that the streets were narrow, simply because it was going to
2 be a private community, and would only service the residents
3 of the area.

4 Thank you.

5 VICE CHAIR WAN: Any other Commissioners comments?
6 Commissioner Rose.

7 COMMISSIONER ROSE: Yes, I must say, in looking at
8 this project, I think its density is really incredibly over
9 what the property should be expected to service, and to hold.
10 It is at two units per acre, rather than the other way
11 around, one unit per two acres, as has been requested by
12 others.

13 For myself, in looking at this project, I think it
14 is in need of redesign altogether. So, my first personal
15 inclination is to turn it down. And, my second inclination
16 is if we were to go forward, I would like to see the houses
17 in the whole strip along the bluff disappear, and have Wilbur
18 Avenue go through, and remove fences, and certainly no gates.

19 VICE CHAIR WAN: Any other comments?

20 [No Response]

21 If we are waiting, then I guess I will --
22 Commissioner Flemming --

23 COMMISSIONER FLEMMING: Okay.

24 VICE CHAIR WAN: -- otherwise, then I will talk
25 after you.

1 COMMISSIONER FLEMMING: I would just, in reaction
2 to that, urge that we do give this development a permit
3 today. This has been going on for years.

4 I think that we can apply special conditions that
5 are acceptable to the Commission. I would urge further
6 discussion in that, but let's please get this permit done
7 today.

8 COMMISSIONER ALLEN: I'll make a comment. I have
9 waited with bated breath to see what Commissioner -- what
10 Andi has to say, but I have several concerns, and I don't
11 know where we go with this. I, too, would like to be able to
12 get a project out of this, and get it done today. I am not
13 sure that we can. My concerns are related to density.

14 Certainly, the fencing along the trail, which I
15 don't think is to the benefit of the public. I have a real
16 concern about the setback. Those photos that were shown
17 during the public testimony were compelling, when you see the
18 amount of erosion in this area. I feel that the setbacks
19 that are currently proposed are insufficient to insure that
20 the homeowners along the bluff face would be protected for
21 the life of the project.

22 And, a very small point that I feel we need to
23 address as well has to do with the lighting within the
24 project, of the night lights that would impact public views.
25 Those are all issues that have some resonance, and need to be

1 resolved.

2 At this point, I am not prepared to make any --

3 COMMISSIONER FLEMMING: Madam Chair.

4 COMMISSIONER ALLEN: -- particular
5 recommendations, as to how we might do that, but those are
6 ones that I have concerns about.

7 VICE CHAIR WAN: I am going to say something, but
8 if you wanted to speak first, that is fine.

9 COMMISSIONER FLEMMING: Oh, just in regard, on
10 that fence line on the trail, one speaker suggested a natural
11 plant type division of some sort.

12 COMMISSIONER ALLEN: There was also a small
13 picture that someone had, with --

14 COMMISSIONER FLEMMING: Yes, right.

15 COMMISSIONER ALLEN: -- very low ballards, with
16 just a little rope --

17 COMMISSIONER FLEMMING: Right.

18 COMMISSIONER ALLEN: -- it was just a delineation,
19 as opposed to --

20 COMMISSIONER FLEMMING: I would propose that,
21 yeah.

22 COMMISSIONER ALLEN: -- a fence, and that may be
23 an adequate resolution. The delineation is not
24 objectionable, but having a fence along to, that impedes that
25 whole sense of wilderness --

1 COMMISSIONER FLEMMING: Right.

2 COMMISSIONER ALLEN: -- the trail, there is a real
3 feel as you walk along that trail, and to have a big fence
4 next to you would ruin that experience.

5 VICE CHAIR WAN: I am going to agree with most of
6 the comments that have been made by fellow Commissioners.

7 I do think that we probably can work our way
8 through to a project today, with some modifications, and
9 there are sort of three major areas that are of concern to
10 me.

11 First, and probably the most important one, deals
12 with the setback issue. I find it difficult to believe that
13 25 feet is an adequate setback. We all know what happens to
14 these bluffs, and I am not comfortable with the statement
15 that says, "Well, the Mad River is just not going to move,
16 and that it is not going to cut through." I mean, somehow I
17 think that is why it is called the Mad River, is that it
18 moves around, you know.

19 And, the recommendation that I heard for a
20 100-foot setback based on the fact that apparently the
21 developments to the north and south of that, initially had
22 100-foot setback requirements does sound reasonable to me.

23 The other issue, with regards to setbacks and
24 erosion of those bluffs, because that is an important issue
25 that we all have been struggling with, I mean, we are just

1 winding up, up and down this coast, with making guesses as to
2 what the life expectancy is, and then winding up with
3 concrete bluffs, and no beaches, or anything like that, up
4 and down this state. I think if we are going to err, we need
5 to err on the side of caution here.

6 There was some discussion, at least in one of the
7 letters -- I don't know if it was brought up in the hearing
8 today -- about the drainage on site, because one of the
9 causes of the erosion is actually from onsite drainage, and
10 maybe staff can help me with this one. There are some kinds
11 of swales that are on the individual projects, that
12 apparently gather the water. The water from those -- from
13 within the individual projects -- are those swales concrete?
14 and where do they lead to? do they take almost all of the
15 water offsite, and into the storm drain system? or do they
16 allow any water to percolate into the hill? I couldn't quite
17 figure -- I mean, the opponents are saying that it ponds, and
18 then it percolates it into the hill, but I couldn't really
19 dig that out. Could you explain that to me?

20 COASTAL STAFF ANALYST MERRILL: Well, perhaps the
21 applicant's representative might want to comment on that.

22 But, my understanding is that to accommodate the
23 recommendations of the geologic report, to reduce drainage
24 over the bluff edge. The runoff water from the roofs, and
25 the driveways, and impervious surfaces, does collect on each

1 lot, and then is sent down an inlet into a drain pipe, that
2 will go out to the south end of the project, where there will
3 be a large filter, grass filter area, essentially, where the
4 water will flow across the grass area to filter out
5 contaminants. Then, it will then go into another inlet,
6 which leads eventually to pipes that go under the end of
7 Murray Road, and down into the Mad River.

8 But, perhaps, the applicant's representative could
9 comment on the specific proposal that might be at each lot,
10 and how long water might be expected to be retained there.

11 VICE CHAIR WAN: Yes, could I have the applicant
12 come up? or your geologist? or whoever is dealing with that
13 aspect of it?

14 I am just trying to understand the issue of where
15 the water from the individual lots goes? if it goes into
16 swales, or some kind of ponding that takes place on the
17 individual lots? and are those swales concrete?

18 MR. JOHNSON: No, no, these are very shallow,
19 broad depressions. It is an interim -- it is basically an
20 interim drainage facility, between where it comes off of
21 driveways, roofs, and lawns, and primary the street,
22 remember, primary the street, before it goes into the actual
23 storm drain piping system.

24 And, the reason for that is not for retarding
25 storm water flows. It is for handling contaminants off of

1 the street, you know, oil and sediment off of building
2 sites. So, that rather than that going straight into a pipe,
3 and into the river, it settles in these swales.

4 VICE CHAIR WAN: Okay, so we are talking about --

5 MR. JOHNSON: They are 9 inches to a foot deep.

6 That is it --

7 VICE CHAIR WAN: So, my concern --

8 MR. JOHNSON: -- very shallow.

9 CHAIR WAN: -- in heavy rain is that that is going
10 to allow a lot of water to percolate into that hill.

11 MR. JOHNSON: No, more -- actually way less than
12 it does now. I think there is -- that is another
13 misperception about what is going on out there.

14 Those swales -- like you say, the deepest they get
15 is like 9 inches. In other words, it is just very light
16 rains that would go into those and percolate.

17 VICE CHAIR WAN: And, then in the heavy rains?

18 MR. JOHNSON: The heavy rains, it goes right into
19 -- it doesn't impede the flow at all. It just tries to keep
20 the sediment, and those things in the swale, and then it goes
21 straight into the storm drain system.

22 COMMISSIONER TUTTLE: May I --

23 VICE CHAIR WAN: Yes, go ahead.

24 COMMISSIONER TUTTLE: -- add to the question here.

25 One mechanism for bluff erosion along this whole

1 stretch, not just Sand Pointe, but north and south of it as
2 well -- actually, there are three sources of erosion that I
3 have been told about. One of them is the surface erosion
4 over the lip, the gullying idea, and I think that that is
5 where most of your engineering design, and most of your focus
6 and your technical reports have -- and your mitigation, and
7 so on, to keep some off -- most the mitigation on this
8 project has been directed to that portion of the erosion
9 problem.

10 But, another mechanism that appears to be going on
11 along that whole stretch, and certainly further north too, at
12 Big Lagoon, and other places, is that water percolates down.
13 It is sand and gravel layers. Water percolates down, finds
14 an impervious point, and then it starts heading laterally,
15 and goes out to the bluff, at which point it saturates the
16 bluff, causes a caving off, which then removes the support
17 from the upper area, and that is a caving off process, and so
18 that is, I think, where your question comes in --

19 VICE CHAIR WAN: Yes, right --

20 COMMISSIONER TUTTLE: -- is if you are ponding --

21 VICE CHAIR WAN: -- that is what I am trying to
22 get at.

23 COMMISSIONER TUTTLE: -- water, then --

24 MR. JOHNSON: Well, in trying to explain, looking
25 at the whole region there, the whole area along the Mad

1 River, and I could talk about Big Lagoon, too. You know I
2 have worked all up and down that coast for years.

3 The areas where you have blow outs, as you are
4 talking about, tend to be very localized. And, it depends on
5 where those impervious layers dip down, and how they relate
6 to the river.

7 In the case of the Sand Pointe area, most of those
8 impervious layers are below river level, so the water is
9 coming out -- there are some places that concentrates a bit,
10 but mostly it is spread out all over. And, that is -- If
11 that blowout problem had been going on, we would see lots of
12 evidence of it. We do see it in other areas. It is not
13 going on there.

14 The reason I think it is not going on, is because
15 that whole layer underneath -- I mean, all of the trenches we
16 dug out there, and everything, I know more about the
17 subsurface of that piece of ground than my own backyard.
18 There is lots and lots of gravel in that, and gravel with
19 water running through it is not erodable.

20 So, what is going on there -- and I think
21 something that might help you understand the overall impact,
22 is if you look at that site right now, it was farmed for a
23 long time, meaning that all of that soil was plowed up and
24 loosened, and now it has gone back. It is fallow. It is
25 grass and gopher mounds. It hardly ever runs off in there.

1 Natural rainfall now is percolating 99 percent into that
2 subsurface.

3 And, what has the effect been? We have had three
4 wet winters in a row, you know, with this last one very wet.
5 It has affected that water that seeps in. It takes it, you
6 know, weeks and sometimes months to migrate to the face of
7 the bluff. There is no erosion going on because of that.

8 COMMISSIONER TUTTLE: So, the mechanism that we
9 saw on the parcels on the other side of Widow White Creek,
10 which --

11 MR. JOHNSON: That is straight up, that is
12 straight up erosion.

13 The areas to the north have had serious wave
14 impact. When the river migrated through that area it left a
15 very narrow buffer when it went through, as opposed when it
16 went by Sand Pointe, it was 300-feet of buffer. And, it took
17 a long --

18 COMMISSIONER TUTTLE: But, it took all of that.

19 MR. JOHNSON: -- yeah, little by --

20 COMMISSIONER TUTTLE: I mean it had a huge --

21 MR. JOHNSON: -- little, the estuary widened out
22 until it has now, essentially, very little erosion going on
23 on the river bank. There is some, but we have a lot of ways
24 to go before it even starts to affect the bluff.

25 On the north end, as that river migrated, it went

1 more toward the bluff, because where the vista point is, the
2 bluff kind of sticks out from the normal line of the coast,
3 so right at that point, where the bluff is the highest, and
4 the river came in, you immediately got a lot of wave attack,
5 and once they stabilized the mouth right there, and now there
6 is no further migration, every heavy storm that area is
7 subject to wave attack, and that is what is moving the bluff
8 back.

9 If you look at that bluff, in the pictures and
10 things, that slope is on about a half-to-one, very, very
11 steep, and as it peels off of the bottom, it falls in at the
12 top. There is no piping going on in that area, either, and I
13 have spent lots of time looking at that. It is strictly
14 erosion.

15 So, and you know, the area to the south, it is a
16 whole different factor --

17 COMMISSIONER TUTTLE: I am going to turn this back
18 to Sara --

19 MR. JOHNSON: -- in -- well, I am trying to --

20 COMMISSIONER TUTTLE: -- because she is in the
21 middle of her questions.

22 VICE CHAIR WAN: No, no --

23 MR. JOHNSON: -- clarify this --

24 VICE CHAIR WAN: -- I appreciated this, because
25 what I was trying to figure out, I mean, it doesn't change my

1 feeling about the setback relative to what might happen if
2 the Mad River changes, because I am not buying, frankly, that
3 CalTrans put some rocks in, and therefore it is stabilized
4 forever, because I just --

5 MR. JOHNSON: Well, I don't think --

6 VICE CHAIR WAN: -- right --

7 MR. JOHNSON: -- anybody accepts that.

8 VICE CHAIR WAN: -- and I don't know that I accept
9 that, so I have to deal with that, but I was wondering if the
10 on-site swales might do better, in terms of avoidance -- you
11 want to avoid as much percolation as possible, in terms of
12 cementing those on-site swales in, for instance.

13 MR. JOHNSON: If that development was put in the
14 way it is stated, the vast majority of the runoff that is now
15 percolating in, is going to go off through the storm drain
16 system.

17 VICE CHAIR WAN: All right.

18 MR. JOHNSON: So, the overall impact is clearly --

19 VICE CHAIR WAN: Okay, thank you.

20 MR. JOHNSON: -- the other way.

21 VICE CHAIR WAN: The other major issue, deals with
22 -- one other of the major issues, deals with the density, and
23 I think a number of the Commissioners have talked about that.

24 I realize that staff has said that the LCP has a
25 provision in it where the director of public works can

1 exercise his discretion, and change the density, but this is
2 now in front of us de novo, and I think we need to look,
3 therefore, at what our discretion says about density.

4 And, it doesn't make sense to put the kind of
5 density you are talking about under the flight path of
6 airplanes. There is a regional importance, and a regional
7 significance, to that airport, and airports and houses don't
8 mix, so you don't want density. That is the reason why you
9 have, under the airport approach zone, the density of one
10 dwelling units for 2.5 to 3 acres. This density is at one
11 dwelling unit -- let's see, two dwelling units per acre? is
12 that what it gets out to? to 2.2 dwelling units per acre? I
13 personally think that we need to go back to the underlying
14 zoning, and the underlying density requirements under the
15 airport master plan.

16 I am opposed to the gate, for a whole host of
17 reasons. I think this Commission -- this Commission for a
18 long time -- not just this one, but even its predecessor --
19 is very reluctant to approve gates. I think they do set a
20 precedent, and they do set a trend in many ways up and down
21 the coast.

22 And, there is the number of community character
23 issues that concern me. You put night lighting in a project,
24 it changes it, and it doesn't just change it for that
25 project. If you live nearby, you also are impacted by those

1 lights. There is a big difference between living in the city
2 with lights, and what you can see in the sky at night, and
3 living in a community that doesn't have lights, and that is a
4 major change to the community character.

5 And, the last issue -- and as I said, all of these
6 issues can be dealt with -- is that that RV lot is a storage
7 lot, basically, as I understand it. It is a storage lot for
8 RVs, and it is a storage lot for heavy equipment, and that is
9 not an appropriate location for a storage lot. This is a
10 residential neighborhood, and I don't find that appropriate.

11 So, in recapping, I would like to see a 100-foot
12 setback. I would like to see a change in the density. And,
13 I would like to see elimination of the gate, the lights, and
14 the RV lot.

15 COMMISSIONER TUTTLE: Okay, I sort of held back in
16 talking on this. As you know, I know almost all of you here
17 on this issue, and mostly I wanted you to hear the feelings
18 of this Commission, that sits as state-wide Commission, that
19 has experience with these kinds of developments up and down
20 the coast, and from what I have heard so far -- and I think
21 there are some other feelings that are similar -- that will
22 echo the kinds of things that you have heard so far.

23 This project is a complicated project. That is
24 why it has taken so -- why you have had such a long
25 development process, to even get it this far. It is because,

1 I think, on this particular site, you are trying to do too
2 many things all at once, with a whole series of constraints,
3 that are physical constraints, and planning constraints, and
4 as you look through the staff report -- which actually I
5 wanted to compliment the staff. It is a very well organized
6 staff report, and I think the arguments read very clearly.
7 And, here we have to deal with all of these different
8 factors: the erosion factor, the density factor, the airport
9 zoning factor, the convoluted findings that had to be made to
10 get through this airport -- get out of the airport zoning
11 constraint. And, I think I would just like to thank Joe, and
12 Bob, and the rest of you for how you at least explained it.

13 And, I also appreciate what the applicants are
14 trying to do. We don't have applicants who are trying to do
15 innovative development, and there aren't a lot of you who are
16 willing to stick your neck out and try to do something
17 different on sites. It is always much easier to just go by
18 the book, and you don't run into problems, like what you have
19 faced here.

20 But, I think, as I said before, the reason you are
21 having trouble is that it is a problematic site, to try to
22 put this much density in, when you have between the airport
23 issue, the density issue, and the natural hazards issue, and
24 then the gated community issue, as well.

25 This Commission has -- at least while I have been

1 on it -- has been pretty tough on gated communities in other
2 areas, and we have also had proposals come to us similar to
3 what you have come up with, where at least you allow
4 pedestrian access, as long as the cars are kept out. In
5 Santa Barbara, recently, we have had exactly the same
6 conversation, and it was not successful before this
7 Commission. It is not -- the gated communities, particularly
8 within the first coastal road and the bluff itself, just are,
9 from a state-wide perspective, are not something that this
10 Commission looks very favorably upon.

11 So, then the question becomes where do we go from
12 here, given all of these problems? I particularly am
13 concerned with the movement of the Mad River mouth. I think
14 that has not been given very good analysis, either by staff,
15 or by anyone. And, in part, it is because we do not have a
16 geologist on our staff to counter -- all the way through this
17 project, the only geological work has been from the
18 applicant, and that is not to discredit this geologist, or
19 this applicant, but it is the way the process works, that we
20 get a one-sided picture. And, to the extent that appellants
21 can bring in their own professional consultants, they do.

22 In this case, there was one consultant, Lakeco, I
23 guess, who earlier on was called in to comment on this
24 particular issue of what is the river doing here, and the
25 findings that -- they did not then come back with a response

1 after our substantial issue question, because of the expense,
2 and all of the rest of it, I assume.

3 But, what they said in their letter, which is in
4 our attachment here, is that the river, because it is being
5 artificially constrained at the mouth by the riprap, it now
6 appears to be going through a meandering process. So, even
7 if we talk about whether or not the mouth is going to move
8 within this 75-year period, rivers -- it is trying to
9 lengthen its channel, and the way it will do that is by
10 trying to set up meanders, and those meanders will move over
11 time. They will cut into the bluff at different points.
12 They will cut into the bar. We see the bar, itself, being
13 overtopped in these slides that we saw earlier.

14 And, I just don't think -- when it is only a
15 matter -- I don't know how many years since it was at School
16 Road, but I know, you know, like only 20 years ago, the mouth
17 was at School Road, way down here. And, very quickly it
18 moved north, and there is a pattern of the mouths of
19 Humboldt, in a geologic time span, before Humboldt Bay was
20 stabilized, that mouth used to move. Big Lagoon mouth has
21 moved. Other river mouths have moved.

22 And, yes, the staff says it is speculative what
23 will happen here, but I say that can be argued either way,
24 that it is speculative that it will stay where it is. It is
25 also very speculative that, you know, well, you know what I

1 mean. Both ways, it will either stay, or not stay, and it is
2 speculation either way, and for that matter, it could punch
3 out at School Road, and then start moving north again. So, I
4 am fairly uncomfortable with the level of analysis that has
5 been given to that piece. And, for that reason, I would
6 support larger setbacks from the bluff.

7 I don't think that the material -- I mean, you all
8 saw the river is right up against the edge now. We have
9 never, that I know of, used the face of the bluff as part of
10 the setback, where you measure your setback from. You always
11 measure your setback, in my experience anyway, from the top
12 of the bluff in, not from the toe of the bluff in. And, so I
13 think that I would like to have clarification on what some of
14 the setbacks were on these other northern parcels, if it is a
15 standard. In terms of community character, if it is a
16 standard 100-foot setback, or something similar to that, for
17 these other houses, I think that would be appropriate here.

18 Then, we get to the issue of the gated community.
19 I guess I spoke on that, that this Commission just has not
20 been very friendly to those.

21 What else is there? Oh, on the offers to
22 dedicate, those are -- I guess there is something about them
23 that requires them to be a 21-year time span? All of your
24 requirements here for offers to dedicate have a 21-year
25 lifespan on them, and I would just like to note -- you can

1 explain to me why in a minute -- but I would just like to
2 note that on some of the parcels immediately north here,
3 those offers are expiring now, that have been made on parcels
4 in the past, and because there has been no public agency, or
5 attention, or whatever, put to those we are losing them, so I
6 guess the question is can we expect to have -- how fixed,
7 what sort of expectation do we have that an agency will come
8 in to administer these, to take these over?

9 Peter, do you want to answer?

10 EXECUTIVE DIRECTOR DOUGLAS: Well, first of all,
11 the comment you just made about existing offers to dedicate,
12 possibly expiring, or being lost, that is news to me.

13 COMMISSIONER TUTTLE: No, no, on the northern
14 part, not this parcel at all.

15 EXECUTIVE DIRECTOR DOUGLAS: Right.

16 COMMISSIONER TUTTLE: There is one that was just
17 pointed out to me, towards the vista point, that is --

18 EXECUTIVE DIRECTOR DOUGLAS: And, that was an
19 offer to dedicate that the Coastal Commission required?

20 COMMISSIONER TUTTLE: That is my understanding.

21 EXECUTIVE DIRECTOR DOUGLAS: Because we have an
22 agreement with the Coastal Conservancy that no offer to
23 dedicate will be lost by virtue of the time running. They
24 will accept any offer, least it expire --

25 COMMISSIONER TUTTLE: Well, maybe we need to

1 pursue that. It was just brought to my attention --

2 EXECUTIVE DIRECTOR DOUGLAS: Well, we will --

3 COMMISSIONER ALLEN: There is something in their
4 letter, right here: the offer to dedicate for a period of
5 time is yet to be accepted by any agency, public or private,
6 not the McKinleyville Land Trust, the Fish and Wildlife
7 Service, the Nature Conservancy, the Coastal Conservancy,
8 that is in the letter that the Concerned Citizens of
9 McKinleyville provided to us --

10 EXECUTIVE DIRECTOR DOUGLAS: Okay.

11 COMMISSIONER ALLEN: -- so it is an allegation
12 they are making in their materials.

13 EXECUTIVE DIRECTOR DOUGLAS: Well, the reality is
14 though, that before the time runs they will be accepted.

15 The big problem, the big challenge is finding the
16 resources, and an entity to actually open up and operate and
17 maintain accessways. The issue is not so much the loss of
18 them, because we haven't. The ones that are out there now,
19 they aren't going to expire by virtue of the time running.

20 Now, in terms of the 21 years, that is simply the
21 legal standard. That is the length of time that legally can
22 be utilized. So, in terms of, again, the time, and then
23 finding an entity to actually accept them, that would be the
24 challenge. If, indeed, it were approved, according to these
25 conditions, that would be the challenge to find the public

1 entity, or non-profit, to accept the offers. We can't tell
2 you today who would do it, and when, but this Commission has
3 taken action with the legislature approving it, to make funds
4 available to deal with liability, and actually all of that
5 has lead to an increased willingness of non-profits, and
6 indeed local governments, to accept offers to dedicate public
7 accessways.

8 So, we think that if these are accepted, we will
9 find an entity to take them over.

10 COMMISSIONER TUTTLE: Okay.

11 EXECUTIVE DIRECTOR DOUGLAS: The question is
12 whether or not these will be part of it.

13 COMMISSIONER TUTTLE: Then, that is not an issue,
14 in this case.

15 I would like to have feedback, from you and other
16 Commissioners, on the issue of what is an appropriate density
17 for this parcel. We have the two issues: one, as I see it --
18 and they are interrelated -- is this airport zoning business,
19 where we have not approved, or had a hearing, on the
20 appropriateness of the density that is now being used by the
21 county as a standard, even though it hasn't been fully
22 accepted yet.

23 VICE CHAIR WAN: I see that Mr. Rodriguez wants to
24 address us, is that correct?

25 DEPUTY ATTORNEY GENERAL RODRIQUEZ: Thank you,

1 Vice Chair Wan.

2 Before we left that issue of the duration of an
3 offer to dedicate, I did want to note that actually the law
4 has changed, with regards to the duration of an offer to
5 dedicate. It used to be that no offer could be for longer
6 than 21 years, but that has changed, and now the law provides
7 that you can have an offer to dedicate required as a
8 condition of a permit approval for up to 90 years.

9 The difficulty though is the practical one, that
10 after -- as we have experienced in several locations on the
11 coast -- that after 5, or 10, or 15, or 20 years, in spite of
12 our best efforts to remind everybody those offers are out
13 there, oftentimes these things are overlooked, and certain
14 expectations develop regarding those offers to dedicate,
15 whether they really be accepted, and so you have battles when
16 somebody does try to accept them.

17 And, so I just wanted to note that there is -- the
18 law now provides that you can require a longer period for
19 acceptance of a dedication. On the other hand, there are
20 some practical difficulties that the Commission might want to
21 consider, if it was really looking at requiring offers to
22 extend for a longer period of time.

23 I also wanted to point out that there is also some
24 relationship between the offers to dedicate, and the density
25 issues. To a large extent, some of the staff's recommend-

1 ations regarding access, and dedications, were tied to
2 densities, and the relationships between those two, and so
3 those issues will be related, and should be considered
4 together, in some respects, as you go through this hearing.

5 EXECUTIVE DIRECTOR DOUGLAS: I might just note
6 that the Commission -- first of all, that is news to me,
7 about the length of time, and we are going to have to go back
8 and reevaluate then our special conditions relating to
9 offers, plus we are going to have to accelerate, I think,
10 even much more aggressive in terms of our program to have
11 offers to dedicate accepted, and we will report back to you
12 at a future meeting on that. We already decided that earlier
13 in this meeting.

14 But, relative to the density, clearly it is up to
15 this Commission to decide, based on the policies, the facts
16 and evidence before you, on the density that you believe is
17 appropriate. If you believe that there ought to be a
18 reduction in density that will result in a greater setback,
19 that will allow for wider roads, for example, here, because
20 the question was raised, if this is not a gated community,
21 then the county might be asked to assume responsibility for
22 the roads. I am sure that they would require that the roads
23 be wider, and then you would also want to have street parking
24 there.

25 It would also necessitate a reevaluation of the

1 access, or the dedications, and frankly if there is a
2 reduction -- the only dedications that I see here really are
3 for the parking, the trail from the parking to the north end
4 of the access point down the Hammond Trail, or to the Hammond
5 Trail, and the parking on the south side, and, it seems to me
6 that those -- and some improvements. It seems to me that
7 adjustments there can be made, if indeed, reduction in
8 density is the decision of this Commission.

9 You would have to go through some sort of analysis
10 then of rough proportionality, and the nexus, and all of
11 that, but we think that can be done. It may not be at this
12 level, but you certainly can exercise your judgment as to the
13 density here.

14 VICE CHAIR WAN: Question for staff on that, and I
15 didn't want to interrupt you, Commissioner Tuttle.

16 But, on the density, we could deal with the
17 density, the underlying density, and then still deal with the
18 dedications on the basis of a bonus, density bonus, that is
19 kind of a -- there are two separate ways to deal with it. In
20 other words, we could look at the appropriateness of the
21 underlying density, and then if we thought there was a
22 benefit to some of the dedications, we could allow a bonus
23 for that? is that correct? is that a way to do that?

24 EXECUTIVE DIRECTOR DOUGLAS: Well, you can do
25 tradeoffs like that, if you have the necessary findings.

1 But, you can also -- I mean, having multiple units
2 here is going to have an impact on recreational resources, so
3 it seems to me that there is a direct connection between
4 public access, or recreational improvements, and the
5 intensification of uses here, in any event. The question is
6 how much? how much is appropriate in terms of recreational
7 improvements, or access dedications?

8 So, you don't necessarily have to view it solely
9 in terms of a density bonus tradeoff. That is what happens
10 to be part of the proposal right now, but that is not the way
11 it needs to end up, if you decide that is not the way you
12 want to go.

13 VICE CHAIR WAN: Commissioner --

14 COMMISSIONER TUTTLE: No, I would like to hear
15 discussion from other Commissioners.

16 VICE CHAIR WAN: Okay.

17 COMMISSIONER STAFFEL: Madam Chair.

18 VICE CHAIR WAN: Commissioner Staffel.

19 COMMISSIONER STAFFEL: A couple of comments.

20 One is, a question with respect to the airport
21 issue, because I think -- this was before us before, and this
22 matter, if I am not mistaken, has it been to the -- they have
23 a local airport land use commission, with respect to these
24 kinds of issues?

25 COMMISSIONER FLEMMING: Yes.

1 COMMISSIONER STAFFEL: I mean, they are required
2 by statute to have that. Has this been to that entity?

3 COASTAL STAFF ANALYST MERRILL: The local entity
4 has reviewed the airport land use plan, but the affect it
5 would have on the coastal zone, it hasn't been submitted yet
6 as an LCP amendment.

7 COMMISSIONER STAFFEL: I understand that.

8 My question, specifically, is usually when you
9 have an entity like this, you have a local airport land use
10 commission, which is separate from, for example, either the
11 city, or the board of supervisors, that deals with specific
12 land use issues within the airport zone, and the density
13 issues are usually considered by that body, and they actually
14 approve --

15 COMMISSIONER FLEMMING: The board of supervisors
16 is --

17 COMMISSIONER STAFFEL: The board of supervisors,
18 in this case, is the airport land use commission?

19 COMMISSIONER FLEMMING: Yes.

20 COMMISSIONER STAFFEL: It is one and the same?

21 COMMISSIONER FLEMMING: Yes.

22 COMMISSIONER STAFFEL: They serve in that
23 capacity?

24 COMMISSIONER FLEMMING: Yes.

25 COMMISSIONER STAFFEL: Okay.

1 The other question, with respect to that -- and
2 obviously, they have approved this. The other question I
3 have then is there is another proposal, with respect to
4 future increases in density in the airport zone. We had some
5 discussion. It had to deal with some of the issues at the
6 airport. When might that be coming forth? and is there any
7 way, whatever we do here to condition this -- obviously, we
8 can -- but to condition this so that whatever decision is
9 made there, essentially, will have to come back here for that
10 density discussion? That concerns me primarily more than
11 anything else, because I feel, if I heard the testimony
12 correctly, that there is an outstanding issue on the airport
13 land use plan, and the density issues above even what is
14 proposed and which is in the plan now, and which is proposed
15 here, is that correct?

16 COASTAL STAFF ANALYST MERRILL: Well, just a
17 couple of comments.

18 The LCP amendment, I would expect to be
19 forthcoming in the next several months, if not sooner, so
20 that will be before you relatively soon.

21 COMMISSIONER STAFFEL: Okay.

22 COASTAL STAFF ANALYST MERRILL: We, as the staff,
23 feel that the density that was proposed, as far as the
24 airport restrictions in the LCP can be found to be consistent
25 with the existing LCP, the way it is, regardless --

1 COMMISSIONER STAFFEL: I understand that.

2 COASTAL STAFF ANALYST MERRILL: -- of what
3 amendment is proposed.

4 COMMISSIONER STAFFEL: Right, and this is actually
5 below that purpose, 2.2, correct? which is -- and the
6 existing is 2.4, if I am not mistaken?

7 COASTAL STAFF ANALYST MERRILL: Well, the existing
8 -- what is in the LCP now would suggest one unit per 2.5 to 3
9 acres, so a lot less dense than even that.

10 COMMISSIONER STAFFEL: Okay.

11 COASTAL STAFF ANALYST MERRILL: But, that is a
12 policy in the land use plan, which is prefaced by saying,
13 generally we recommend this, and then in the zoning it
14 suggests that exceptions can be made by the public works
15 director to allow higher density, which occurred in this
16 case.

17 COMMISSIONER STAFFEL: Okay.

18 What I am trying to do is I don't want the
19 Commission to deal with the airport issues. There is a
20 process locally to deal with that, and if we are going to
21 deal with the density issues, I think it is more appropriate
22 to deal with that in connection with the setback requirement.
23 And, if we are going to increase the setback requirement
24 based on some coastal nexus, or some coastal resource issue,
25 and that is going to affect density, that is probably the way

1 to address that.

2 I am somewhat concerned, however, if there are
3 future plans, with respect, from the county level -- I did
4 not like what I heard, and it is a local decision, obviously,
5 but they were saying because of the nature of the airport,
6 they were going to increase some density within the airport
7 zone. My personal opinion is that that is a mistake for that
8 area. They are more than free to make that mistake at the
9 local level, if they choose to do that. But, that causes me
10 some concern. I don't want that future policy decision to
11 have some bearing on what goes on here.

12 Now, having said that, the way to approach the
13 density is through the setback, and to me this is directly
14 related to the gated community issue, because usually when we
15 deal with gated community issues on the coast, as an access
16 question, in my opinion -- and I could be wrong on this --
17 but it usually comes down to a question of the gated
18 community lends value, which then allows less density. I
19 don't see that in this particular circumstance. I think you
20 have, you know, the density here -- and I think the
21 applicants have been pretty forthcoming in saying the whole
22 gated community issue is really more related to the road
23 standards, and the width, and then that whole road issue, and
24 it is probably another situation -- and believe me I am
25 familiar with this -- where the county is trying to avoid

1 responsibility, and I don't say avoid in a pejorative sense,
2 but because counties are strapped for funds, and particularly
3 road funding, but they are trying to, you know, put that onto
4 the homeowners association, potentially, and they will be
5 responsible for that road system, and that to me, that is
6 probably driving some of the gated community stuff.

7 You know, in this circumstance, I would think that
8 the coastal access issues outweigh the gated community
9 issues. If the county is going to need to maintain that road
10 system, probably a mechanism ought to be set to do that,
11 rather than to design it the other way around.

12 In an area in my community, we dealt with that
13 issue with the context -- and this is not always popular --
14 but it is, you know, we dealt with certain assessments,
15 assessment districts for road maintenance purposes, and that
16 is how we dealt with some of the road issues, and dealing
17 with some of the funding issues.

18 I would support the Special Conditions that the
19 staff has proposed. I think we should have a project today.
20 There are some parking issues, with respect to the parking
21 lots, and where they should be located.

22 One of the issues that came up -- and, again, you
23 know, most of the Commission members here have been to
24 Hammonds Trail, have been on Wilbur, have been in this
25 community, and have actually viewed it first hand. The

1 Wilbur Street issue is kind of unique or interesting to me,
2 because Wilbur Road, because usually when I am dealing with
3 these kinds of issues at the local level, we are trying to
4 avoid -- we are trying to do exactly what some people have
5 argued against here. We are trying to put up the no access
6 through Wilbur, or through that kind of road, in order to not
7 impact existing communities. And, I have actually gone to
8 great lengths to have an alternate access provided, so that
9 existing communities -- and I am talking about different land
10 use projects -- so existing communities are not impacted by
11 traffic. And, I find it interesting here, that some have
12 argued now we actually want that Wilbur through.

13 My biggest concern with that, with this parking
14 lot setup, is that now that will become more of a public
15 access parking lot, and you will impact the existing
16 neighborhood with the access issues, and they will bear the
17 brunt of, you know, with the parking lot right there, and the
18 homes right along there will have a parking lot next to them,
19 and, you know, I am somewhat sensitive to that.

20 If we are going to provide access, which we must
21 do, we need to provide it in a way that does not impact that
22 neighborhood, or more unduly impact that neighborhood in that
23 sense, so we might be able to relocate that, and require --
24 it may happen anyway, you know, quite frankly it may happen
25 anyway. But, I think to encourage it, is probably a

disservice, and puts the brunt of some of the mitigation on some of the existing neighborhood.

So, those are my thoughts. If we are going to talk density, again, I think we should talk in the context of what additional setback requirement does to the density, and get to it in that direction, rather than trying to override the local entities' determination, based on airport issues, or something else.

I hope that is helpful, Commissioner Tuttle.

VICE CHAIR WAN: Commissioner Dettloff, then Commissioner Flemming.

COMMISSIONER DETTLOFF: Yes, my others were directed really to questions, and I would just kind of like to, for Commissioner Tuttle's benefit, to give some of the areas that I think are important.

I think the bluff setback is a very important area, and how that works into the density requirements, but I think we should see a lowering of the density in that area, and whether we do that through the benefit package, or whether the setback will help us provide that. But, I think, if we are going to get into the density issue, we have to look at the benefit package, because we may have to then remove some of those requirements as no longer being a very practical way to solve some of the problems we have on this site.

1 I think, though, taking a lead from Peter, when he
2 suggested the parking on the south side, and the trail to the
3 Hammond Trail system is something that we should certainly
4 consider.

5 I think that fencing should be more of a natural,
6 either vegetation, or very natural looking along the trail.

7 I would favor elimination of the RV lot, and that
8 would also, I think, benefit the applicants, simply because
9 you could use that space, I think, in a way that is going to
10 not only benefit the community you are building, but the
11 community at large.

12 I would also, at this point, but as we play out
13 this density issue, the gated community, at this point, I am
14 in opposition to that, but I think we need to work our way
15 through exactly what requirements we want to place on the
16 project, and then see how that benefit package, how we are
17 going to maintain that, or eliminate some of those questions.

18 So, that is where I am coming from. The bluffs,
19 and the density issue, to me are the important elements of
20 this plan.

21 COMMISSIONER FLEMMING: All right, Madam Chairman,
22 I have a question of -- I would like Mr. Conlon to come
23 forward, I have a question about the streets, and the width
24 that we were talking about, minus the gated community.

25 Is it correct that the county would then require

1 wider streets?

2 MR. CONLON: If the roads were to be accepted into
3 the county road system, they would have to meet the county
4 road standards, which would be a substantially wider street.
5 The right-of-way was there. What would be lost is the
6 vegetative strip that follows the main roads, and provides
7 the trail system within the subdivision.

8 COMMISSIONER FLEMMING: Okay, I would like to see
9 some way to work this, to where that would not happen, where
10 we wouldn't -- I think that, again, along with the character
11 in this rural neighborhood, that you need the more narrow,
12 quaint, streets. So, you would need to keep that private, I
13 think.

14 I think we need to consider that, because all you
15 are doing with the wider street is creating more runoff, and
16 more problems, and I would really like to see us try to keep
17 the more narrow road. I think that we are going -- can
18 staff, today, give us what the Commission is trying to get
19 at, if we change the setback requirements, do you have an
20 analysis right now of how that density would be affected?

21 DISTRICT DIRECTOR SCHOLL: Well, one option, I
22 think, would be to look at the number of lots which are now
23 immediately adjacent to the bluff. Those which all have --

24 COMMISSIONER FLEMMING: It is a matter of
25 subtraction.

1 DISTRICT DIRECTOR SCHOLL: -- a building site,
2 right, relatively close, I count 21 there, so one option the
3 Commission might have would be to attach a condition
4 requiring a revised map deleting 21 lots. That would bring
5 down the total number to 37, but with the idea that those
6 could be reconfigured if necessary, to provide for wider
7 streets, or whatever, but that would be a way to start, and
8 then to maintain, say, a 100-foot minimum setback for any of
9 those reconfigured lots, from the top of the bluff. That is
10 a very quick analysis, but it is one way to approach the
11 density question.

12 COMMISSIONER TUTTLE: I am sorry, could you go
13 through that again?

14 COMMISSIONER FLEMMING: Right.

15 DISTRICT DIRECTOR SCHOLL: Well, unless I am
16 counting wrong, I count 21 residential lots, which have a
17 building site within 25 to 45 feet of the top of the bluff,
18 so one option might be to require deletion of those 21 lots.
19 That would mean --

20 COMMISSIONER TUTTLE: That is the row along the
21 bluff?

22 DISTRICT DIRECTOR SCHOLL: Right.

23 COMMISSIONER TUTTLE: Delete those, okay.

24 DISTRICT DIRECTOR SCHOLL: The first tier of lots
25 along the bluff.

1 COMMISSIONER TUTTLE: All right.

2 DISTRICT DIRECTOR SCHOLL: Then, use that as the
3 density standard. That would, I think, leave 37 lots. I may
4 have counted wrong, maybe Mr. Conlon can correct me.

5 But, if you had around 37 lots, and then the idea
6 that those might be reconfigured, if necessary, otherwise you
7 would end up as the plan is now, a street with lots only on
8 one side, and open space on the other. Maybe that would be
9 the goal, but you could, perhaps, reconfigure the lots, with
10 the idea that none of them would be within 100 feet of the
11 edge of the bluff, just as one possible standard.

12 COMMISSIONER POTTER: Madam Chair, if I might just
13 extend that.

14 I had done the math on that, and you are correct,
15 it is 21 lots. Then, if you take the 67 acres, although
16 admittedly some of it is probably under water, but the 67
17 acres that is being publicly dedicated, you add that to the
18 26.5, and you eliminate the front lots, you basically end up
19 with a fairly decent density ratio. It is close to what the
20 neighborhood wants.

21 So, I would, if somebody would pick up the ball
22 here, and get me off of prefacing my motion -- I'll make a
23 motion, just for the sake of discussion.

24 COMMISSIONER KEHOE: Yes, please, go right ahead.

25 COMMISSIONER FLEMMING: Rusty's not here.

1 COMMISSIONER POTTER: Rusty's not here.

2 Okay, I'll move --

3 VICE CHAIR WAN: There is no public comment at
4 this point.

5 COMMISSIONER POTTER: We are in public comment?

6 MR. CONLON: I was trying to respond to the issues
7 of --

8 VICE CHAIR WAN: No, I am sorry.

9 COMMISSIONER KEHOE: We are trying to make a
10 motion, here.

11 COMMISSIONER POTTER: Okay, I'll move to delete
12 the front row, i.e. the front 21 lots that face the river,
13 thus yielding a lot number of 37 lots, allowing for
14 reconfiguration so long as --

15 VICE CHAIR WAN: We can't do it this way. First,
16 we have to make the main --

17 COMMISSIONER POTTER: Okay, you are right, yes.

18 VICE CHAIR WAN: -- motion, and then we have to
19 make the amending motion, and we may have several amending
20 motions here.

21 So, does someone want to make --

22 COMMISSIONER FLEMMING: He's making it.

23 VICE CHAIR WAN: -- since you have done a lot of
24 prefacing here, can I have somebody do the main motion,
25 please.

1 COMMISSIONER POTTER: Okay, go ahead, let's hear
2 it.

3 [MOTION]

4 COMMISSIONER FLEMMING: All right, I move that the
5 Commission approve the Coastal Development Permit No.
6 A-1-96-70, subject to conditions, and recommend a "Yes" vote.

7 VICE CHAIR WAN: Do I hear a "second"?

8 COMMISSIONER TUTTLE: Yes, I'll second it.

9 VICE CHAIR WAN: And, now we will have amending
10 motions, okay.

11 Commissioner Potter, you want to make an amending
12 motion?

13 [MOTION]

14 COMMISSIONER POTTER: I'll amend it to delete the
15 front row of lots facing the river, that is 21 lots; allowing
16 for reconfiguration so long as the 100-foot setback is
17 maintained; eliminate the night lighting; eliminate the gate;
18 maintain the existing road widths; and eliminate the RV
19 parking and storage area.

20 COMMISSIONER ARMANASCO: Second.

21 COMMISSIONER FLEMMING: We have a motion, and a
22 second, Madam Chair. For discussion, I have a question,
23 would that be allowed of Mr. Moser?

24 VICE CHAIR WAN: Yes, we have a motion, and a
25 second, and we are going to have discussion on the motion. I

1 am going to go to the maker of the motion first, and then
2 when I get to you, if you want to ask a question --

3 COMMISSIONER FLEMMING: I do.

4 VICE CHAIR WAN: -- of course.

5 COMMISSIONER NAVA: Could we have a recitation of
6 the elements of that motion?

7 VICE CHAIR WAN: Yes, Commissioner Potter, to you.

8 COMMISSIONER POTTER: I have got it written down
9 here, Sonny.

10 Okay, I concur with the maintaining of the road
11 widths in the area, right. I think that can be maintained as
12 long as it stays a private road. It doesn't have to be a
13 gated community to maintain a private road.

14 I concur that the RV parking and storage isn't
15 community sensitive to it. It has a commercial element in a
16 residential neighborhood.

17 I think the deletion of the front 21 lots deals
18 with the adequate setback that we were talking about, the 100
19 foot.

20 There is a precedent already set for no night
21 lighting.

22 And again, the gating of a community within the
23 area from the ocean to the first public road is,
24 historically, inappropriate, and therefore part of this
25 motion.

1 Any questions, Mr. Nava.

2 COMMISSIONER NAVA: Getting rid of the RV parking?

3 COMMISSIONER POTTER: Yes, and I knocked the RV
4 parking out.

5 VICE CHAIR WAN: Okay, Commissioner Flemming has a
6 question, and then Commissioner Nava.

7 COMMISSIONER FLEMMING: Well, actually, either Mr.
8 Conlon, or Mr. Moser, because this is a dramatic change in
9 their plan.

10 Will you still be able to move forward with these
11 conditions?

12 MR. MOSER: No, absolutely not.

13 COMMISSIONER FLEMMING: That is what I thought.

14 MR. MOSER: The safety issue that you are alluding
15 to in reference to the airport, that was based on a 1980
16 airport land use study. Since that time, the 1993 airport
17 land use plan has been approved by the airport land use
18 committee. It has not been certified into your LCP, but it
19 says the safe density for this project is 2.4 units per acre.
20 That is the --

21 COMMISSIONER FLEMMING: They are not basing this
22 on that airport? That is what Staffel was so adamant about,
23 that this is the setback from the bluff edge.

24 MR. MOSER: I could reconfigure my property
25 easily, because it is a planned unit development. If you

1 gave me 53 units, I could reconfigure it in the same manner,
2 and keep the 100-foot setback, if that would --

3 COMMISSIONER FLEMMING: You could keep -- that is
4 what I wanted to get to, is working within the constraints of
5 the 100-foot setback.

6 You feel you could work with -- you could still
7 come out with 53 units?

8 MR. MOSER: I need a project. The project that is
9 proposed is something that I can't go through with.

10 COMMISSIONER FLEMMING: Okay, thanks, that was my
11 concern.

12 I would like for some of you to consider that, and
13 discuss how we could possibly keep a little more of the
14 density there, as we still protect that 100-foot setback.

15 COMMISSIONER ALLEN: What happens to the --

16 COMMISSIONER NAVA: I have a question, Madam
17 Chair.

18 COMMISSIONER FLEMMING: That really --

19 COMMISSIONER ALLEN: Go ahead.

20 VICE CHAIR WAN: It went to Commissioner Nava.

21 COMMISSIONER ALLEN: Yes, okay.

22 COMMISSIONER NAVA: My question is in terms of the
23 density, how much real land are we talking about? I don't
24 want to include land that is under water, that is silly. How
25 much real land are we talking about building on? and then

1 let's calculate the density, because it is absurd to factor
2 into this calculation property that is under water.

3 COMMISSIONER POTTER: That is correct, and there
4 is 26.5 acres that is where the housing is to be sited. The
5 dedicated area that is in part under water -- you are
6 absolutely correct, and I noted that -- is 67 acres.

7 COMMISSIONER NAVA: So, when we are talking about
8 the density, we are only specifically talking about 26.5
9 acres, right?

10 COMMISSIONER POTTER: Yes, 26.5 acres, and as the
11 motion is, there are 37 lots on it, and --

12 COMMISSIONER NAVA: That works out to what?

13 [No Response]

14 VICE CHAIR WAN: How many dwelling units per acre?

15 COMMISSIONER NAVA: How many per acre.

16 VICE CHAIR WAN: It is 1.7.

17 DISTRICT DIRECTOR SCHOLL: Approximately 2/3 units
18 per acre.

19 VICE CHAIR WAN: No.

20 DISTRICT DIRECTOR SCHOLL: Or 2/3 acres per unit,
21 I am sorry. One unit per 2/3 acre.

22 COMMISSIONER POTTER: That is about right.

23 VICE CHAIR WAN: No, I -- Commissioner Allen.

24 COMMISSIONER TUTTLE: Could you refresh my memory
25 on what the density is of the Pacific -- not shores, Sunset?

1 Portions of that are in the airport zone, and portions of it
2 are not, I think.

3 COASTAL STAFF ANALYST MERRILL: Well, my
4 understanding, and I am sure the applicant's representative
5 can clarify that, too, is that they are half-acre lots, so
6 two units per acre.

7 COMMISSIONER ALLEN: Average.

8 COASTAL STAFF ANALYST MERRILL: Average, yes.
9 There are some that are smaller.

10 VICE CHAIR WAN: No, unless somebody wants to --

11 COMMISSIONER TUTTLE: I would like to -- you are
12 associated -- the reason I would like to ask you is because I
13 believe you are associated with an earlier subdivision
14 proposal --

15 VICE CHAIR WAN: Would you come --

16 COMMISSIONER TUTTLE: -- and I think for that
17 reason --

18 VICE CHAIR WAN: -- up. She wants to ask you a
19 question. You may do that.

20 COMMISSIONER TUTTLE: -- you can give us
21 information on densities.

22 What I specifically would like to know is what the
23 neighboring subdivision has, and then what was the original
24 plan that was never developed, that --

25 MS. HARTMAN: All right, right now --

1 COMMISSIONER TUTTLE: -- your subdivision was
2 supposed to --

3 VICE CHAIR WAN: State your name for the record,
4 please.

5 MS. HARTMAN: Sure, Deborah Hartman, Hartman,
6 Pacific Sunset Subdivision.

7 I know that there is one lot that is three acres.
8 There are several lots that are 3/4 of an acre. They are an
9 average of 1/2 acre, and we have another commercial lot that
10 is a 4 acres.

11 COMMISSIONER ALLEN: Average half-acre.

12 COMMISSIONER POTTER: Average half-acre.

13 COMMISSIONER ALLEN: And, this is 2.2.

14 MS. HARTMAN: All right, and the proposed --

15 VICE CHAIR WAN: Do you have a section that is
16 different, because it was under the airport landing zone.

17 MS. HARTMAN: Okay, I wasn't privy to that. I do
18 know that part of it -- I don't know what the reasoning was.
19 I know that several years ago when we came to the Coastal
20 Commission, Hartman came, and so did Mathews. Mathews is now
21 Sand Pointe. And, they came as a cooperative, and we did,
22 indeed, get it passed, the two units per acre.

23 But, Mathews -- I know Mr. Douglas, if you were
24 here since 1971, you were part of that, I believe, and I
25 understand that Mr. Mathews and Mr. Hartman presented to the

1 Coastal Commission this design, and I believe that Mr.
2 Mathews had intended to keep the lots, especially it was
3 configured so that the lots under the airport were bigger
4 lots, and I believe the units were about 30 to 31. Several
5 lots were bigger, some were smaller, but what I am getting at
6 is that 1/2 acre was the minimum.

7 Did I answer your question?

8 COMMISSIONER TUTTLE: Yes, I think you said that
9 the number of lots for the Mathews subdivision was about 31
10 you thought?

11 MS. HARTMAN: I believe.

12 COMMISSIONER TUTTLE: Okay, so that the --

13 MS. HARTMAN: There is a map on record --

14 COMMISSIONER TUTTLE: Yes, I think we have that in
15 our packet.

16 MS. HARTMAN: Yes, and on that same map, I know
17 that that is true. You will see Wilbur going all the way
18 through. And so when Hartman developed, they did it because
19 the county said to build Wilbur, and the whole idea was that
20 it was going to be complimentary to that other map. Density
21 being lighter closer to the ocean.

22 Thank you.

23 VICE CHAIR WAN: Commissioner Allen.

24 COMMISSIONER ALLEN: I am sensitive to what
25 Commissioner Flemming was talking about, with regard to a

1 project here.

2 The concern that I have heard expressed with
3 regard to density really, in my mind, goes more to the issue
4 of the increased bluff setback, and I am not concerned about
5 necessarily eliminating "x" number of structures so that we
6 can get the setback, but I think overall the density should
7 not exceed the 2 acre -- right now it is the 2.2 units per
8 acre, and I don't think it should exceed the 2 units per acre
9 density. It is in the neighborhood community character sort
10 of an issue in that regard. And, I am also very concerned
11 about the bluff setback. So, I am not sure that we ought to
12 be trying to design a project in a hearing, when we only have
13 dealt with it over a couple of hours, and this has been going
14 on for several years.

15 However, I think there are some real legitimate
16 issues that have been raised, that were not really quite as
17 in the forefront at the local issue, and clearly that is why
18 this body is here. We are looking at the state-wide
19 prospective, and we are looking more at coastal management
20 issues, than local decision making.

21 We need to be sensitive to what the local decision
22 making process has yielded, which is this project, but we
23 need to put it into the context of the *Coastal Act*, and that
24 is where we have to look at the concerns about community
25 character, and bluff setbacks, and those sorts of things, so

1 I am not sure we are there yet. But, I am not real
2 comfortable with just saying to eliminate the front row of
3 houses, and then we get where we want to go, because it seems
4 to me that that is not really the appropriate way to go about
5 planning.

6 COMMISSIONER POTTER: Madam Chair, as the amender,
7 could I just speak to that on what I was trying to attempt
8 with that.

9 And, I think it is a good comment, but what I was
10 trying to do was bring the new subdivision more into
11 conformance into the existing, without creating a denser
12 project, that would then put more residents into a smaller
13 package, eliminating view corridors, and allowing increased
14 density in the area.

15 I think we are all in concurrence on the need for
16 the setback, but as I laid these parcels up, visually,
17 against what portion of the existing subdivision is on the
18 Sand Pointe modified tentative map here, it looks to me like
19 the reduction I proposed in units would bring an increased
20 lot size pretty much consistent with is there in the existing
21 subdivision.

22 So, that was my intent with downsizing the number
23 of units in the project.

24 VICE CHAIR WAN: Commissioner Tuttle.

25 COMMISSIONER POTTER: And, I was only doing that

1 in the desire to get a project going here. I mean, I sense,
2 you know, there might be the will to deny this project, but I
3 was trying to move the applicant forward today.

4 VICE CHAIR WAN: Commissioner Rose.

5 COMMISSIONER ROSE: When I spoke earlier, I said
6 that I was in favor of having us deny the project, and then
7 said if it were to go forward it would need substantial
8 change.

9 I would wonder, if in the mode of making
10 substantial change, and moving forward, if we could agree
11 upon a list of modifications to the project, and give them to
12 the staff and have this come back to us.

13 I think there are like a thousand different ways
14 you could reconfigure this, and if the property owner knows
15 that, there could be many other ways of deciding how to deal
16 with the property. If we get rid of the RV lots, there is
17 room for more houses. It may be that with the 100-foot
18 setback, there is not the necessity for the parking areas
19 that are over eastward of the project, that could be towards
20 the coast, which I think would be more appropriate, anyway.
21 That would give more room for units in that area.

22 I could sit here and redesign it with Wilbur, and
23 you know come up with a hundred ways to do a perfectly lovely
24 community, but I think if we don't just give a list, and have
25 the staff work on it, I can't see a successful resolution

1 without that process.

2 VICE CHAIR WAN: Frankly, I think that is why I
3 think Potter's motion is actually good because it does get us
4 to some sort of resolution.

5 What I am concerned about is that if we come in
6 with a list of changes, it goes back to staff, they redesign
7 it, we are in an endless loop, because it comes back to us,
8 it could be a different Commission here, we could decide to
9 change it again. And, I would like -- you know, either we
10 deny it, or we bring it to resolution in some way.

11 COMMISSIONER FLEMMING: Can I call the question?

12 VICE CHAIR WAN: You know --

13 COMMISSIONER KEHOE: Yes, you could be right.

14 MS. HARTMAN: Before -- could I say one thing?

15 VICE CHAIR WAN: No, no, the public hearing is
16 closed, unless some -- thank you very much.

17 Unless some Commissioner has a specific question
18 of someone, it is not open to discussion.

19 COMMISSIONER POTTER: My only question as the
20 amender would be -- staff is clear on this motion? Let's
21 read back what we have got to date.

22 CHIEF COUNSEL FAUST: That is what I would
23 suggest, is have him read it back, and be sure it is what you
24 intended.

25 COMMISSIONER POTTER: Marvelous.

1 EXECUTIVE DIRECTOR DOUGLAS: And, then, once that
2 is done, we will have to make some adjustments in our
3 recommendation, too.

4 DISTRICT DIRECTOR SCHOLL: This is the substance
5 of the amending motion:

6 To delete the 21 lots, along the edge of the
7 bluff, to allow reconfiguration of those lots, so long as
8 they all maintain 100-foot setback from the top of the bluff;
9 eliminate night lighting; maintain the width of streets
10 consistent with what is around it -- and I take that to mean
11 meet county's width standards for streets, without
12 necessarily making the streets public, but using that as a
13 guide. That is what I heard.

14 COMMISSIONER POTTER: No, I was going with the
15 private road standard.

16 DISTRICT DIRECTOR SCHOLL: A private road
17 standard, but wider than what is now there.

18 COMMISSIONER FLEMMING: No.

19 COMMISSIONER NAVA: No change.

20 COMMISSIONER POTTER: No, no change to that.

21 DISTRICT DIRECTOR SCHOLL: Okay, strike that.

22 Eliminate the vehicle gate, and pedestrian gate,
23 then, around the subdivision; and delete the RV parking.

24 VICE CHAIR WAN: And, night lighting?

25 COMMISSIONER ROSE: He did that.

1 COMMISSIONER TUTTLE: And, I would --

2 VICE CHAIR WAN: When you say --

3 COMMISSIONER TUTTLE: -- like to make clear --

4 VICE CHAIR WAN: -- when you say 21 lots, I want
5 to make that clear, that is 21 lots, leaving us a total
6 number of units of how many?

7 DISTRICT DIRECTOR SCHOLL: Thirty-seven.

8 VICE CHAIR WAN: Thirty-seven. I think that is
9 very important.

10 COMMISSIONER ALLEN: But, what he did say, and at
11 least in recapitulating the amendments, was that those lots
12 could be reconfigured, as long as they conformed to the 100-
13 foot setback.

14 VICE CHAIR WAN: Yes.

15 COMMISSIONER ALLEN: Which means they are not
16 necessarily lost, if in some way it is reconfigured.

17 COMMISSIONER POTTER: No.

18 COMMISSIONER ALLEN: And, I am not sure that is
19 what you meant, when you made the motion.

20 VICE CHAIR WAN: No.

21 COMMISSIONER POTTER: No.

22 COMMISSIONER ALLEN: But, that was the way it was
23 read back.

24 COMMISSIONER POTTER: The numerical cap on the
25 lots is 37 lots.

1 COMMISSIONER ALLEN: Okay, then that is different
2 than what Mr. Scholl just read.

3 DISTRICT DIRECTOR SCHOLL: Okay, well, I will note
4 that --

5 COMMISSIONER POTTER: No, I am saying --

6 DISTRICT DIRECTOR SCHOLL: -- that is what I
7 understood, too --

8 COMMISSIONER POTTER: -- you can reconfigure 37
9 lots on there. If you knock -- basically, the simplest thing
10 to do is to knock the front row out, and that gets you to 37.
11 I am saying -- and I think it was relatively clear -- if you
12 keep the 100-foot setback, that frees up some room in the
13 front, staying outside of the 100-foot setback, you could
14 reconfigure it, the remaining 37 parcels.

15 DISTRICT DIRECTOR SCHOLL: But, your motion then
16 was not to have 38 or 39? but, indeed only 37?

17 COMMISSIONER POTTER: Thirty-seven, or less, if
18 you like.

19 DISTRICT DIRECTOR SCHOLL: Okay.

20 EXECUTIVE DIRECTOR DOUGLAS: Now, in terms of that
21 motion being on the table, if that carries as an amendment,
22 we would then delete the staff recommended condition for
23 parking at the north end of the project, because we think
24 that at that point there are some problems relative to rough
25 proportionality here, in terms of that particular

1 requirement. We also think --

2 VICE CHAIR WAN: Mr. Douglas, can I ask you a
3 question as to why, because we are keeping the narrow
4 streets, and the streets basically private, which means that
5 people can't park within the subdivision, so they have to
6 have a place to park to access the --

7 EXECUTIVE DIRECTOR DOUGLAS: Well, I think --

8 VICE CHAIR WAN: -- trails.

9 EXECUTIVE DIRECTOR DOUGLAS: -- the question -- as
10 long as the streets are open to the public, and that is
11 another part of what we would then suggest, that there be a
12 deed restriction, that the streets, although they could be
13 private, and they could be this narrow, would be open to the
14 public. We want to make sure that there is a provision to
15 insure that.

16 My sense is, though, that in talking with legal
17 staff, that the requirement for the parking area at the north
18 end would probably be problematic at this point. Now, if you
19 reduce the number of lots to 37, and they decide on a
20 reconfiguration, because that is a change, it may well be
21 that they also want the roads then to be wider, so that the
22 county accepts them, and they don't have to maintain them
23 privately, in which case you would have surface street
24 parking along here.

25 COMMISSIONER TUTTLE: I have a question of the

1 applicant.

2 Mr. Moser, could you come up.

3 Before you -- the lot plan that you brought to us
4 at this hearing was adjusted from the one you had in the
5 prior hearing because you had seismic problems? you had to
6 take out a piece that was in the seismic zone, and then you
7 redrew lot lines, and weren't there more lots? weren't the
8 lots longer and skinnier along the front in this version,
9 than they were in your prior version?

10 MR. MOSER: They were larger in my modified
11 version, and we did that in response to two things: one, to
12 accept staff's setbacks from the -- recommended setbacks from
13 the fault; and number two, to decrease our density bonus from
14 20 percent to 10 percent to make everything more palatable.

15 All we are asking for is what the zoning allows,
16 which is 2 units per acre. If we could reconfigure and give
17 you the 100-yard setback -- or 100-foot setback --

18 COMMISSIONER ALLEN: And, that is where I would
19 like to get.

20 MR. MOSER: We can do that. I mean, I need a
21 project. Four-and-a-half years, I have got my soul into this
22 thing.

23 COMMISSIONER ALLEN: That is the direction I --

24 COMMISSIONER TUTTLE: We are working on it --

25 COMMISSIONER ALLEN: -- want, is to keep --

1 COMMISSIONER TUTTLE: -- that is why we are still
2 here.

3 COMMISSIONER ALLEN: -- it within the community
4 character, which is 2 residences per acre, and to maintain
5 the 100-foot setback for safety reasons. I mean, we have
6 just seen too many bluffs fail, and this area has a failure
7 problem.

8 So, if we can reconfigure it to meet those
9 guidelines, then I find -- with the lighting, and the other
10 things -- I find it an acceptable project.

11 COMMISSIONER TUTTLE: But, we are still discussing
12 the overall density question.

13 My question is, are there the same number of lots
14 in the current map that is before us, along that front, as
15 there were when you came to us under the substantial issue
16 hearing in last September?

17 MR. MOSER: I believe there are two more lots that
18 have frontage this time, but there are fewer lots in that
19 sensitive area that your staff was so concerned about --

20 COMMISSIONER TUTTLE: No, I am just asking --
21 because the basis for what --

22 COMMISSIONER POTTER: There were 63, and it --

23 COMMISSIONER TUTTLE: -- Mr. Potter is doing --

24 COMMISSIONER POTTER: -- got reduced to 58.

25 COMMISSIONER TUTTLE: -- is taking the strip of

1 lots that happens to be there now, and if there are more lots
2 there now than there were at the last hearing, then maybe --
3 I mean, if this is the basis for doing it, then maybe that is
4 the number of lots that should be removed, a lower number.

5 I mean, you can chop that front line -- it is an
6 arbitrary way of getting to density. And, I understand what
7 you are trying to do, but it just depends on what map happens
8 to be in front of you. If you had last hearing's map, you
9 would have counted differently.

10 COMMISSIONER POTTER: No, I've got us to the
11 setback, and I have got us to the density issue, both.

12 VICE CHAIR WAN: Yes, and I am satisfied with
13 that.

14 COMMISSIONER TUTTLE: You have one solution to the
15 density.

16 COMMISSIONER POTTER: Reduce the number.

17 COMMISSIONER ARMANASCO: I think that what we are
18 talking about here is that we all agree on the 100-foot set-
19 back, so let's look at the formula as to what does 2 units
20 per acre equal --

21 COMMISSIONER TUTTLE: Thank you.

22 COMMISSIONER ARMANASCO: -- once you are at the --

23 COMMISSIONER FLEMMING: Right.

24 COMMISSIONER ARMANASCO: -- 100-foot setback.

25 COMMISSIONER POTTER: Existing project.

1 COMMISSIONER ALLEN: No, it doesn't. It is 52 as
2 opposed to 58 actually.

3 COMMISSIONER POTTER: Twenty -- fifty-three --

4 COMMISSIONER ALLEN: Fifty-three, as opposed to
5 58.

6 COMMISSIONER POTTER: All right, I mean, it is
7 damn close. It is the same project, really.

8 VICE CHAIR WAN: Yeah.

9 COMMISSIONER TUTTLE: And, 53 includes some bonus.

10 COMMISSIONER ARMANASCO: But, a 2 units per acre,
11 we've just heard is what is the average in the area, and we
12 are getting the 100-foot setback, and we are removing the
13 gates, and we are removing the lights --

14 COMMISSIONER ALLEN: And, the RV.

15 COMMISSIONER ARMANASCO: -- and the RV.

16 COMMISSIONER FLEMMING: Right, and staying in the
17 neighborhood --

18 COMMISSIONER ALLEN: And, getting the public
19 amenities that we need with the parking lot, and the
20 increased public access.

21 COMMISSIONER FLEMMING: Sounds like a win.

22 VICE CHAIR WAN: No, we are not getting the
23 parking. The parking lot has been removed.

24 COMMISSIONER ALLEN: Well, that was with the 37
25 level --

1 COMMISSIONER FLEMMING: Right.

2 COMMISSIONER ALLEN: -- when he couldn't make the
3 proportionality, but if we are only cutting the project back
4 5 units, there ought to be --

5 VICE CHAIR WAN: All right, we have a motion, and
6 we have an amendment.

7 As I understand it, the amending motion is for
8 basically a 37-unit development, with 100-foot setback
9 minimum.

10 I think what we should do is to --

11 COMMISSIONER ARMANASCO: Call the question.

12 VICE CHAIR WAN: -- call the question.

13 COMMISSIONER TUTTLE: I need to clarify the
14 lighting business. I think the point of that amendment is
15 street lights, and I don't think it includes path lighting,
16 and low level lighting.

17 COMMISSIONER POTTER: I appreciate that.

18 VICE CHAIR WAN: I agree with that.

19 COMMISSIONER POTTER: Yes, I appreciate that
20 clarification.

21 COMMISSIONER FLEMMING: And, I --

22 COMMISSIONER POTTER: That is the intent. It is
23 the street lighting.

24 COMMISSIONER FLEMMING: But, not the low lighting
25 around the homes, which they have already agreed would be

1 down lighting.

2 If this fails, I want to make a subsequent motion.

3 COMMISSIONER ALLEN: Yes.

4 VICE CHAIR WAN: You can make a subsequent motion
5 if this fails.

6 The maker of the motion is urging a "Yes" vote?

7 COMMISSIONER POTTER: Yes, and let me speak to my
8 motion one time on this.

9 What has become extremely confusing on the density
10 issue, the public loud and clear said the density was the
11 issue here, and by reducing the size of the parcel, and then
12 allowing the same amount of units, you are going to end up
13 with a much more dense project than you have already.

14 And, so we are allowing the flexibility to move
15 the 37 lots, and configure them in any way desired, in order
16 to make it a financially appetizing project, but we are going
17 to end up with a density issue, which is going to impact not
18 only the people that live around the project, from views, but
19 also the public that is now going to be using these roadways.
20 The view corridors between the houses are going to be
21 limited, and we are going to end up with a bunch of 5-foot
22 side yard setbacks, which give you those cheesy little
23 10-foot view corridors, that don't mean a thing.

24 So, that is my whole reason for capping the number
25 of units, but keeping the acreage the same.

1 VICE CHAIR WAN: All right, call the question.

2 Call the roll.

3 SECRETARY RAMALLI: Commissioner Rose?

4 COMMISSIONER ROSE: Yes.

5 SECRETARY RAMALLI: Commissioner Staffel?

6 COMMISSIONER STAFFEL: Yes.

7 SECRETARY RAMALLI: Commissioner Tuttle?

8 COMMISSIONER TUTTLE: I'll pass.

9 SECRETARY RAMALLI: Commissioner Allen?

10 COMMISSIONER ALLEN: No.

11 SECRETARY RAMALLI: Commissioner Armanasco?

12 COMMISSIONER ARMANASCO: Yes.

13 SECRETARY RAMALLI: Commissioner Dettloff?

14 COMMISSIONER DETTLOFF: Yes.

15 SECRETARY RAMALLI: Commissioner Flemming?

16 COMMISSIONER FLEMMING: No.

17 SECRETARY RAMALLI: Commissioner Kehoe?

18 COMMISSIONER KEHOE: Aye.

19 SECRETARY RAMALLI: Commissioner Nava?

20 COMMISSIONER NAVA: I'll pass.

21 SECRETARY RAMALLI: Commissioner Potter?

22 COMMISSIONER POTTER: Aye.

23 SECRETARY RAMALLI: Commissioner Tuttle?

24 COMMISSIONER TUTTLE: No.

25 SECRETARY RAMALLI: Commissioner Nava?

1 COMMISSIONER NAVA: Yes.

2 SECRETARY RAMALLI: Vice Chairman Wan?

3 VICE CHAIR WAN: Yes.

4 SECRETARY RAMALLI: Eight, three.

5 COMMISSIONER FLEMMING: Okay.

6 VICE CHAIR WAN: Okay, the motion passes.

7 Are there any other amending motions?

8 COMMISSIONER ALLEN: If we are --

9 VICE CHAIR WAN: Mr. Douglas.

10 EXECUTIVE DIRECTOR DOUGLAS: Okay.

11 [MOTION]

12 COMMISSIONER ALLEN: -- I would like to make
13 another amending motion, that would eliminate the fencing
14 along the trail, and even put natural vegetation, or just a
15 low ballard, natural kind of a ballard, to delineate the
16 trail.

17 VICE CHAIR WAN: Okay, that is a good one --

18 COMMISSIONER FLEMMING: And, I second it.

19 VICE CHAIR WAN: -- that we forgot about that.

20 That was seconded -- made by Commissioner Allen, and seconded
21 by Commissioner Kehoe.

22 COMMISSIONER FLEMMING: If we get the project at
23 all, yes. I seconded it.

24 VICE CHAIR WAN: Mr. Douglas, you had a comment
25 you wanted to make?

1 EXECUTIVE DIRECTOR DOUGLAS: Well, finish with
2 this motion, and then --

3 VICE CHAIR WAN: Okay.

4 Call the roll on this motion.

5 COMMISSIONER ARMANASCO: What are we asking for?

6 VICE CHAIR WAN: We are asking for -- Commissioner
7 Allen, why don't you explain.

8 COMMISSIONER ALLEN: To eliminate the fencing
9 along the trail, and instead put either natural vegetation to
10 delineate the trail, or some sort of a very low, natural,
11 little boundary delineator.

12 COMMISSIONER POTTER: And, you are recommending --
13 And, I am recommending a "Yes" vote, yes.

14 COMMISSIONER ROSE: Question of clarification.

15 You know, there is a chart from Oscar Larson,
16 about the fencing, which they believe is a clarification of
17 what the staff intended.

18 COMMISSIONER ALLEN: I don't think that is
19 accurate.

20 COMMISSIONER ROSE: And, I don't believe it to be
21 accurate.

22 COMMISSIONER ALLEN: I don't think it is, either.

23 COMMISSIONER ROSE: I just want to be sure we are
24 keeping in all of those other 3-foot fencing ideas, right.

25 COMMISSIONER ALLEN: Absolutely.

1 COMMISSIONER ROSE: But, to change the words to
2 not taller than to no shorter than 3 feet, and still mean 3
3 feet? You see, we have no upper limits there on the fencing,
4 and that would make this chart be applicable.

5 What did you have in mind?

6 COMMISSIONER ALLEN: Well, I really would like to
7 eliminate fencing along the trail completely.

8 COMMISSIONER ROSE: Right.

9 VICE CHAIR WAN: Yes, she was just talking --

10 COMMISSIONER ALLEN: I really feel that is --

11 COMMISSIONER ROSE: I agree with you. I agree
12 with you. I was thinking of the fencing on the rest of the
13 project.

14 COMMISSIONER ALLEN: I was not impacting that at
15 all.

16 COMMISSIONER KEHOE: This is only along the trail.

17 COMMISSIONER ALLEN: That is exactly right.

18 COMMISSIONER KEHOE: And, I think our first
19 preference would be landscaping --

20 COMMISSIONER ALLEN: With natural vegetation.

21 COMMISSIONER KEHOE: -- right.

22 COMMISSIONER NAVA: Well, our first preference in
23 that motion --

24 VICE CHAIR WAN: Well, you want to just make it
25 that, just landscaping? why don't you just make it that?

1 making it landscaping --

2 COMMISSIONER ALLEN: I have no problem with that.
3 I think it is appropriate.

4 COMMISSIONER KEHOE: That is fine with me.

5 COMMISSIONER ALLEN: Okay.

6 VICE CHAIR WAN: Okay, so that is moved and
7 "seconded" for landscaping, elimination of the fencing along
8 the trail. We are not talking about any other fencing in
9 this motion, elimination of --

10 COMMISSIONER ALLEN: Natural vegetation.

11 VICE CHAIR WAN: -- fencing along the trail, and
12 replacing it with natural vegetation to serve as a barrier,
13 right?

14 COMMISSIONER ALLEN: Correct.

15 VICE CHAIR WAN: Call the roll.

16 SECRETARY RAMALLI: Commissioner Staffel?

17 COMMISSIONER STAFFEL: Aye.

18 SECRETARY RAMALLI: Commissioner Tuttle?

19 COMMISSIONER TUTTLE: Aye.

20 SECRETARY RAMALLI: Commissioner Allen?

21 COMMISSIONER ALLEN: Aye.

22 SECRETARY RAMALLI: Commissioner Armanasco?

23 COMMISSIONER ARMANASCO: Yes.

24 SECRETARY RAMALLI: Commissioner Dettloff?

25 COMMISSIONER DETTLOFF: Yes.

1 SECRETARY RAMALLI: Commissioner Flemming?

2 COMMISSIONER FLEMMING: Yes.

3 SECRETARY RAMALLI: Commissioner Kehoe?

4 COMMISSIONER KEHOE: Aye.

5 SECRETARY RAMALLI: Commissioner Nava?

6 COMMISSIONER NAVA: Yes.

7 SECRETARY RAMALLI: Commissioner Potter?

8 COMMISSIONER POTTER: I'll vote for Commissioner
9 Allen's motion, aye.

10 SECRETARY RAMALLI: Commissioner Rose?

11 COMMISSIONER ROSE: Yes.

12 SECRETARY RAMALLI: Vice Chairman Wan?

13 VICE CHAIR WAN: Yes.

14 SECRETARY RAMALLI: Eleven, zero.

15 VICE CHAIR WAN: Any others.

16 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair.

17 VICE CHAIR WAN: Okay, Mr. Douglas.

18 EXECUTIVE DIRECTOR DOUGLAS: Relative to the staff
19 recommended conditions, in light of what the Commission now
20 has before it, we are going to recommend a modification to
21 the parking requirements:

22 Delete the parking requirement at the north end,
23 and then there was a little accessway that would have lead
24 from that parking area to that trail; delete the additional
25 5 parking spots on Murray Road, so that it would be 5 as

1 proposed by the applicant; and then make sure there is a deed
2 restriction that the roads, if they are going to be private,
3 are open to the public for vehicular and pedestrian access.

4 VICE CHAIR WAN: And, for parking?

5 EXECUTIVE DIRECTOR DOUGLAS: Pardon me?

6 VICE CHAIR WAN: And, for parking?

7 EXECUTIVE DIRECTOR DOUGLAS: That would depend on
8 the width of the road. But, at least it would be a deed
9 restriction for public vehicular and pedestrian access.

10 VICE CHAIR WAN: But, you are eliminating both
11 parking lots, so there is no --

12 EXECUTIVE DIRECTOR DOUGLAS: No, no, we are not
13 eliminating the 5-car parking at Murray Road.

14 VICE CHAIR WAN: Okay.

15 EXECUTIVE DIRECTOR DOUGLAS: You were proposing an
16 increase of that to 10, and we are saying go with what is
17 being proposed.

18 COMMISSIONER FLEMMING: Need a motion on that?

19 COMMISSIONER POTTER: And, I would so move.

20 COMMISSIONER FLEMMING: Second.

21 VICE CHAIR WAN: No, I don't think we need a
22 motion. Staff has changed their recommendation. Is that
23 correct?

24 COMMISSIONER FLEMMING: After we have voted on
25 their recommendation?

1 VICE CHAIR WAN: No, they -- we haven't voted on
2 the main motion.

3 Mr. Douglas, am I correct in this? because we have
4 not voted on the main motion. Because you have not voted on
5 the main motion, and staff has changed its recommendation --

6 EXECUTIVE DIRECTOR DOUGLAS: Right.

7 VICE CHAIR WAN: -- we don't need any additional.

8 EXECUTIVE DIRECTOR DOUGLAS: You don't need a
9 motion on what I just --

10 VICE CHAIR WAN: Right, we just -- this is the
11 main --

12 EXECUTIVE DIRECTOR DOUGLAS: -- suggest as a
13 change, right.

14 VICE CHAIR WAN: -- motion we are on.

15 COMMISSIONER FLEMMING: Okay.

16 VICE CHAIR WAN: Okay, call the roll -- or can I
17 substitute -- oh, first -- we have a "second" yes.

18 COMMISSIONER FLEMMING: Yes.

19 VICE CHAIR WAN: I am confused here.

20 We have got a -- we moved for -- the main motion
21 is to move as per staff, with the staff modifications.

22 We have a motion. I have a "second". Just call
23 the roll. That will be the easiest.

24 SECRETARY RAMALLI: Commissioner Tuttle?

25 COMMISSIONER TUTTLE: Yes.

1 SECRETARY RAMALLI: Commissioner Allen?

2 COMMISSIONER ALLEN: No.

3 SECRETARY RAMALLI: Commissioner Armanasco?

4 COMMISSIONER ARMANASCO: Yes.

5 SECRETARY RAMALLI: Commissioner Dettloff?

6 COMMISSIONER DETTLOFF: Yes.

7 SECRETARY RAMALLI: Commissioner Flemming?

8 COMMISSIONER FLEMMING: Yes.

9 SECRETARY RAMALLI: Commissioner Kehoe?

10 COMMISSIONER KEHOE: Yes.

11 SECRETARY RAMALLI: Commissioner Nava?

12 COMMISSIONER NAVA: Yes.

13 SECRETARY RAMALLI: Commissioner Potter?

14 COMMISSIONER POTTER: Yes.

15 SECRETARY RAMALLI: Commissioner Rose?

16 COMMISSIONER ROSE: Yes.

17 SECRETARY RAMALLI: Commissioner Staffel?

18 COMMISSIONER STAFFEL: Yes.

19 SECRETARY RAMALLI: Vice Chairman Wan?

20 VICE CHAIR WAN: Yes.

21 SECRETARY RAMALLI: Ten, one.

22 VICE CHAIR WAN: Okay, the project is approved as
23 modified. Thank you for your patience, and we are going to
24 take a 5-minute break.

25 [Whereupon the hearing was concluded.]

NOTICE

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA

COUNTY OF MADERA

ss.

I, PRISCILLA PIKE, Hearing Reporter for the State of California, do hereby certify that the foregoing 76 pages represents a full, true and correct transcript of the proceedings as reported by me before the California Coastal Commission on July 8, 1998.

Dated: January 3, 2000


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