

CALIFORNIA COASTAL COMMISSION

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49 th Day:	Opened and Continued
Staff:	Robert Merrill
Staff Report:	June 1, 2000
Hearing Date:	June 12, 2000
Commission Action:	

STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-MEN-00-20
APPLICANT:	R. D. Beacon
AGENT:	T.M. Herman & Associates
PROJECT LOCATION:	Approximately two miles south of Elk, along both sides of Highway One, Mendocino County, APNs 131-010-12X & 131-010-14X.
PROJECT DESCRIPTION:	Boundary line adjustment to re-configure two legal parcels. The existing parcels are 38.5+- (Lot #1) and 51.5+- (lot #2) acres respectively. Highway One bisects Lot #1 such that 9+- acres lie on the west side and 29.5+- acres lie east of the highway. The 29.5 acres lying east of the highway would be combined with existing Lot #2 (also lying east of the highway) resulting in an 81+- acre parcel east of the highway and leaving a 9+-acre parcel west of the highway.

APPELLANTS:

- (1) Peter Reimueller, Friends of Schooner Gulch & Hillary Adams and Roanne Withers, Sierra Club; and
- (2) Commissioners Sara Wan & John Woolley

SUBSTANTIVE FILE:
DOCUMENTS

- 1) Mendocino County CDB No. 89-99; and
- 2) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellants have raised a substantial issue with the local government's action and it's consistency with the certified LCP.

The project as approved by the County consists of a boundary line adjustment to re-configure two lots on property along both sides of Highway One two miles south of Elk. Currently the westernmost 38.5-acre parcel extends eastward from the coastal bluffs and includes substantial area inland of Highway One. The other 51.5-acre parcel involved in the boundary line adjustment is located completely in areas east of Highway One. The boundary line adjustment would reconfigure the parcels in a manner that establishes Highway One as the boundary between the two parcels, resulting in an approximately 9-acre parcel west of the highway and an 81-acre parcel east of the highway.

Commission staff recommends that the Commission find that the development, as approved by the County raises a substantial issue of whether the proposed boundary line adjustment within a designated highly scenic area would be consistent with the policies of the certified LCP regarding visual resources. A principal consequence of the approved boundary line adjustment is that future development of the westernmost of the two parcels would have to be located west of Highway One, whereas under the current parcel configuration, a building site could be located on the portion of the parcel east of Highway One where it would not affect views of the ocean. There is no place on the property west of the highway where a home could be placed where it would not affect views of the ocean from the highway. Therefore, as the boundary line adjustment would preclude locating both future home sites east of the highway and instead would force one of the home sites to be developed west of the highway in an open area where it would affect views to and along the ocean and may not be subordinate to the character of its setting, a substantial issue is raised as to whether the project as approved is consistent with the provisions of LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 that require that new development be sited and designed to protect views to and along the ocean and to be subordinate to the character of its setting.

Commission staff also recommends that the Commission find that the project as approved raises a substantial issue of conformance with the policies of the certified LCP regarding provision of water to serve new development. The subject property is located in a designated Critical Water Resource area where groundwater is known to be in short supply. Although LCP policies require that the availability of water supply be considered before a coastal permit application is approved, no hydrologic study or other demonstration of proof of adequate water supply has been provided. As the boundary line adjustment would greatly reduce the size of one of the two parcels involved and thereby reduce the chances of finding groundwater to serve the parcel, the project as approved by the County raises a substantial issue of conformance with the LCP policies regarding the provision of adequate water supplies to serve new development.

Finally, Commission staff recommends that the Commission find that the project as approved raises a substantial issue of conformance with the certified LCP policies regarding requirements for geologic investigations for proposed development. The westernmost parcel involved in the boundary line adjustment has 600 lineal feet of bluffs that pose a bluff retreat risk to future development on that parcel. LCP policies require that the approving authority review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards, and in areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, require a geologic investigation and report prior to development approval. Although the County required the applicant to place a note on the deed to be recorded for one of the adjusted parcels stating that future development of the property would be subject to geologic hazard evaluation criteria of the County Code, no geologic investigation of the property was required in the review of the approved boundary line adjustment. Therefore, the project as approved by the County raises a substantial issue of conformance with the LCP policies regarding the requirements for geologic investigations for proposed development.

Staff recommends that the other contentions raised in the appeals regarding archaeological investigations, CEQA review, providing adequate public notice, and ensuring adequate ingress and egress from Highway One do not raise a substantial issue of conformance of the project as approved with the LCP. The local record indicates that a satisfactory archaeological investigation has, in fact, been conducted for the development, that the County did make necessary findings with regard to CEQA, and that notice had been provided as required by LCP provisions. Furthermore, the subject property's relatively long frontage along the highway makes it likely that adequate egress or ingress off of Highway One can be provided to the two parcels comparable to the access serving other parcels along Highway One.

Staff also recommends that the Commission continue the de novo portion of the appeal hearing to a subsequent meeting because the Commission does not have sufficient information from the applicant to determine if the project can be found consistent with the visual resource, water supply, and geologic hazard policies of the certified LCP.

Information submitted by a prospective purchaser of one of the lots suggests that opportunities to locate future home sites east of the highway where they would have less impact on views would be precluded by seasonal wetlands. A wetland survey of this area is needed to determine if wetlands do in fact constrain what parts of the property could be developed, and consequently, whether the parcels as adjusted could be developed consistent with LCP policies that protect visual resources. In addition, a hydrologic investigation or other demonstration of proof of adequate water supply is needed to establish that future development of the parcels as adjusted would have adequate water supply as required by LCP policies. Finally, a geologic investigation of the site is needed to determine how much of a bluff setback is needed to safely accommodate future development of the westernmost parcel and establish whether the parcel as adjusted, could be developed in the future in a manner that is fully consistent with the certified LCP.

The motion to adopt the Staff Recommendation of Substantial Issue is found on page 6.

STAFF NOTES:

1. Appeal Process.

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments, which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission because: (1) it is located between the sea and the first public road paralleling the sea; (2) it is within 300 feet of the

mean high tide line and top of the seaward face of a coastal bluff; (3) it is not a principally permitted use; and (4) it is located in a sensitive coastal resource area.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the appeal, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellants filed appeals (Exhibit 5 and Exhibit 6) to the Commission in a timely manner on April 18, 2000 and on April 20, 2000 within 10 working days of receipt by the Commission on April 6, 2000 of the County's Notice of Final Action.

3. Hearing Opened and Continued.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. In accordance with the California Code of Regulations, on April 24, 2000, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. However, the County permit file information had only just been requested and had not yet been received as of the day of the mailing of staff reports to the Commission and interested parties on April 26, 2000. Thus, the requested information was not received in time for the staff to review the information for completeness or prepare a recommendation on the substantial issue question for the Commission's May meeting agenda. Consistent with Section 13112 of the California Code of Regulations, since the Commission did not timely receive the requested documents and materials, the Commission opened and continued the hearing on May 10, 2000.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION

I move that the Commission determine that Appeal No. A-1-MEN-00-020 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-MEN-00-020 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS.

The Commission received two appeals of the County of Mendocino's decision to approve the development. One appeal was received from Coastal Commissioners Sara Wan and John Woolley. A second appeal was received from The Friends of Schooner Gulch, Hillary Adams, and the Mendocino & Lake Group of the Sierra Club. The project as approved by the County consists of a boundary line or lot line adjustment to re-configure two lots on property along both sides of Highway One two miles south of Elk, resulting in an approximately 9-acre parcel west of the highway and an 81-acre parcel east of the

highway. The appellants' contentions are summarized below, and the full texts of the contentions are included as Exhibit Nos. 5 and 6.

Both appeals raise contentions involving inconsistency with the County's LCP policies regarding visual resources. The Friends of Schooner Gulch, Hillary Adams, and the Mendocino & Lake Group of the Sierra Club further assert inconsistencies with the County's LCP policies regarding archaeological resources, geologic hazards, adequacy of water supply, conformance with CEQA, providing adequate public notice of hearings on an application, and ensuring that the parcels as adjusted have adequate ingress and egress to Highway One.

1. Visual Resources

The appellants contend that the project as approved by the County is inconsistent with a number of LCP policies regarding visual resources and development within highly scenic areas.

The appellants contend that the project as approved would be inconsistent with the provisions of LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 that require that new development be sited and designed to protect views to and along the ocean. The portion of the property on the west side of the Highway One affords sweeping views to and along the ocean from the highway. This entire portion of the property consists of an open grassy-covered terrace without trees, hills, or other physical features that could block views. There is no place on the property west of the highway where a home could be placed where it would not affect views of the ocean from the highway. The appellants assert that a principal consequence of the approved boundary line adjustment is that future development of the westernmost of the two parcels would be forced to be located in this area, whereas under the current parcel configuration, future building sites for both parcels could be located east of Highway One where they would not affect views to and along the ocean from the highway.

The LCP policies provide that development in highly scenic areas must be subordinate to the character of its setting. To help achieve this result, the policies state that buildings that must be sited in highly scenic areas shall be sited: (a) near the toe of a slope; (b) below rather than on a ridge; (c) in or near a wooded area, and that (c) the visual impacts of development on terraces must be minimized by avoiding development in large open areas if alternative site exists and minimizing the number of structures and clustering them near existing vegetation, natural landforms or artificial berms. Under the current parcel configuration, the appellants assert that a house on the westernmost parcel could be located consistent with the above stated provisions east of the highway near the toe of the coastal ridge, a natural landform. The appellants assert that under the proposed parcel configuration, a future house on the westernmost parcel would have to be located in a large open area on the coastal terrace where it would not be subordinate to the character of its setting.

2. Archaeological Resources

The appellants contend that the project as approved is inconsistent with LCP policies that require that a field archaeological study be conducted prior to approval of any proposed development within an area of known or probably archaeological significance as required by LCP policies. The appellants state that they are not aware of any archaeological study having been performed for the development and suggest that the area may have archaeological significance. The appellants indicate that the area is the kind of area that was traditionally used by Southern Pomo tribes during the summer and fall abalone and kelp seasons and is similar to nearby areas that were used for seasonal living areas or ceremonial purposes.

3. Geologic Hazards

The appellants contend that the project as approved is inconsistent with LCP policies that require that in areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report prior to development. The nine-acre parcel to be created west of Highway One is a shoreline and bluff top lot, and the appellants state that they are not aware of any geologic investigation or report having been performed for the development.

4. Conformance with CEQA

The appellants contend that no environmental review of the project under the California Environmental Quality Act has been performed as required by a provision of the Coastal Zoning Ordinance.

5. Adequate Water Supply

The appellants contend that there is no proven on-site water supply available to serve the 9-acre parcel to be created west of Highway One. The area is a known area of insufficient water, there is no community water system, and there is no evidence in the local record for the project that any well has been drilled to test whether sufficient ground water exists to serve future development of the site. Thus, the appellants assert that the proposed project is inconsistent with LCP provisions that call for ensuring that new development be located where there are adequate services to accommodate the development. These LCP provisions include LUP Policies 3.8-1 and 3.9-1, and Zoning Code Section 20.532.095.

6. **Adequate Public Notice**

The appellants contend that the project as approved is inconsistent with LCP policies that require the County's Coastal Permit Administrator to notify the public of a pending application for a development. The appellants assert that the required notice was not provided to all who should have received it.

7. **Ingress and Egress to Highway One**

The appellants contend that traffic safety concerns associated with automobiles that would enter and exit both parcels resulting from the boundary line adjustment from Highway One were not adequately considered. The appellants indicate that the accident rate along Highway One is disproportionately high to the volume of traffic and that a plan for safe ingress and egress to the highway should have been submitted before the project was approved.

B. **LOCAL GOVERNMENT ACTION.**

On March 24, 2000, the Coastal Permit Administrator for Mendocino County approved Coastal Development Boundary Line Adjustment #89-99 (CDB #89-99) for the subject development. The decision of the Coastal Permit Administrator was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by Commission staff on April 6, 2000 (Exhibit 4).

The County attached to its coastal permit a number of special conditions, including requirements that (1) new deeds describing the parcels as adjusted be recorded; (2) the deeds contain notes stating that, "Future development of all properties subject to this application shall be subject to the 'highly scenic' development standards contained with the Mendocino County Code;" and (3) the deed for the parcel to be created west of Highway One shall contain a note stating that, "Future development subject to geologic hazard evaluation criteria of County Code."

C. **PROJECT AND SITE DESCRIPTION.**

The two parcels involved in the proposed boundary line adjustment are located on both sides of Highway One, approximately two miles south of Elk. The two parcels are vacant and are designated under the Land Use Plan and zoned under the Coastal Zoning Map as Rangeland, 160-acre minimum parcel size (RL-160). The two parcels under both the existing and proposed lot configuration are non-conforming lots with respect to minimum lot size.

The two parcels were recognized as legal parcels by Certificate of Compliance Application #CC 58-91, issued in 1991 (see Exhibit No. 8). The certificates of compliance issued for that application were issued pursuant to Section 6649.35(a) of the Government Code, indicating that the parcels were legally created under the Subdivision Map Act or a local ordinance. The parcels were created prior to the effective date of Proposition 20, the Coastal Initiative. Therefore, no coastal development permit was required to create the existing parcels.

The subject property is within a highly scenic area that is largely undeveloped and characterized by large open grassy agricultural parcels atop a high coastal terrace with a tree-covered coastal ridge as a backdrop. The western edge of the property consists of an ocean bluff, a steep cliff that drops roughly 200 feet to the ocean. From Highway One, dramatic views are afforded across the western and southern portions of the property to the ocean and the headlands surrounding the cove at the mouth of Elk Creek, just south of the property.

The first parcel involved in the boundary line adjustment (APN 131-010-14) is a roughly bow tie shaped 38.5-acre parcel that extends inland from the ocean as much as 1,300 feet. Highway One bisects the parcel roughly in the narrow middle of the bow-tie shape of the parcel. The 9-acre bluff-top portion of the parcel west of the highway is generally flat open grassland affording views of the ocean from Highway One. The 29.5-acre portion of the parcel east of the highway includes similar open grassy flat areas near the highway which gradually give way to more rolling terrain near the base of the coastal ridge, and finally to the lower portions of the coastal ridge itself. This portion of the parcel is also grass covered and largely devoid of trees. The second parcel involved in the boundary line adjustment, APN 131-010-12, covers approximately 51.5 acres and borders the eastern boundary of the first parcel. The second parcel extends another approximately 1,300 feet farther to the east and includes more of the coastal ridge.

The proposed boundary line adjustment would adjust the parcels in a way that would establish the new boundary between the two parcels at Highway One. As a result, a 9-acre parcel would exist west of Highway One and an 81-acre parcel would exist east of the highway. No development other than the boundary line adjustment is proposed.

Remnants of an old narrow-gauge railroad grade can be found along the western edge of the property. According to an archaeological assessment of the property submitted with the application, the railroad once traveled along the edge of the Mendocino coastline. The grade is excavated into the side of the bluff face on the subject property approximately 10-20 feet below the edge of the bluff, and in two places forms a deep through-cut as it passes through two small points in the cliff. The grade is almost completely eroded away at several locations where the cliff face is very steep and lacks solid bedrock. The archaeological report indicates a few old piling and trestle remnants are present in these locations, suggesting that at least some of the grade may have been supported by a wooden trestle. The archaeological report indicates that two

archaeological sites have been discovered on the 9-acre portion of the property west of Highway One, one prehistoric, the other historical. In addition, one prehistoric isolate discovery was also made.

D. SUBSTANTIAL ISSUE ANALYSIS.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

All of the contentions raised in this appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. These contentions allege that the approval of the project by the County raises significant issues related to LCP provisions regarding (1) the protection of visual resources; (2) the protection of archaeological resources; (3) geologic hazards; (4) notification of interested parties of the local hearing on the permit application; (5) ensuring adequate provision of water supply for future development on the nine-acre parcel to be established west of Highway One; (6) conformance with CEQA environmental review requirements; and (7) Coastal access provisions governing the flow of automobile traffic. The Commission finds that three of these seven contentions raise a substantial issue, for the reasons discussed below.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to certain allegations (a, b, and c below) a substantial issue exists with regard to the approved project's conformance with the certified Mendocino County LCP. As further discussed below, the Commission finds that with respect to the allegations regarding notification of interested parties of the local hearing on the permit application, conformance with CEQA environmental review requirements, the protection of archaeological resources, and traffic flow on Highway One, the development as approved by the County raises no substantial issue with the certified LCP or the access provisions of the Coastal Act.

Allegations Raising Substantial Issue

a. Visual Resources

The appellants contend that the approved project raises a substantial issue of conformance with Mendocino County LUP policies regarding the protection of visual resources. Specifically, the appellants contend that the boundary line adjustment is inconsistent with LCP policies requiring that new development protect views to and along the ocean. A principal consequence of the approved boundary line adjustment is that future development of the westernmost of the two parcels would be forced to located west of the highway, whereas under the current parcel configuration, future building sites for both parcels could be located east of Highway One where they would not affect views to and along the ocean from the highway. The appellants also contend that the approved project is inconsistent with LCP policies that provide that development in highly scenic areas must be subordinate to the character of its setting. The appellants assert that under the proposed parcel configuration, a future house on the westernmost parcel would have to be located in a large open area on the coastal terrace where it would not be subordinate to the character of its setting.

LCP Policies:

Policy 3.5-1 states in applicable part:

"The scenic and visual qualities of Mendocino county 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, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting."

Policy 3.5-3 states in applicable part:

"The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as 'highly scenic areas'...Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1...All proposed divisions of land and boundary line adjustments within 'highly scenic areas' will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies." [emphasis added]

Policy 3.5-4 states:

"Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open area shall be avoided if an alternative site exists...Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms."

Coastal Zoning Ordinance Section 20.504.015 states, in applicable part:

"Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes..."

(3) New development shall be subordinate to the natural setting and minimize reflective surfaces...

- (4) All proposed divisions of land and boundary line adjustments within highly scenic areas shall be analyzed for consistency of potential future development with the regulations of this Chapter, and no division of land or boundary line adjustment shall be approved if development of resulting parcel(s) would be inconsistent with this chapter. [emphasis added]
- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area...
- (6) Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development in large open areas if alternative site exists; (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms..."

Discussion:

The development is located within a designated highly scenic area along both sides of Highway One. The subject site is located in a rural agricultural area south of the Town of Elk on a largely wide-open grassy coastal terrace with a tree-covered coastal ridge as a backdrop. The site affords sweeping blue water views to motorists traveling on Highway One. Southbound travelers also are afforded broad views of the scenic headlands at the mouth of Elk Creek. This stretch of coast is extremely scenic. The highly scenic area east of the highway extends easterly to include all areas within view of the highway, and includes more grazing land that gives way to a coastal ridge.

As noted previously, the first parcel involved in the boundary line adjustment (APN 131-010-14) is a roughly bow-tie shaped 38.5-acre parcel that extends inland from the bluff face to a location that is as much as 1,300 feet inland of the ocean. Highway One bisects the parcel roughly in the narrow middle of the bow-tie shape of the parcel. The proposed boundary line adjustment would adjust the parcels in a way that would establish the new boundary between the two parcels at Highway One. As a result, a 9-acre parcel would exist west of Highway One and an 81-acre parcel would exist east of the highway. The 9-acre portion of the parcel west of the highway is generally flat open grassland. The 29.5-acre portion of the parcel east of the highway includes similar open grassy flat areas near the highway which gradually give way to more rolling terrain near the base of the coastal ridge, and finally to the lower portions of the coastal ridge itself. This portion of the parcel is also grass covered and largely devoid of trees. The second parcel involved in the boundary line adjustment, APN 131-010-12, covers approximately 51.5 acres and extends another approximately 1,300 feet farther to the east and includes more of the coastal ridge.

The approved project is a boundary line adjustment between two existing parcels that would not create any new additional parcel and does not include any physical development on the ground that would affect visual resources. In its review of the visual impacts of the proposed development, the County appears to have focused solely on these facts. The only statement included in the County's adopted findings and staff report for the coastal development permit granted for the development is as follows:

"The property subject to the adjustment is located in a designated 'Highly Scenic' area. However, adjustment of the parcels will not result in additional development potential within a 'Highly Scenic' area than the development potential that exists under the current configuration. Those policies addressing 'Highly Scenic' would still be applicable."

The County's adopted findings and staff report do not take into account that the adjustment of the parcels would limit options for siting future development in a manner that could affect visual resources. As noted above, however, LUP Policy 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(4) provide that the visual impacts of potential future development of the parcels must be analyzed for consistency with the visual resource policies of the LCP at the time a boundary line adjustment is approved.

A principal consequence of the approved boundary line adjustment is that future development of the westernmost of the two parcels would have to be located west of Highway One, whereas under the current parcel configuration, a building site could be located on the portion of the parcel east of Highway One where it would not affect views of the ocean. As noted above, a person traveling along Highway One is afforded views to and along the ocean across the portion of the parcel west of the highway. As the vacant landscape of the area west of the Highway consists of an open grassy-covered terrace without trees, hills, or other vegetation or topographical features, there is no place on the property west of the highway where a home could be placed where it would not affect views of the ocean from the highway. Therefore, as the boundary line adjustment would preclude the option available under the current parcel configuration of locating both future home sites east of the highway and instead would force one of the home sites to be developed west of the highway in an open area where it would affect views to and along the ocean, a substantial issue is raised as to whether the project as approved is consistent with the provisions of LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 that require that new development be sited and designed to protect views to and along the ocean.

In addition to calling for the protection of views to and along the ocean, LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 provide that development in highly scenic areas must be subordinate to the character of its setting. The policies also provide guidance on how to ensure that new development is subordinate to its setting in highly scenic areas. LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 provide that Buildings and building groups that must be sited in highly scenic areas shall

be sited: (a) near the toe of a slope; (b) below rather than on a ridge; and (c) in or near a wooded area. These policies also state that the visual impacts of development on terraces must be minimized by avoiding development in large open areas if alternative site exists, and minimizing the number of structures and clustering them near existing vegetation, natural landforms or artificial berms. The two parcels involved in the proposed boundary line adjustment are both within the same highly scenic area. Under the current parcel configuration, consideration could be given to locating the house on the westernmost parcel consistent with the above stated provisions near the toe of the coastal ridge, a natural landform. Under the proposed parcel configuration, a house on the westernmost parcel could not be located near the toe of a slope or clustered near existing vegetation, natural landforms, or artificial berms. Instead, the future home site would have to be located in a large open area on the coastal terrace. Therefore, the Commission finds that the approved boundary line adjustment raises a substantial issue of conformance to the siting provisions of LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 and the overall requirement of these policies that new development be subordinate to the character of its setting.

The coastal visual resource affected by the decision is of great significance. The certified LCP designates the subject property and the area surrounding it as "highly scenic" in recognition of its visual qualities. The site is located in a largely undeveloped rural area where open agricultural grazing lands lie atop a high coastal terrace that offers sweeping views of the ocean and coastline to the west, and grassy hills that give way to forested ridges to the west. The headlands at the mouth of Elk Creek to the south further enhance the visual interest of the setting. Any home built on the portion of the property west of the highway would be the only house within view west of the highway between the adjacent property to the north and at least as far as the top of the southern headlands of Elk Creek, a distance of approximately a mile as the crow flies and farther in highway miles.

Additionally, there is no evidence in the local record that that the County considered how the boundary line adjustment would affect the siting of future development on the subject property with regard to protecting visual resources. As noted above, the County staff report and adopted findings only consider the fact that the boundary line adjustment would not increase the development potential of the property and do not address siting considerations for future development. Therefore, there is not a high degree of factual or legal support for the County's decision to approve the project as being consistent with the visual resource policies of the certified LCP.

Thus, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding visual resources.

b. Adequate Water Supply

The appellants contend that there is no proven on-site water supply available to serve the 9-acre parcel to be created west of Highway One. The area is a known area of insufficient water, there is no community water system, and there is no evidence in the local record that a well has been drilled to test whether sufficient ground water exists to serve future development of the site. Thus, the appellants assert that the proposed project is inconsistent with LCP provisions that call for ensuring that new development be located where there are adequate services to accommodate the development.

LCP Policies:

Policy 3.8-1 states the following in applicable part:

"Highway 1 capacity, availability of water and sewage disposal system and other know planning factors shall be considered when considering applications for development permits."

Policy 3.8-9 states the following in applicable part:

"Approval of the creation of any new parcels shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of the proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time and the Mendocino County Division of Environmental Health's Land Division requirements as revised. (Appendix 6)..."

Policy 3.9-1 of the Mendocino County Land Use Plan states, in applicable part:

"An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or close proximity to existing areas able to accommodate it...One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and swage disposal capacity exists and proposed development is consistent with all applicable policies of this Coastal Element and is in compliance with existing codes and health standards. Determination of service capacity shall be made prior to the issuance of a coastal development permit."

Coastal Zoning Ordinance Section 20.532.095 states the following:

"(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

...
(2) *The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities;...*"

Discussion:

The LUP policies cited above require that the approving authority consider whether an adequate on-site water source to serve proposed development is available before approving a coastal development permit. LUP Policy 3.8-1 states that availability of water shall be considered when considering applications for development permits. Policy 3.8-9 states that the creation of any new parcels shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels. Policy 3.9-1 states that one housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate, water capacity exists, and the determination of service capacity shall be made prior to the issuance of a coastal development permit. Coastal Zoning Ordinance Section 20.532.095 states that the granting of a coastal development permit shall be supported by findings establishing that the proposed development will be provided with adequate utilities. These policies reflect the requirements of Section 30250(a) of the Coastal Act that new development be located in areas able to accommodate it.

The project site is not served by any community water system and there are no streams or other surface waters on the site sufficient to provide water supply. As with most rural areas of the Mendocino Coastal zone not served by a community water system, domestic water supplies would have to come mainly from groundwater. However, there is no evidence in the local record for the project that test wells have been drilled to determine whether adequate groundwater supplies are available to serve future residential and other development that might be proposed on the adjusted parcels in the future. As noted in the background section on Water Supply in Chapter 3.8 of the LUP, some areas of the coastal zone do not have adequate ground water to serve even existing development, necessitating the hauling of water during the late summer and fall of dry years. The California Department of Water Resources has been conducting an ongoing coastal-wide groundwater study. The study produced a report entitled, "Mendocino County Coastal Groundwater Study," published in 1982. The report establishes areas of Sufficient, Marginal, Critical, and Critical Bedrock Water Resource areas, and recommends Land Use Densities in these areas. This study is referred to in Policy 3.8-9. A copy of the recommended Land Use Densities from that report is attached as Exhibit 10 of the staff recommendation.

The Mendocino County Coastal Groundwater Study identifies the subject property as being within a Critical Water Resource area (CWR). The land-use density recommendations of the Groundwater Study state in applicable part, the following:

"The determination of availability of ground water for a specific development requires professional judgement and interpretation of all available data. This study, though not site specific, has identified coastal areas of differing ground water availability... From this information, general guidelines can be drawn to aid the planner in reviewing proposed developments. It is recommended that:...Areas designated CWR (Critical Water Resources) shall have a minimum lot size of 5 ac and demonstration of "proof of water." All lots less than 5 ac shall be required to demonstrate 'proof of water' and may require an environmental impact statement." (emphasis added)

As noted previously, the proposed project is a lot line adjustment between two existing parcels and does not include any physical development on the ground. No development that would generate a need for water and other services is proposed in the current application. However, the certified LCP would allow one residence on each of the adjusted parcels as a principally permitted use and the capacity of the parcels as adjusted to support such uses needs to be considered at this time. The Commission has received correspondence from a person who is in the process of purchasing the 9-acre parcel that would be created west of the highway who has indicated his intent to construct a home on the parcel. Under the proposed boundary line adjustment, the parcel that includes this area would be reduced in size from 38.5 acres to 9 acres. To the extent that groundwater is in short supply in the area, reducing the acreage from which groundwater could be drawn could greatly reduce the chances that adequate groundwater reserves would be found to support a future residence on the property. As set forth above and as noted in the County staff report on the proposed boundary line adjustment, the land use density recommendations of the Coastal Groundwater Study state that areas designated CWR shall have a minimum lot size of 5 acres and demonstration of proof of water. (emphasis added) Although the smallest parcel resulting from the boundary line adjustment will be 9 acres, greater than the recommended minimum of 5-acres, no demonstration of proof of water is contained in the local record for the project.

The County staff report contains little discussion about the availability of water to serve future development of the parcels that would result from the boundary line adjustment (See pages 5 and 6 of Exhibit 4. Finding 2 asserts without explanation that "the proposed development will be provided with adequate utilities...". Item No 6 of the section of the report entitled, "Coastal Policy Consistency Review" acknowledges the subject property is in an area designated as Critical Water Resources in the County Groundwater Study and quotes the land use density recommendation of the study that "Areas designated CWR (Critical Water Resources) shall have a minimum lot size of 5 acres and demonstration of 'proof of water.'" (emphasis added) However, the report does not indicate whether there had been demonstration of proof of water and simply concludes that "the adjustment will not result in parcels being inconsistent with the Mendocino County Coastal Groundwater Study recommendations."

As (1) the subject property is in a designated Critical Water Resource area, (2) the boundary line adjustment would greatly reduce the size of one of the two parcels involved and thereby reduce the chances of finding groundwater to serve the parcel, (3) the Mendocino Coastal Groundwater study recommends that proof of water be provided for development in Critical Water Resource Areas, and (4) no hydrological study or other demonstration of proof of water to serve the parcel has been made available, it is not clear whether adequate water to serve the development is available. Without demonstration of proof of water or explanation in the County findings as to how the proposed development is consistent with LCP policies regarding provision of water to serve new development, there is not a high degree of factual or legal support for the County's decision to approve the project as being consistent with the certified LCP.

Therefore, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding provision of water to serve new development.

c. Geologic Hazards

The appellants contend that the project as approved is inconsistent with LCP policies that require that in areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report prior to development. The nine-acre parcel to be created west of Highway One is a shoreline and bluff top lot, and the appellants state that they are not aware of any geologic investigation or report having been performed for the development.

LCP Policies:

LUP Policy 3.4-1 states the following in applicable part:

"The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site..."

Zoning Code Section 20.500.015(A) states in applicable part:

- (1) *Preliminary Investigation.* The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.
- (2) *Geologic Investigation and Report.* In areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.

LUP Policy 3.4-2 states the following:

"The County shall specify the content of the geologic site investigation report required above. The specific requirements will be based upon the land use and building type as well as by the type and intensity of potential hazards. These site investigation requirements are detailed in Appendix 3." (See Exhibit 10 of the staff recommendation for a copy of "Appendix 3")

LUP Policy 3.4-3 states the following:

"The County shall review development proposals for compliance with the Alquist-Priolo Special Studies Zone Act (as amended May 4, 1975)"

Zoning Code Section 20.532.070(A) states in applicable part:

- (A) *The extent of additional geotechnical study that must accompany Coastal Development applications depends on the site and type of project as follows:*
 - (1) *Land Use and Building Type.*
 - (a) *Type 1: Public, High Occupancy and Critical Use, including: Hospitals, Fire and Police Station, Communication Facilities, Schools, Auditoriums, Theaters, Penal Institutions, High-rise hotels, Office and Apartment Buildings (over 3 stories) and Major Utility Facilities.*
 - (b) *Type 2: Low Occupancy, including: Low-rise Commercial and Office Buildings (1 to 3 stories), Restaurants (except in high-rise category), and Residential (less than 8 attached units and less than 3 stories).*
 - (c) *Type 3: Residential (less than 8 attached units), and Manufacturing and Storage/Warehouse...*
 - (d) *Type 4: Open Space, Agricultural, Golf Courses, etc.*
 - (2) *Required Studies.*
 - (a) *Fault Rupture.* Prior to proceedings with any Type 1 development, published geologic information shall be reviewed by an engineering geologist or civil engineer, the site shall be mapped geologically and aerial photographs of the site and vicinity shall be examined for lineaments. Where these methods indicate the possibility of faulting, a

thorough investigation is required to determine if the area contains a potential for a fault rupture. App applications for development proposals shall be reviewed for compliance with the Alquist-Priolo Special Studies Zone Act pursuant to Subsection (D) below and shall be deemed incomplete until such time as the reviewing geologist report is accepted by the County.

(b) Seismic-Related Ground Failure

...

(3) Unspecified land uses shall be evaluated and assigned categories of investigation on an individual basis.

(a) Tsunami

...

(b) Landsliding

...

LUP Policy 3.4-7 states that:

The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

$$\text{Setback (meters)} = \text{Structure life (years)} \times \text{Retreat rate (meters/year)}$$

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist's report.

This language is reiterated in Zoning Code Section 20.500.020(B).

Zoning Code Section 20.500.010 states that development shall:

- (1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
- (2) Assure structural integrity and stability; and*
- (3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the*

construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Zoning Code Section 20.500.020(B) states that:

"Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff."

LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) state that:

"Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses."

Discussion:

The western-most of the two parcels involved in the approved boundary line adjustment includes approximately 600 lineal feet of shoreline bluffs. According to the archaeological report submitted with the application, the bluffs overlooking the ocean form a dramatic cliff that drops roughly 200 feet to the ocean. No geologic information about the stability of the bluffs or the bluff retreat rate is included in the permit application or elsewhere in the local record for the project. The County staff report does not include specific discussion of geologic hazards associated with the site. However, Special Condition No. 7 of the approved permit states as follows:

"A note shall be attached to the deed prepared for the parcel to be created west of Highway One, which shall state: 'Future development subject to geologic hazard evaluation criteria of County Code.'"

Thus, the County recognized that future development of a home on the westernmost parcel would be subject to a review of geologic hazards, but determined that such a review would only be needed at the time such development is proposed, not at the boundary line adjustment stage.

LUP Policy No. 3.4-1 and Coastal Zoning Code Section 20.500.015(A) require that the approving authority review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards, and in areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, require a geologic investigation and report prior to development approval. Coastal Zoning Code Section 20.532.070 indicates that certain use types or buildings would trigger the need for geologic investigations of varying depths of analysis. For example, only applications for a Type 1 development (Public, high occupancy and critical use) would require an on-site fault rupture study, whereas all applications for

development proposals shall be reviewed for compliance with the Alquist-Priolo Special Studies Zone Act. These LCP policies do not distinguish boundary line adjustments and land divisions from other forms of development when setting forth the requirement for geologic investigations. The policies state that all coastal development permit applications must be reviewed for geologic hazards, and in areas of known or potential geologic hazards such as shoreline and bluff top lots, a geologic investigation and report shall be required prior to development approval.

Under the proposed boundary line adjustment, the parcel that includes shoreline bluffs would be reduced in size from 38.5 acres to 9 acres. The approved parcel configuration would transfer the portions of the this parcel that exist east of highway One to the other parcel, limiting all of the shoreline parcel to the area west of Highway One. Thus, although the width of the shoreline parcel between the bluff edge and Highway One would still range from between 400 and 670 feet, the boundary line adjustment would reduce the options for siting a future house on the parcel where it would avoid bluff retreat and other kinds of geologic hazards. As discussed elsewhere in this report, other siting constraints would affect where a house could be built on the parcel. The site contains archaeological sites that must be avoided and a future house on the parcel would have to be carefully sited to minimize visual impacts. Therefore, knowing what geologic constraints would affect the siting of a future home, such as the amount of setback from the bluff edge that would be needed to avoid bluff retreat hazards over the life of the structure, would be useful in determining whether the parcel as adjusted, could be developed in the future in a manner that is fully consistent with the certified LCP.

Therefore, given that (a) one of the parcels involved in the approved boundary line adjustment is a bluff top lot with hazardous bluffs, (b) the LCP policies state that all coastal development permit applications must be reviewed for geologic hazards and that a geologic investigation shall be required in areas of known or potential geologic hazards such as shoreline and bluff top lots, and (c) the boundary line adjustment will limit options for siting future development to avoid geologic hazards, the Commission finds that the approved boundary line adjustment raises a substantial issue of conformance to the geologic investigation provisions of LUP Policy 3.4-1 and Coastal Zoning Ordinance Section 20.500.015(A). Furthermore, hazards associated with coastal bluff erosion are of increasing concern, not only at the local level, but also as a concern of statewide significance. Increasing development pressures along the state coastline have resulted in more development being proposed and constructed on marginally stable bluff top parcels. As a result, more of the coastline is being armored with shoreline protective devices to protect development from the threats posed by inherent geologic hazards in these areas. Many of these shoreline protective devices have adverse impacts to the physical and visual integrity of coastal resources.

Therefore, the Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with LUP Policy 3.4-1 and

Coastal Zoning Ordinance Section 20.500.015(A) regarding geologic investigations for proposed development.

Appellants' Contentions That Do Not Raise a Substantial Issue.

a. Archaeological Resources

The appellants contention that the project as approved is inconsistent with LCP policies that require that a field archaeological study be conducted prior to approval of any proposed development does not raise a substantial issue of consistency with the LCP or the public access policies of the Coastal Act.

LCP policies

Policy 3.5-10 of the Mendocino County Land Use Plan states in applicable part the following:

The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probably archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource...The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance."

Section 20.532.095 of the Mendocino Zoning Code in part states that:

- (A) *The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:*
- ...
- (5) *The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*

Discussion: The appellants assert that the County failed to require that a field archaeological study be conducted prior to approval of the proposed development within an area of known or probably archaeological significance as required by LCP policies. The appellants indicate that the area is the kind of area that was traditionally used by Southern Pomo tribes during the summer and fall abalone and kelp seasons and is similar to nearby areas that were used for seasonal living areas or ceremonial purposes.

Policy 3.5-10 of the LUP requires that a limited field survey by a qualified professional be conducted prior to County approval of a coastal development permit for any development within an area of known or probably archaeological significance. Prior to review by the Coastal Permit Administrator, the County Archaeological Commission reviewed the project and determined that an archaeological survey would be required. The applicant then provided the Archaeological Commission with a survey that had been prepared by Max A. Neri, Consulting Archaeologist, dated September 17, 1999. The Archaeological Commission accepted the report.

The archaeological report indicates that two archaeological sites have been discovered on the 9-acre portion of the property west of Highway One, one prehistoric, the other historical. In addition, one prehistoric isolate discovery was also made. However, the report demonstrates that resources are confined to certain areas and that there are adequate building sites available elsewhere on the portion of the parcel west of Highway One, as adjusted, that would not affect the identified archaeological resources. The Coastal Permit Administrator relied on the Neri report in adopting findings stating in part, the following:

"An archaeological survey has been prepared and accepted. It has been determined that there is an adequate building site that will not disturb the sites that have been identified."

Thus, the record indicates that (1) an archaeological report for the development site was prepared and accepted as required by LUP Policy 3.5-10, and (2) the County considered the findings of the report in determining whether the proposed boundary line adjustment would conform to the archaeological resource protection policies of the certified LCP. Therefore, there is a high degree of factual support for the local government's decision that the development is consistent with the archaeological resource policies of the certified LCP.

Therefore, the Commission concludes that the appeal raises no substantial issue with respect to conformance of the approved project with the archaeological resources policies of the certified LCP.

b. Conformance with CEQA

The appellants contention that no environmental review of the project under the California Environmental Quality Act has been performed as required by a provision of the Coastal Zoning Ordinance does not raise a substantial issue of consistency with the LCP or the public access policies of the Coastal Act.

LCP policies

Section 20.532.040 of the Mendocino Zoning Code in part states that:

“Upon acceptance of an application as complete, the Director or his designee shall complete an environmental review of the project as required by the California Environmental Quality Act (CEQA), shall study the project for conformance with all applicable requirements of this Chapter...”

Discussion: The appellants assert that the County failed to perform the necessary environmental review of the project under CEQA, contrary to the requirements of Section 20.532.040 of the Mendocino Zoning Code. The County staff report prepared prior to the hearing conducted by the Coastal Permit Administrator states that the application is Categorically Exempt under CEQA as a Class 5a exemption, and thus no further environmental review is required. Section 20.532.040 of the Zoning Code does not mandate that an environmental review always be completed, only that an environmental review required by CEQA be completed. By determining that the project qualified for a CEQA categorically exemption, the County determined that no environmental review is required to be completed under CEQA and thus there is no substantial issue that the project is consistent with Section 20.532.040 of the Mendocino Zoning Code.

It is not clear from the local record why the approved project qualifies as a Class 5a exemption under CEQA. Regardless of whether the approved project fully qualifies for this exemption, the contention raises a procedural inconsistency and not a substantial or substantive inconsistency of the approved project with the certified LCP. The contention thus raises a local issue relevant to this project and not an issue of regional significance since the County has LCP CEQA review policies in place and the County's decision to approve the permit would not influence the existing LCP standards that include CEQA review requirements.

Therefore, the Commission concludes that the appeal raises no substantial issue with respect to conformance of the approved project with the CEQA review policies of the certified LCP.

c. Adequate Public Notice

The appellants contention that the County's Coastal Permit Administrator did not provide notice of the permit application to all who were required to receive notice pursuant to provisions of the certified LCP does not raise a substantial issue of consistency with the LCP or the public access policies of the Coastal Act.

LCP policies

Section 20.536.010 of the Mendocino Zoning Code in part states that:

The purpose of this section is to provide for the issuance of coastal development permits for those types of development projects which are not administrative or emergency permits.

Section 20.536.010(C), **Notice**, states in applicable part:

At least ten (10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, to all property owners within three hundred (300) feet of the perimeter of the parcel on which the development is proposed, to all occupants of property within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission...

Discussion: The appellants assert that the County failed to provide adequate public notice of the application by not (1) placing notice of the notice of the project on the County's internet site in the area concerning development permits, and (2) publishing a notice about the pending application in local newspapers, (3) sending notices to certain individuals who regularly receive notice by mail on coastal development issues, and.

Section 20.536.010(D) of the certified Coastal Zoning Ordinance requires that the County notify all landowners within 300 feet and occupants within 100 feet of the project, and the local record contains evidence that the County did provide such notice. This zoning standard does not require that the County to either provide notice of a pending coastal development permit application on the internet or to publish a notice about pending coastal development permit applications in local newspapers. It is not clear from the local record whether the County sent notice to all persons who have requested to be on the mailing list for coastal decisions, as is also required by Section 20.536.010(D). Regardless of whether notice was sent to every individual who may have requested notice of coastal decisions in general, the contention raises a procedural inconsistency and not a substantial or substantive inconsistency of the approved project with the certified LCP. The contention thus raises a local issue relevant to this project and not an issue of regional significance since the County has LCP notification policies in place and the County's decision to approve the permit would not influence the existing LCP standards that include notification provisions. Furthermore, the Commission notes that it's own hearing on this appeal has provided additional opportunities for interested parties to provide comments on the project.

Therefore, the Commission concludes that the appeal raises no substantial issue with respect to conformance of the County's approval with the certified LCP.

d. Adequate Ingress and Egress to Highway One

The appellants' contention that Highway One traffic safety concerns associated with automobiles entering and exiting the parcels resulting from the boundary line adjustment were not adequately considered does not raise a substantial issue of consistency with the LCP or the public access policies of the Coastal Act.

LCP policies

Section 20.532.095 of the Mendocino Zoning Code in part states that:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

...

(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities

Coastal Act Public Access Policies

The public access policies of the Coastal Act are part of the standard of review in this case because portions of the site are located between the first public road and the sea.

Coastal Act Section 30210 states that:

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

Coastal Act Section 30211 states 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.

Coastal Act 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.

Discussion: The appellants contend that Highway One traffic safety concerns associated with automobiles entering and exiting the parcels resulting from the boundary line adjustment were not adequately considered. As the appellants point out, exiting and

entering Highway One from adjoining parcels can be dangerous because of the narrowness of the road, the lack of shoulders, poor visibility, high traffic speeds, the curvy winding route of the roadway, and other factors.

Section 20.532.095(A)(2) of the County Coastal Zoning Ordinance requires that proposed development be provided with adequate access roads. Whether an access road is considered to be adequate could be based, in part, on whether the access road provides safe ingress and egress from the highway. The public access policies of the Coastal Act provide for the maintenance and enhancement of access to the coast. The movement of traffic on Highway One affects public access to the coast. The Commission notes, however, that the safety concerns associated with automobiles entering and exiting the parcels cited by the appellants are common to the use of most of the parcels fronting Highway One as it stretches along the Mendocino coastline. The Commission also notes that each parcel resulting from the boundary line adjustment would have extensive frontage along the highway. The 9-acre lot to be created west of the highway would have approximately 950 lineal feet of frontage on the highway and the larger parcel to be created east of the highway would have approximately 1,957 lineal feet of frontage. These large frontages would provide much greater opportunities for locating safe ingress and egress points than are available to most parcels along the highway which typically have smaller highway frontage.

Therefore, the Commission finds that this contention does not raise a substantial issue of consistency of the project as approved with a policy or standard of the certified LCP or the public access and public recreation policies of the Coastal Act.

3. Conclusion.

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP concerning the protection of visual resources, requiring that new development be located where there is an adequate water supply, and regarding geologic hazards.

E. Information Needed for de Novo Review of Application

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the de novo hearing to a subsequent date. The de novo portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP and the public access and public recreation policies set forth in the Coastal Act.

Given that the project the Commission will be considering de novo has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP and the public access and public recreation policies set forth in the Coastal Act. Following is a discussion of the information needed to evaluate the development.

Demonstration of Proof of Water

As discussed previously, LUP Policies 3.8-1, 3.8-9, 3.9-1, and Coastal Zoning Code Section 20.532.095 require that the approving authority consider whether an adequate on-site water source to serve proposed development is available before approving a coastal development permit. The Mendocino Coastal Groundwater study recommends that proof of water be provided for development in Critical Water Resource Areas, including the area where the subject property is located. Therefore, a hydrological study involving the drilling of a test water well(s) or other demonstration of proof of water is needed to evaluate whether adequate water will be available to serve future development of the adjusted parcels, consistent with the certified LCP.

Wetlands Survey

As discussed in the LCP finding above analyzing whether the project raises a substantial issue of conformance with the visual resource policies of the LCP, there is a question as to how the two parcels involved in the boundary line adjustment should be configured to make future development of a home on the westernmost parcel subordinate to the character of the area in a manner consistent with LCP policies. These policies suggest that development in highly scenic areas should be located at the toe of a slope or near natural landforms rather than in an open area. A de novo analysis of the coastal development permit application by the Commission would involve consideration of denying the proposed boundary line adjustment or reconfiguring the adjustment in a manner that would allow a future home on the westernmost parcel to be located near the toe of the coastal ridge, a natural landform on the east side of the highway. Prior to the mailing of this report, Commission staff received two letters from George R. del Gaudio, a prospective buyer of the westernmost parcel (See Exhibit No. 7). Mr. Del Gaudio's letter of May 22, 2000 includes as an attachment, a letter from a civil engineer stating that based on observations of vegetation made during a field visit, the area at the toe of the slope east of the highway may have a seasonal wetland that would preclude septic systems and normal house site development. If the area at the toe of the slope is a wetland, LCP wetland protection policies would preclude development in that area and some other location would have to be considered for future development of the home, including areas west of the highway. Therefore, knowing whether the area at the toe of the slope is a wetland or not could have a major affect on the Commission's de novo review of the application.

The field visit by Mr. Del Gaudio's civil engineer and the letter written based on the field visit do not constitute a definitive wetlands survey. Plant species were not identified, no soil samples were taken and evaluated, a precise map of the potential wetland area was not prepared. It is not clear whether any or all of the area at the toe of the slope is actually wetland. To properly determine the extent of any wetlands in the area, a wetland evaluation prepared consistent with Section 20.532.060 of the Coastal Zoning Ordinance should be prepared.

Geologic Investigation

As discussed in the LCP finding above analyzing whether the project raises a substantial issue of conformance with of the LCP policies requiring geologic investigations, there are questions with regard to how geologic constraints might affect the siting of future development on the westernmost of the parcels involved in the boundary line adjustment. As noted, this parcel has approximately 600 lineal feet of steep, high coastal bluffs which will necessitate establishing a geologic setback for future development to keep such development safe from bluff retreat. As discussed elsewhere in this report, other siting constraints would affect where a house could be built on the parcel. The site contains archaeological sites that must be avoided and a future house on the parcel would have to be carefully sited to minimize visual impacts. Therefore, knowing how much of a setback from the bluff edge would be needed to avoid bluff retreat hazards over the life of the structure and if other geologic constraints are present that would affect the siting of the future home would be important for the Commission's de novo review of the application. Without such information, it would be difficult for the Commission to determine whether the parcel as adjusted, could be developed in the future in a manner that is fully consistent with the certified LCP. A geologic investigation of the property prepared consistent with the requirements of the LCP is needed.

Without the above information, the Commission cannot reach a final determination concerning adequacy of water supply, the appropriateness of the configuration of the proposed boundary line adjustment to accommodate future development consistent with the highly scenic policies in the LCP, and consistency with the geologic hazard policies of the LCP.

Exhibits:

1. Regional Location Map
2. Vicinity Map
3. Proposed Boundary Line Adjustment
4. Notice of Final Action
5. Appeal No. 1
6. Appeal No. 2, Commissioners Wan and Woolley
7. Correspondence
8. Certificates of Compliance for Existing Lots
9. Coastal Groundwater Study Recommendations
10. LUP Appendix 3, Geotechnical Evaluation Requirements



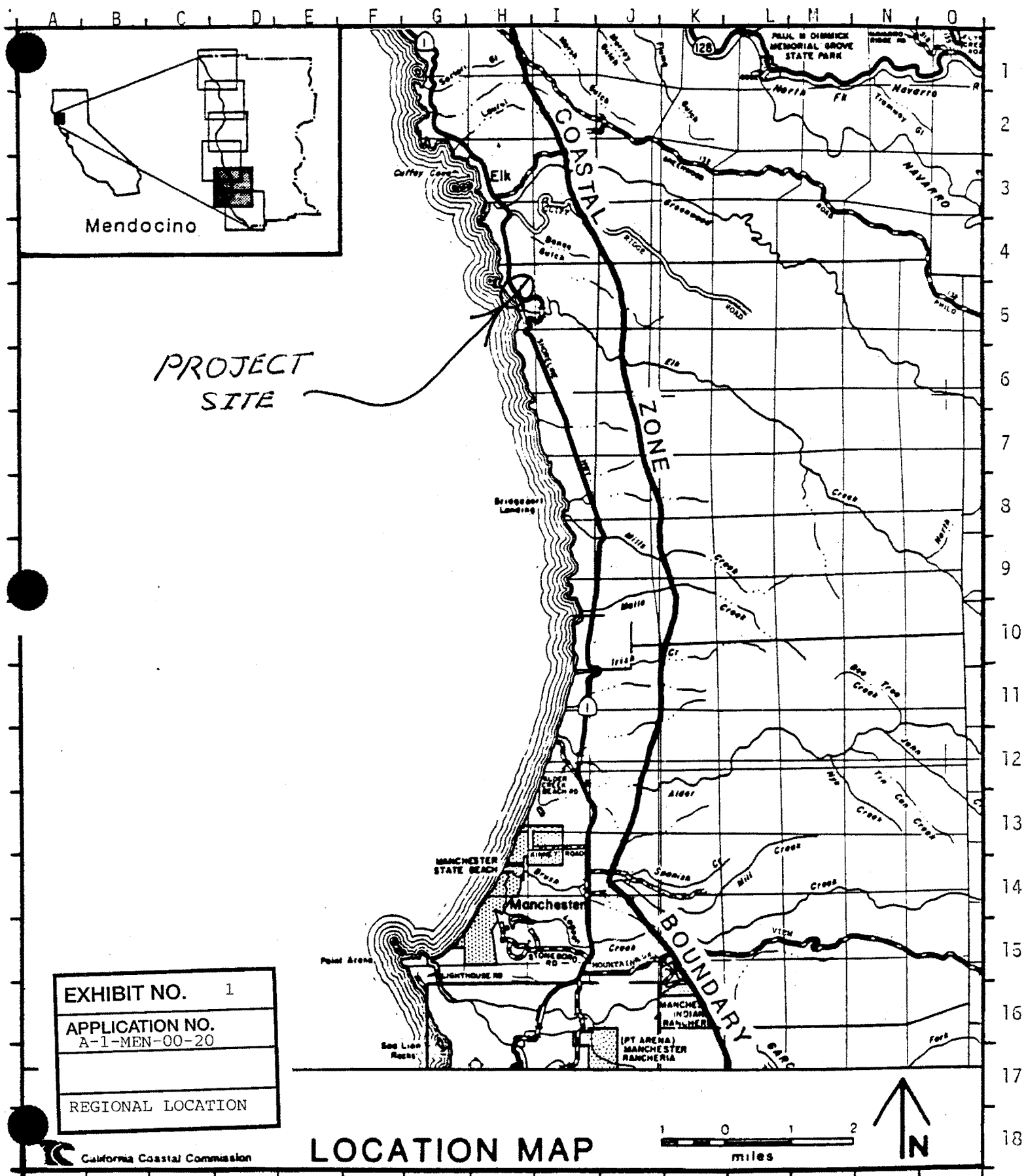


EXHIBIT NO. 1

APPLICATION NO.
A-1-MEN-00-20

REGIONAL LOCATION

LOCATION MAP

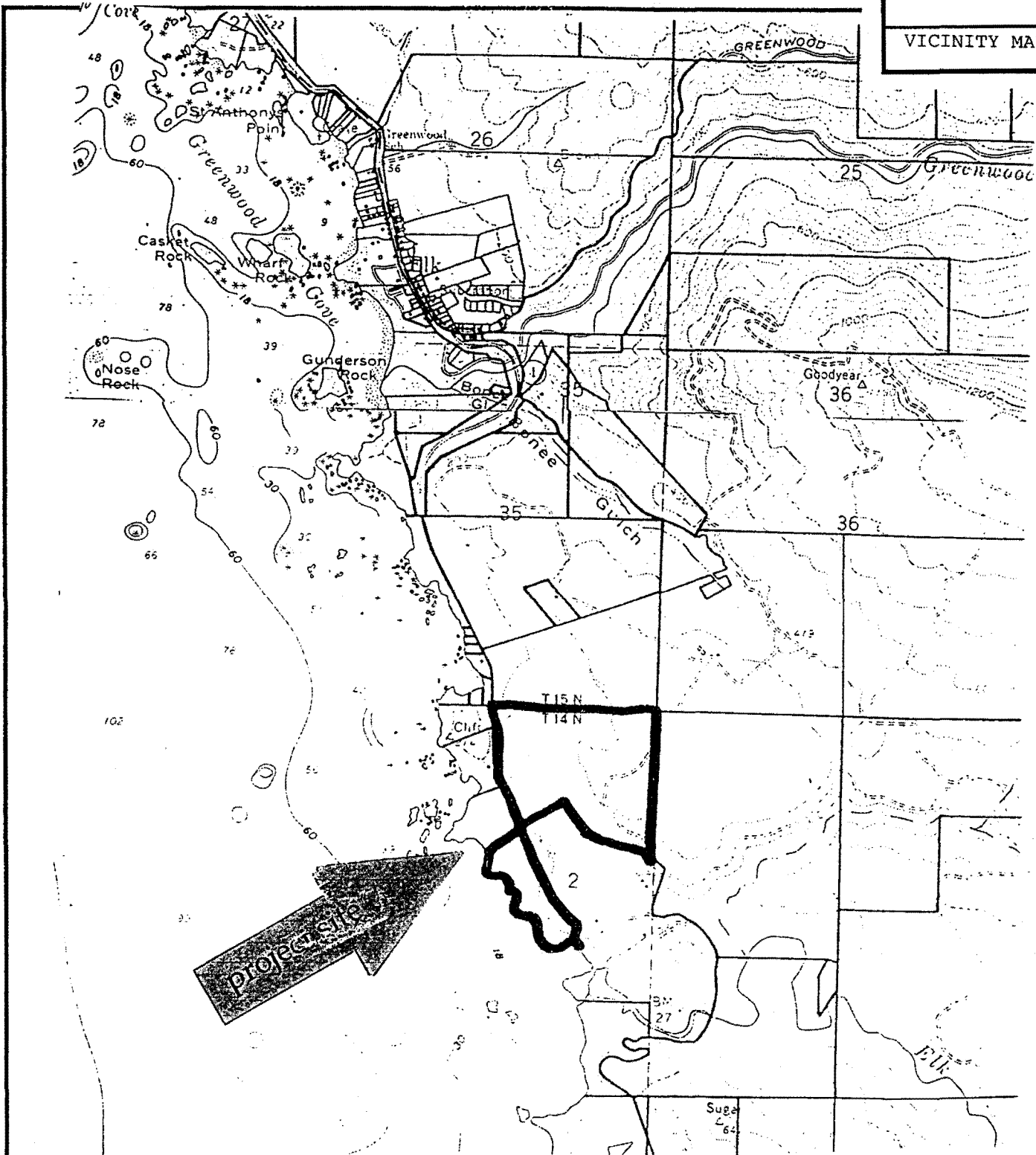
0 1 2
miles



EXHIBIT NO. 2

APPLICATION NO.
A-1-MEN-00-20

VICINITY MAP



CASE NUMBER:

cdb 89-99

OWNER:

BEACON, R.D.

AGENT:

T.M. Herman & Assoc.

APN:

131-010-12, 14

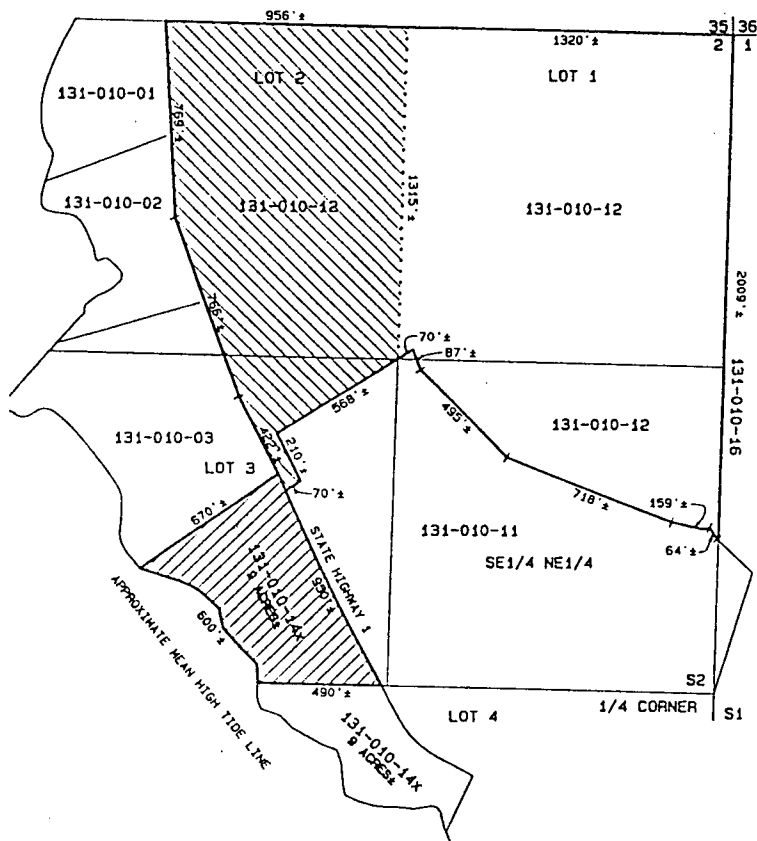
LOCATION MAP

NORTH ↑

1" = 2000'

ASSESSOR'S PARCEL NO'S (SEE NOTE)

PARCEL	EXISTING	PROPOSED	ZONING	GENERAL PLAN
131-010-12	81.00 ACS±	81.00 ACS±	RL160	RL160
131-010-14±	18.00 ACS±	9.00 ACS±	RL160	RL160
131-010-14±	0.00 ACS±	9.00 ACS±	RL160	RL160



NOTE

- ALL DISTANCES AND ACREAGES ARE APPROXIMATE AND FOR PLANNING PURPOSES ONLY.
- PORTIONS OF APN'S 131-010-12, 14 ARE CONTAINED IN THE PARCEL DESCRIPTION FOR C.C. #58-91.

LEGEND

- EXISTING BOUNDARY LINE
- EXISTING BOUNDARY LINE TO BE REMOVED
- - - PROPOSED BOUNDARY LINE
- AREA TO BE ADJUSTED FROM C.C. #58-91 BOOK 2332, PAGE 91, M.C.R. TO APN 131-010-12 (29.5 ACRES±)
- AREA REMAINING FROM C.C. #58-91 AS A SEPARATE PARCEL (9 ACRES±)

EXHIBIT NO. 3

APPLICATION NO.
A-1-MEN-00-20PROPOSED BOUNDARY
LINE ADJUSTMENT

CASE NUMBER:

cdb 89-99

OWNER:

BEACON, R.D.

AGENT:

T.M. Herman & Assoc.

APN:

131-010-12, 14

Tentative Map

NORTH ↑

1" = 2000'



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

501 LOW GAP ROAD • ROOM 1440 • UKIAH • CALIFORNIA • 95482

RAYMOND HALL, DIRECTOR

Telephone 707-463-4281

FAX 707-463-5709

pbs@co.mendocino.ca.us

www.co.mendocino.ca.us/planning

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APR 06 2000

CALIFORNIA
COASTAL COMMISSION

April 4, 2000

NOTICE OF FINAL ACTION

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

CASE#: CDB 89-99

DATE FILED: November 1, 1999

OWNER: R.D. BEACON

AGENT: T.M. HERMAN & ASSOCIATES

REQUEST: Coastal Development Boundary Line Adjustment to re-configure 2 legal parcels recognized by Certificate of Compliance #CC 58-91 creating a 9+- acre and 81+- acre parcel.

LOCATION: 2+- miles south of Elk, lying on both sides of Highway 1; AP# 131-010-12X & 131-010-14X.

PROJECT COORDINATOR: Mary Lynn Hunt

ACTION TAKEN:

The Coastal Permit Administrator, on March 24, 2000, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

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

Attachments

cc: Coastal Commission
Assessor

EXHIBIT NO.	4
APPLICATION NO.	A-1-MEN-00-20
NOTICE OF FINAL ACTION	
(1 of 7)	

FINAL CONDITIONS FOR CDB# 89-99 - BEACON
MARCH 24, 2000

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. This application is valid for 24 months from the effective date. No extensions can be granted.
2. That for each proposed adjusted parcel, provide one perimeter description of each parcel. The new deed description submitted shall be prepared by, and bear the seal of, a Licensed Land Surveyor.
3. That each transfer of real property be by means of a quit claim deed containing the following wording to be contained within the legal description:

"Any and all lands and any and all interest thereto lying within the following described real property"
(perimeter description of the adjusted parcel(s).)

and,

"This deed is given pursuant to Mendocino County Coastal Development Boundary Line Adjustment #CDB 89-99 and is intended to create no new parcel."

Once the deed(s) and/or instrument(s) have been prepared, please send a copy to the Department of Planning and Building Services. After we have reviewed the documents and accepted them as correct, we will notify you. DO NOT RECORD ANY DOCUMENTS UNTIL YOU HAVE RECEIVED APPROVAL OF THE DEED(S) BY THIS DEPARTMENT IN WRITING.

PLEASE NOTE: Title must be transferred identical to the title now being held (all owners with their exact names).

4. Per Mendocino County Code Section 17-17.5(I)(2):

"That the Treasurer-Tax Collector certifies that all taxes and assessments due on each parcel affected by the adjustment have been paid or cleared, and that a deposit to secure payment of the taxes and assessments which are due but not yet payable have been made."

The enclosed Certificate of the Official Redeeming Officer must be certified by the Treasurer-Tax Collector and a copy returned to the Department of Planning and Building Services.
5. After you have been given clearance to record the new documents, you must send a **copy** of the recorded deed(s) to the Department of Planning and Building Services. Upon receipt of this information, you will receive a Completion Certificate.
6. A note shall appear on new deed prepared to state: "Future development of all properties subject to this application shall be subject to the "highly scenic" development standards contained within the Mendocino County Code."
7. A note shall be attached to the deed prepared for the parcel to be created west of Highway 1, which shall state: "Future development subject to geologic hazard evaluation criteria of County Code."



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

1-MEN-00-083
RAYMOND HALL, DIRECTOR
Telephone 707-463-4281
FAX 707-463-5709
pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

RECEIVED
MAR 13 2000

March 9, 2000

CALIFORNIA
COASTAL COMMISSION

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Mendocino County Subdivision Committee and Coastal Permit Administrator will consider the following project on Friday, March 24, 2000, in the Mendocino County Administration Center, Conference Room C, 501 Low Gap Road, Ukiah, California. The Subdivision Committee will consider the boundary line adjustment at 9:00 a.m., or soon thereafter. The Coastal Permit Administrator will conduct a public hearing to consider issuance of a coastal development permit on the boundary line adjustment, commencing immediately following the Subdivision Committee meeting.

CASE#: CDB 89-99

DATE FILED: November 1, 1999

OWNER: R.D. BEACON

AGENT: T.M. HERMAN & ASSOCIATES

REQUEST: Coastal Development Boundary Line Adjustment to re-configure 2 legal parcels recognized by Certificate of Compliance #CC 58-91 creating a 9+- acre and 81+- acre parcel.

LOCATION: 2+- miles south of Elk, lying on both sides of Highway 1; AP# 131-010-12X & 131-010-14X.

PROJECT COORDINATOR: Mary Lynn Hunt

ENVIRONMENTAL DETERMINATION: The Department of Planning and Building Services staff has determined that the project is categorically exempt from environmental review.

You are invited to appear at the hearing or to direct written comments to the Department of Planning and Building Services, at 501 Low Gap Road, Room 1440, Ukiah, California, 95482, no later than March 23, 2000. You may receive notification of the decision on this project by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services. All correspondence should contain reference to the above noted case number.

Action by the Subdivision Committee and Coastal Permit Administrator shall be final unless appealed to the Board of Supervisors. The appeal must be filed in writing with a filing fee with the Clerk of the Board within 10 calendar days after such action. If appealed, the decision of the Board of Supervisors shall be final except that an approved project may be appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project.

If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services, the Subdivision Committee or Coastal Permit Administrator, at or prior to, the public hearings.

Additional information regarding the above noted item may be obtained by calling the Department of Planning and Building Services at 463-4281, Monday through Friday, 8:00 a.m. through 5:00 p.m.

Frank Lynch, Coastal Permit Administrator

REPORT FOR COASTAL DEVELOPMENT BOUNDARY LINE ADJUSTMENT

**#CDB 89-99
MARCH 24, 2000
PAGE CPA-1**

OWNER: R.D. BEACON
PO BOX 210
ELK CA 95432

AGENT: T.M. HERMAN & ASSOCIATES CDB 89-99
PO BOX 38
WILLITS CA 95490

REQUEST: Coastal Development Boundary Line Adjustment to re-configure 2 legal parcels recognized by Certificate of Compliance #CC 58-91 creating a 9+- acre and 81+- acre parcel.

LOCATION: 2+- miles south of Elk, lying on both sides of Highway 1; AP# 131-010-12X & 131-010-14X.

TOTAL ACREAGE: 99+- acres

ZONING: RL-160

GENERAL PLAN: RL-160

EXISTING USES: Vacant

SUPERVISORIAL DISTRICT: 5

DATE FILED: November 1, 1999

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Certificate of Compliance #CC 58-91 was recorded May 14, 1996 and recognized four legal parcels on the subject property.

PROJECT DESCRIPTION: The applicant is requesting a Coastal Development Boundary Line Adjustment to re-configure two legal parcels recognized by Certificate of Compliance #CC 58-91. The existing parcels are 38.5+- (Lot #1) and 51.5+- (Lot #2) acres respectively. Highway 1 bisects Lot #1 such that 9+- acres lies on the west side and 29.5+- acres lies east of the highway. The 29.5 acres lying east of the highway would be combined with existing Lot #2 (also lying east of the highway) resulting in an 81+- acre parcel east of the highway and leaving a 9+- acre west of the highway. Each parcel will take access directly from Highway 1.

COASTAL POLICY CONSISTENCY REVIEW: Staff reviewed the project relative to coastal issues and determined the following:

1. The boundary line adjustment will not result in a change in density;
2. The boundary line adjustment will not create any new parcels;
3. The parcels subject to the adjustment are not situated within or in close proximity to an environmentally sensitive habitat area.
4. The adjustment will not result in parcels having an inadequate building site. The proposed parcel lying entirely west of Highway 1 has been identified to have possible archaeological sites. An Archaeological Survey has been prepared and accepted. It has been determined that there is an adequate building site which will not disturb the sites that have been identified.

4 of 7

5. No substandard lot will result from the adjustment.
6. The property subject to the adjustment is in an area designated CWR (Critical Water Resources) as identified in the Mendocino County Groundwater Study which states in part:

"Areas designated CWR (Critical Water Resources) shall have a minimum lot size of 5 acres and demonstration of "proof of water". All lots less than 5 acres shall demonstrate "proof of water" and may require an environmental impact statement."

The adjustment will not result in parcels being inconsistent with the Mendocino County Coastal Groundwater Study recommendations.

7. The boundary line adjustment is not located on property containing pygmy vegetation.
8. The property subject to the adjustment is located in a designated "Highly Scenic" area. However, adjustment of the parcels will not result in additional development potential within a "Highly Scenic" area than the development potential that exists under the current configuration. Those policies addressing "Highly Scenic" would still be applicable.
9. That portion of the boundary line adjustment lying west of Highway 1 is located in an appealable area.

ENVIRONMENTAL RECOMMENDATION: The application is Categorically Exempt - Class 5a. Therefore, no further environmental review is required.

COASTAL ELEMENT CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan and Coastal Element.

RECOMMENDED MOTION: The Coastal Permit Administrator approves Coastal Development Permit #CDB 89-99, subject to the following conditions of approval, finding that the application and supporting documents and exhibits contain sufficient information and conditions to establish, as required by the Coastal Zoning Code, that:

1. The proposed boundary line adjustment is in conformance with the Coastal Element; and,
2. The proposed development will be provided with adequate utilities, access roads, drainage, and other necessary facilities.
3. The proposed boundary line adjustment is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code and preserves the integrity of the zoning district; and,
4. The proposed boundary line adjustment will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act (CEQA).
5. The proposed boundary line adjustment will not have any adverse impacts on any known archaeological or paleontological resource per the survey dated September 17, 1999 prepared by Max A. Neri.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. This application is valid for 24 months from the effective date. No extensions can be granted.
2. That for each proposed adjusted parcel, provide one perimeter description of each parcel. The new deed description submitted shall be prepared by, and bear the seal of, a Licensed Land Surveyor.
3. That each transfer of real property be by means of a quit claim deed containing the following wording to be contained within the legal description:

"Any and all lands and any and all interest thereto lying within the following described real property" (perimeter description of the adjusted parcel(s).)

and,

"This deed is given pursuant to Mendocino County Coastal Development Boundary Line Adjustment #CDB 89-99 and is intended to create no new parcel."

Once the deed(s) and/or instrument(s) have been prepared, please send a copy to the Department of Planning and Building Services. After we have reviewed the documents and accepted them as correct, we will notify you. DO NOT RECORD ANY DOCUMENTS UNTIL YOU HAVE RECEIVED APPROVAL OF THE DEED(S) BY THIS DEPARTMENT IN WRITING.

PLEASE NOTE: Title must be transferred identical to the title now being held (all owners with their exact names).

4. Per Mendocino County Code Section 17-17.5(I)(2):

"That the Treasurer-Tax Collector certifies that all taxes and assessments due on each parcel affected by the adjustment have been paid or cleared, and that a deposit to secure payment of the taxes and assessments which are due but not yet payable have been made."

The enclosed Certificate of the Official Redeeming Officer must be certified by the Treasurer-Tax Collector and a copy returned to the Department of Planning and Building Services.
5. After you have been given clearance to record the new documents, you must send a copy of the recorded deed(s) to the Department of Planning and Building Services. Upon receipt of this information, you will receive a Completion Certificate.

NOTE: APPLICANTS OR OTHER PERSONS WHO ARE DISSATISFIED WITH A DECISION OF THE COASTAL PERMIT ADMINISTRATOR FOR A COASTAL DEVELOPMENT PERMIT FOR A BOUNDARY LINE ADJUSTMENT MAY APPEAL THE ACTION TO THE BOARD OF SUPERVISORS. AN APPEAL MUST BE MADE IN WRITING ALONG WITH THE APPLICABLE FEE TO THE CLERK OF THE BOARD OF SUPERVISORS WITHIN TEN (10) DAYS OF THE COASTAL PERMIT ADMINISTRATOR'S DECISION. THE APPEAL ISSUE WILL BE PLACED ON THE NEXT AVAILABLE BOARD OF SUPERVISOR'S AGENDA FOR CONSIDERATION, AND THE APPELLANT WILL BE NOTIFIED OF THE TIME AND DATE. APPEALS TO THE BOARD OF SUPERVISORS DO NOT NECESSARILY GUARANTEE THAT THE COASTAL PERMIT ADMINISTRATOR'S DECISION WILL BE OVERTURNED. IN SOME CASES, THE BOARD OF SUPERVISORS MAY NOT HAVE THE LEGAL AUTHORITY TO OVERTURN THE DECISION OF THE ADMINISTRATOR.

DATE

MARY LYNN HUNT
PLANNING TECHNICIAN II

MLH:sb

3/7/2000

Categorically Exempt

Appeal Fee - \$600.00

Appeal Period: 10 days

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Fort Bragg PBS		X	
Public Works		X	
Env. Health	X		
Building Inspection		X	
Coastal Commission	X		
Arch Commission			X
Sonoma State University			X
Dept. of Fish & Game	X		
Caltrans	X		
Elk Fire District	X		

A-1-MEN-00-020

STATE OF CALIFORNIA

CALIFORNIA COASTAL COMMISSION

43 FREMONT, SUITE 200
SAN FRANCISCO, CA 94104
VOICE AND FAX: 415-398-1000
FAX: 415-398-1001OFFICE OF THE CLERK
CALIFORNIA COASTAL COMMISSIONPlease refer to the following case number for the Commission's decision
727930200

SECTION 1. GENERAL INFORMATION

Name of the project: [illegible]

Project location: [illegible]
Project description: [illegible]
Project status: [illegible]

SECTION 2. PROJECT DESCRIPTION

The project is located in the [illegible] area of the [illegible] County. The project consists of [illegible] and [illegible]. The project is currently in the [illegible] stage of development.

The project is located in the [illegible] area of the [illegible] County. The project consists of [illegible] and [illegible]. The project is currently in the [illegible] stage of development.

The project is located in the [illegible] area of the [illegible] County. The project consists of [illegible] and [illegible]. The project is currently in the [illegible] stage of development.

The project is located in the [illegible] area of the [illegible] County. The project consists of [illegible] and [illegible]. The project is currently in the [illegible] stage of development.

The project is located in the [illegible] area of the [illegible] County. The project consists of [illegible] and [illegible]. The project is currently in the [illegible] stage of development.

PROJECT INFORMATION

APR 18 2000

OFFICE OF THE CLERK

SAN FRANCISCO

RECEIVED

APR 18 2000

CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO.	5
APPLICATION NO.	A-1-MEN-00-20
APPEAL NO.	1
	(1 of 8)

5. Decision being appealed was made by (check one):

a. ☒ Planning Director/Zoning Administrator

c. ☐ Planning Commission

b. ☐ City Council/Board of Supervisors

d. ☐ Other _____

6. Date of local government's decision: Mar, 24, 2000

7. Local government's file number (if any): CDB 89-99

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

R.D. BEACON
Box 210
SLV CA 95432

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) _____

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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

BOUNDARY LINE ADJUSTMENT DOES NOT CONFORM
WITH THE FOLLOWING PROVISIONS OF THE MENDOCINO
COUNTY CERTIFIED LCP: ARCHEOLOGICAL, GEOLOGICAL
STUDY, CEQA, PROOF OF WATER, INGRESS/EGRESS
HWY 1, PUBLIC NOTICE, AND OTHERS.

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Secretary,
Friends of
Schooner
GULCH.

Date APRIL 17, 2000

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

Section VI. Agent Authorization

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



Signature of Appellant(s)

Date 4/17/00

Dr. Hillary Adams
1391 Cameron Road
Elk, California 95432

RECEIVED
MAY 25 2000

May 24, 2000

Mr. Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, California 95501-1865

CALIFORNIA
COASTAL COMMISSION

RE: CDB 89-99 (Beacon-Elk)
AP# 131-010-12X and 131-010-14X

Dear Mr. Merrill:

CDB 89-99 (Beacon) is a Coastal Development Boundary Line Adjustment to re-configure 2 parcels recognized by Certificate of Compliance #CC 58-91, creating a 9+ acre and and 81+ acre parcel, zoned RL-160 and presently open space. The land is owned by R.D. Beacon and lies 2+ miles south of the Rural Village of Greenwood/Elk on both sides of Highway #1, a scenic California highway in an area designated as highly scenic by our certified Local Coastal Program (LCP).

I was one of three who appealed this project on April 18, 2000, including also Roanne Withers for the Sierra Club, Mendocino-Lake Group, and Peter Reimueller for Friends of Schooner Gulch. Two members of the Coastal Commission also appealed this project on April 20.

This project does not conform to the provisions of our certified Local Coastal Program, our LUP and the Coastal Zoning in the following areas:

Public Notice: LUP 20536: Sec. 20536.010 C: "At least ten(10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, . . . ;" and also D.

This project CDB 89-99 did not appear on Mendocino County's internet site in the area concerning development permits. It did not, so far as we can discover, appear in any local coastal newspaper. It was apparently not noticed to those who receive notice by mail regularly on Coastal Development issues. It was

CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

2

quickly approved by a member of the Mendocino County Planning Staff acting as Coastal Administrator at a meeting in Ukiah, which one of the appellants happened to be attending on another matter.

Proof of Water: LUP 3.8.9 "Demonstration of the proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982 and revised from time to time (Appendix 6);

So far as we can determine, the applicant provided no proof of water for the subject parcels. The local water district of Greenwood/Elk does not extend this far to the south. A local Elk resident, George Digardio (sp?) who is apparently interested in the purchase of this property should the lot split occur, has approached the Elk Water District Board concerning the extension of water to this property and has been turned away.

Archaeological and Geological Study: LCP 3.5-10: The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource..." ; ; and also Appendices Chapter 22.12 Native American Archaeological Sites, A7-1; and also 3.4-1: "The County shall review all applications for Coastal Development permits to determine threats from and impacts on geological hazards. . . In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development. . . "

So far as we can determine, the applicant has had no geological or study done for these parcels. The March 24, 2000 document page CPA-1.4 states that the "proposed parcel lying entirely west of Highway 1 has been identified to have possible archaeological sites." (This is the kind of area traditionally used by Southern Pomo tribes during the summer and fall abalone and kelp seasons. Similar areas were used for season living areas by the Central Pomo on Navarro Head. The Navarro River was the boundary line between the two tribal areas. The Rural Village of Elk itself had a ceremonial Pomo sweat house, which was still being used in the early 1900's). The statement goes on to say that an archaeological survey has been prepared and accepted and that there is "an adequate building site that will not disturb the sites identified." However, that

CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

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single building site force the location of future building very close to scenic Highway #1 (see Protection of Visual Resources, below).

Protection of Visual Resources: LCP 3.5, Coastal Act : 30251: 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 . . .; also LCP 3.5-3, Navarro River to Point Arena; also Coastal zoning code: Chapter 20.504, Sec. 20.504.015:A, B and C; also LUP South Coast CAC: 4.10, Navarro River to Mallo Pass Creek Planning Area: "Outside Elk, the Coastal Element calls for almost no additional land division because of the absence of urban services..." Although this project is a boundary line adjustment rather than a lot split, and would allow for the same number of lots (2), the lots would be reconfigured to allow one buildable lot on each side of the highway, thus not only increasing the impact on coastal views, but also on ingress/egress from Highway #1, and potentially on fire protection.

The separate parcel on the western side of scenic Highway #1 that would be created by this proposed boundary line adjustment may have very limited development potential due to impact of potential archaeological and other resources. The subject area is 2 miles to the south of Greenwood/Elk (designated Rural Village LUP, 4.10-1) above Elk Creek. Elk Creek is mentioned in the LUP for Park development (4.10-9) Should this occur, development on the western proposed parcel would be extremely sensitive. The applicant has spoken frequently, and to me specifically, of his desire to have the Parks department purchase the Elk Creek beach property.

Therefore any building on the proposed western lot might be forced into a position very close to scenic Highway #1. The citizens of Greenwood/Elk have been extremely disturbed in recent years by the development of large houses placed very close to scenic Highway # 1, on "developable parcels" with no alternative but earth berms and landscaping to protect the coastal views. These parcels were usually formed prior to the Coastal Act and the certified Local Coastal Program (LCP), and were part of the reason for the development of the LCP with its efforts to protect the public viewsheds, 1) toward the ocean, and 2) in highly scenic areas. The western lot that would be created by this boundary line adjustment qualifies in both categories.

The landscaping alternative in Mendocino County coastal areas is a very

CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

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unsatisfactory solution since the County has typically not looked for or enforced in an efficient manner violations to coastal landscaping plans. We have a series of houses at the present time between the village of Greenwood/Elk and the historic town of Mendocino which are out of compliance with the landscaping terms upon which they received their permits from the Coastal Commission. This requires enormous diligence on the part of the public, and much more effort to obtain compliance through Mendocino County staff. Moreover, the kinds of trees which will withstand the beating of wind and weather on coastal bluffs such as this one, require very slow growing species which will not reach maturity for several decades. Moreover, they will not reach the height that they do in more benevolent circumstances. Owners frequently allow the plantings to die and do not replace them. This requires yet another round of public diligence.

If the Coastal Commission were to intentionally create, by the proposed boundary line adjustment, a separate developable parcel on the western side of scenic Highway #1, a parcel which had limited development possibilities and would force development close to scenic Highway #1 in a protected viewshed corridor with the designation of highly scenic, it would, in our opinion, be acting contrary to its own rules and regulations. As the lots are now configured, development could occur on the eastern side of Highway #1 outside of the ocean viewshed and away from any potential archaeological site or future park development.

CEQA Review: Coastal Zoning Code 20532, Section 20.532.040. "Upon acceptance of an application as complete, the Director or his designee shall complete an environmental review of the project as required by the California Environmental Quality Act(CEQA, shall study the project for conformance with all applicable requirement of this Chapter."

Because of the nature of the property, in our opinion, this parcel would require a CEQA review before any boundary line adjustment could occur. This has not been done to our knowledge, or by the evidence provided in the application.

Ingress and Egress to scenic Highway #1: This parcel is near a sharp, steep curve leading down to Elk Creek. Highway One along this coastal stretch is very narrow, with inadequate shoulders. Accidents are frequent in relation to the traffic. Lumber trucks frequently use this highway. Tourist traffic is especially heavy during the summer months. A plan for safe entrance and exit from the

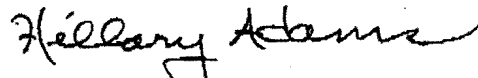
CDB 89-99 (Beacon-Elk)
Adams, Sierra Club,

5

highway should have been submitted for both parcels.

This project is another example of Mendocino County Planning Staff and Coastal Administrators approving projects which are contrary to the LCP the LUP and the Coastal Act. In recent years this has occurred with increasing frequency under the leadership of Mr. Ray Hall, head of Planning, who has recently taken on the position of Coastal Administrator on many coastal projects. He is, we feel certain, urged on by at least three members of our five member Board of Supervisors. This project is in the Fifth Supervisorial District. The Supervisor of the Fifth district strongly supports the Coastal Act and our Local Coastal Program. It is unthinkable that Supervisors from inland areas should be impacting our coast as they are. We look to the Coastal Commissioners to strongly uphold the elements of our certified LCP and the Coastal Act and to admonish the Mendocino County Planning Department, and especially Mr. Ray Hall, to do the same.

Sincerely yours,


Hillary Adams

Also representing Peter Reimuller, Friends of Schooner Gulch
and Roanne Withers, Sierra Club, Mendocino/Lake Group

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

EXHIBIT NO. 6

APPLICATION NO.

A-1-MEN-00-20

APPEAL NO. 2
COMMISSIONERS WAN& WOOLLEY
(1 of 8)

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

SECTION I. Appellant(s)

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

Commissioners Sara Wan and John Woolley(See Attachment 1)()
Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: Mendocino County

2. Brief description of development being
appealed: Boundary line adjustment to reconfigure two legal parcels
recognized by Certificate of Compliance #CC 58-91 creating a 9± acre
and 81± acre parcel.

3. Development's location (street address, assessor's parcel
no., cross street, etc.): Two miles south of Elk, lying on both sides
of Highway One, Mendocino County (APN(s) 131-010-12 and 14)

4. Description of decision being appealed:

- a. Approval; no special conditions: X
- b. Approval with special conditions: _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-1-MEN-00-020DATE FILED: April 20, 2000DISTRICT: North Coast

H5: 4/88

RECEIVED

APR 20 2000

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☒ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☐ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: March 24, 2000

7. Local government's file number (if any): CDB 89-99

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

<u>R. D. Beacon (applicant)</u>	<u>T. M. Herman & Associates (agent)</u>
<u>P. O. Box 210</u>	<u>P. O. Box 38</u>
<u>Elk, CA 95432</u>	<u>Willits, CA 95490</u>

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Peter Reimuller, Friends of Schooner Gulch
P. O. Box 4
Point Arena, CA 95468
- (2) Hillary Adams
1391 Cameron Road
Elk, CA 95432
- (3) Roanne Withers, Sierra Club - Mendocino/Lake Group
P. O. Box 2330
Fort Bragg, CA 95437
- (4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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


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

(See Attachment 2)

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date April 20, 2000

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

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

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

(See Attachment 2)

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

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Signature of Appellant(s) or
Authorized Agent

Date April 20, 2000

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

ATTACHMENT 1

Commissioner Sara Wan
22350 Carbon Mesa Road
Malibu, CA 90265

(310) 456-6605

Commissioner John Woolley
Board of Supervisors
825 5th Street
Eureka, CA 95501-1153

(707) 476-2393

ATTACHMENT 2

Reasons for Appeal

The boundary line adjustment as approved by Mendocino County raises a substantial issue of conformance to the visual resource policies of the certified Mendocino County Local Coastal Program (LCP), including Policies 3.5-1, 3.5-3, and 3.5-4 of the Land Use Plan and Section 20.504.015 of the Coastal Zoning Ordinance.

Policy 3.5-1 states in applicable part, *"The scenic and visual qualities of Mendocino county 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, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting."*

Policy 3.5-3 states in applicable part, *"The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as 'highly scenic areas'...Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1...All proposed divisions of land and boundary line adjustments within 'highly scenic areas' will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies."*

Policy 3.5-4 states, *"Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open area shall be avoided if an alternative site exists....Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms."*

Coastal Zoning Ordinance Section 20.504.015 states, in applicable part, *"Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes..."*

- (3) *New development shall be subordinate to the natural setting and minimize reflective surfaces...*

- (4) All proposed divisions of land and boundary line adjustments within highly scenic areas shall be analyzed for consistency of potential future development with the regulations of this Chapter, and no division of land or boundary line adjustment shall be approved if development of resulting parcel(s) would be inconsistent with this chapter.*
- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area...*
- (6) Minimize visual impacts of development on terraces by the following criteria: (a) avoiding development in large open areas if alternative site exists; (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms..."*

The two parcels involved in the proposed boundary line adjustment are located in a highly scenic area approximately two miles south of Elk in a largely undeveloped area characterized by large open grassy agricultural parcels atop a high coastal terrace with a tree-covered coastal ridge as a backdrop. The first parcel involved in the boundary line adjustment (APN 131-010-14) is a roughly bow-tie shaped 38.5-acre parcel that extends inland from the ocean as much as 1,300 feet. Highway One bisects the parcel roughly in the narrow middle of the bow-tie shape of the parcel. The 9-acre portion of the parcel west of the highway is generally flat open grassland affording views of the ocean from Highway One. The 29.5-acre portion of the parcel east of the highway includes similar open grassy flat areas near the highway which gradually give way to more rolling terrain near the base of the coastal ridge, and finally to the lower portions of the coastal ridge itself. This portion of the parcel is also grass covered and largely devoid of trees. The second parcel involved in the boundary line adjustment, APN 131-010-12, covers approximately 51.5 acres and borders the eastern boundary of the first parcel. The second parcel extends another approximately 1,300 feet farther to the east and includes more of the coastal ridge.

The proposed boundary line adjustment would adjust the parcels in a way that would establish the new boundary between the two parcels at Highway One. As a result, a 9-acre parcel would exist west of Highway One and an 81-acre parcel would exist east of the highway.

The approved project is a boundary line adjustment that does not include any physical development on the ground that would affect visual resources. However, the adjustment of the parcels would limit options for siting future development on the parcels in a manner that could affect visual resources. LUP Policy 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(4) provide that the visual impacts of potential future development of the parcels must be analyzed for consistency with the visual resource policies of the LCP at the time a boundary line adjustment is approved.

A principal consequence of the approved boundary line adjustment is that future development of the westernmost of the two parcels would have to be located west of Highway One, whereas under the current parcel configuration, a building site could be located on the portion of the parcel east of Highway One where it would not affect views of the ocean. As noted above, a person traveling along Highway One is afforded views to and along the ocean across the portion of the parcel west of the highway. As the vacant landscape of the area west of the Highway consists of an open grassy-covered terrace without trees, hills, or other vegetation or topographical features, there is no place on the property west of the highway where a home could be placed where it would not affect views of the ocean from the highway. Therefore, as the boundary line adjustment would preclude the option available under the current parcel configuration of locating both future home sites east of the highway and instead would force one of the homesites to be developed west of the highway where it would affect views to and along the ocean, a substantial issue is raised as to whether the project as approved is consistent with the provisions of LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 that require that new development be sited and designed to protect views to and along the ocean.

In addition to calling for the protection of views to and along the ocean, LUP Policy 3.5-1 and Coastal Zoning Ordinance Section 20.504.015 provide that development in highly scenic areas must be subordinate to the character of its setting. The policies also provide guidance on how to ensure that new development is subordinate to its setting in highly scenic areas. LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 provide that Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) near the toe of a slope; (b) below rather than on a ridge; and (c) in or near a wooded area. These policies also state that the visual impacts of development on terraces must be minimized by (a) avoiding development in large open areas if alternative site exists and minimizing the number of structures and clustering them near existing vegetation, natural landforms or artificial berms. The two parcels involved in the proposed boundary line adjustment are both within the same highly scenic area. Under the current parcel configuration, a house on the westernmost parcel could be located consistent with the above stated provisions near the toe of the coastal ridge, a natural landform. Under the proposed parcel configuration, a house on the westernmost parcel could not be located near the toe of a slope or clustered near existing vegetation, natural landforms, or artificial berms. Instead, the future homesite would have to be located in a large open area on the coastal terrace. Therefore, the approved boundary line adjustment raises a substantial issue of conformance to the siting provisions of LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 and the overall requirement of these policies that new development be subordinate to the character of its setting.

EXHIBIT NO. 7

APPLICATION NO.
A-1-MEN-00-20

CORRESPONDENCE
(1 of 6)

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

To: California Coastal Commission
Subject: Appeal No A-1-MEN-00-20
attention: Mr. Robert Merrill

May 16, 2000
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MAY 22 2000

CALIFORNIA
COASTAL COMMISSION

I support the subject Boundary Line Adjustment (BLA) for the following reasons. The BLA will not:

- result in a change in density
- create any additional parcels
- result in parcels having an inadequate building site
- result in parcels being inconsistent with the Mendocino County Coastal Groundwater Study recommendations
- result in additional development potential within a "Highly Scenic" area than the development potential that exists under the current configuration, and
- the proposed project is consistent with applicable goals and policies of the General Plan and Coastal Element.

The appeal filed by Commissioners Wan and Wolley contends that the BLA, if approved, would allow development on the west side of Highway One,

Cont.

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

whereas under the current parcel configuration, development could be confined to the east side of Highway One.

In regards to this, I offer the following:

- Coastal Zoning Ordinance Section 20.504.015 states in part, "any development permitted in highly scenic areas shall provide for the protection of coastal views --". It is my understanding that "coastal views and highly scenic" apply to both sides of Hwy One.
- The 29.5 acre portion of the parcel east of the highway is open, tree less, and devoid of houses. The land along the highway (East side) is wet (run off and active springs) with standing water during many months of the year. To require development on this portion of the parcel would require siting the house approximately 20-40' higher than the highway.

If the BLA is not approved, and development is forced to the East side of Highway One:

- the house will be more prominent given it will sit in the middle of a large, open field, and

P3

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

- it will have to be sited on the toe of the slope to provide a dry building site, septic system, etc.

The logical building site is on the west side of Highway One near the edge of the flat. With the planting of 20-30 trees and/or a berm, the visibility would be minimal. Much less visible than if placed on the toe of the slope on the east side of the highway. Thus, the BLA, approved by the County of Mendocino, should be allowed to stand.

Please contact me if you have any questions.

Thank you,
George R del Gaudio

George R. del Gaudio
P.O. Box 25
Elk, CA 95432
707-877-1137 Phone/Fax

May 22, 2000

To : California Coastal Commission
Subject : Appeal No. A-1-MEN-00-20
Attention : Mr. Robert Merrill

Dear Mr. Merrill

Attached is a report from Wally's Associates, civil engineers, on the subject property. Please note that it supports my position (letter dated May 16, 2000) that the only building site on the east side of Highway One is an elevated site and thus more visible than if placed on the west side of the highway. Thus, the Coastal Commission should allow the Boundary Line Adjustment, as approved by the Mendocino County authorities, to stand.

Please call me after you have had a chance to review this material.

RECEIVED
MAY 24 2000
CALIFORNIA
COASTAL COMMISSION

Thank you,
George del Gaudio

Attachments



May 19, 2000

George R. del Gaudio
P O Box 25
Elk, CA 95432

Re: California Coastal Commission
Appeal # A-1-MEN-00-20
S/O Elk, CA

Dear Mr. Del Gaudio:

In accordance with your request we have inspected the property that is included in the above referenced appeal.

It is our understanding that the appeal is against a boundary line adjustment and the basis of the appeal has to do with the visual impact of building west of Highway One or east of Highway One.

The purpose of our inspection was to determine the feasibility of building sites on the two properties so that visual impacts can be addressed.

The ocean front property has an ap # 131-010-14X and the east of Highway One property has an ap # 131-010-12

The ocean front property has a gentle slope toward the ocean, a natural drainage swale on the northern property line and in general has no obvious building constraints. The main development task is to minimize visual impacts, which is usually accomplished with soil beams, landscaping and low line architectural features.

The property on the east side of the highway is north of the ocean front property and drains to the ocean front natural swale. This property has a broad band of a drainage swale 400 feet wide and the area borders Highway One.

The existing vegetation in the broad band indicates a seasonal wet area which would preclude septic systems and normal house site development. The area between the toe of the slope and the highway voltage power line looks feasible for building. This area is also subject to design problems relative to visual impacts. The best access to this property is at the existing drive at the northern boundary.

Attached please find an edited map showing the approximate location of the areas described above.

Please contact us if further information is needed.

Sincerely yours,

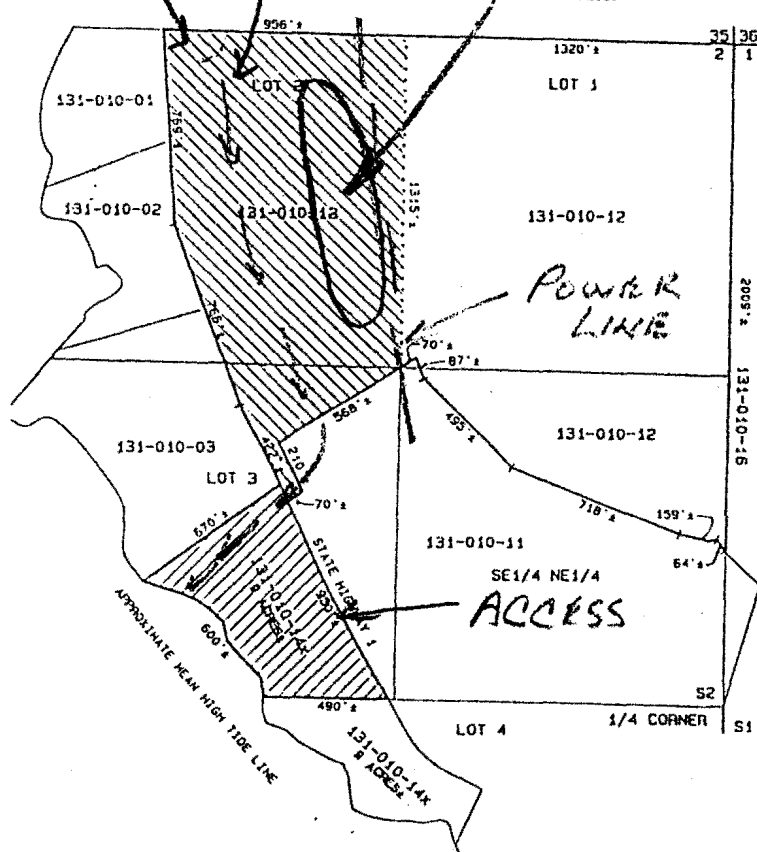
Lee Welty

attachment

ACCESS DRAINAGE SIDE HILL BUILDING AREA

ASSESSOR'S PARCEL NO'S (SEE NOTE)

PARCEL	EXISTING	PROPOSED	ZONING	GENERAL PLAN
131-010-12	81.00 ACS	81.00 ACS	RL160	RL160
131-010-13	18.00 ACS	9.00 ACS	RL160	RL160
131-010-14	0.00 ACS	9.00 ACS	RL160	RL160



NOTE

1. ALL DISTANCES AND ACRES ARE APPROXIMATE AND FOR PLANNING PURPOSES ONLY.
2. PORTIONS OF APN'S 131-010-12, 14 ARE CONTAINED IN THE PARCEL DESCRIPTION FOR C.C. #58-91.

LEGEND

- EXISTING BOUNDARY LINE
- EXISTING BOUNDARY LINE TO BE REMOVED
- - - PROPOSED BOUNDARY LINE
- AREA TO BE ADJUSTED FROM C.C. #58-91 BOOK 2332/ PAGE 91, M.C.R. TO APN 131-010-12 (29.5 ACRES)
- AREA REMAINING FROM C.C. #58-91 AS A SEPARATE PARCEL (9 ACRES)

CASE NUMBER:

cdb 89-99

OWNER:

BEACON, R.D.

AGENT:

T.M. Herman & Assoc.

APN:

131-010-12, 14

Tentative Map

NORTH ↑

1" = 2000'

6 of 6

WHEN RECORDED, PLEASE MAIL
COPY TO: MENDOCINO COUNTY
PLANNING & BUILDING SERVICES
DEPARTMENT

WHEN RECORDED, PLEASE MAIL
THIS INSTRUMENT TO:

CALION LAND COMPANY

C/O R.D. BEACON

PO BOX 114

ELK CA 95432

CONFORMED COPY
Copy of Document Recorded
on 05/14/1996 as 00007926
in Book 2332 Page 91
Mendocino County Recorder

OFFICE COPY

**CORRECTED CERTIFICATE OF COMPLIANCE
(66499.35(a) OF THE GOVERNMENT CODE)**

Notice is hereby given that the County of Mendocino has reviewed the status surrounding the creation of the land parcel presently owned by:

Calion Land Co., Inc.

AS DESCRIBED IN Book 1015, Page 225 of the official records of said County and hereby declares this 12th day of May 1996, pursuant to Section 66499.35(a) of the Government Code of the State of California, that said parcel has not been created in violation of State law or County Ordinance.

CC App. # 58-91

SV # _____

MS # _____

A/P # 131-010-14x, 131-010-12x

As one legal parcel as described
in attached Exhibit "A".

RAYMOND HALL

Planning & Building Services Department
Mendocino County

By Frank Lynch

Frank Lynch, Supervising Planner

NOTE: A CERTIFICATE OF COMPLIANCE DOES NOT GUARANTEE THE ISSUANCE OF SUBSEQUENT BUILDING PERMITS NOR DOES IT MAKE ANY REFERENCE AS TO THE LEGALITY OF THE USE OR STRUCTURE ON THE PARCEL. THE REQUIREMENTS OF THE (1) PUBLIC HEALTH DEPARTMENT, (2) BUILDING INSPECTION DEPARTMENT, AND (3) COUNTY ZONING REGULATIONS MUST BE COMPLIED WITH PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS.

PREVIOUSLY RECORDED 6-12-92 DOCUMENT # 13154 MC

STATE OF CALIFORNIA
County of Mendocino

On the 12th day of May, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Frank Lynch, Supervising Planner of the Planning and Building Services Department, County of Mendocino, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instru

WITNESS my hand and official seal.

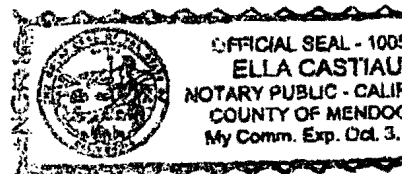


EXHIBIT NO. 8

APPLICATION NO.
A-1-MEN-00-20

CERTIFICATES OF
COMPLIANCE
(1 of 12)

EXHIBIT "A"

That portion of Lots 2 and 3 of Section 2 of Township 14 North, Range 17 West, Mount Diablo Base and Meridian which was contained in the "Judgement Settling Final Account and Report of Administrator, Allowing Extraordinary Compensation and for Final Distribution" Case No. 35727 in the matter of the Estate of Calion Beacon, recorded January 3, 1972 in Book 872 Official Records, Page 372 Mendocino County Records.

Saving and excepting that portion delineated as Parcel 1 on the Parcel Map of Minor Division No. 77-74 filed for record December 30, 1974 in Map Case 2, Drawer 25, Page 55 Mendocino County Records.

AP 131-010-14(x); 131-010-12 x

2 of 12

WHEN RECORDED, PLEASE MAIL
COPY TO: MENDOCINO COUNTY
PLANNING & BUILDING SERVICES
DEPARTMENT

WHEN RECORDED, PLEASE MAIL
THIS INSTRUMENT TO:

CALION LAND COMPANY

C/O R.D. BEACON

PO BOX 114

ELK CA 95432

CONFORMED COPY

Copy of Document Recorded
on 05/14/1996 as 00007927
in Book 2332 Page 93
Mendocino County Recorder

OFFICE COPY

CORRECTED CERTIFICATE OF COMPLIANCE
(66499.35(a) OF THE GOVERNMENT CODE)

Notice is hereby given that the County of Mendocino has reviewed the status
surrounding the creation of the land parcel presently owned by:

Calion Land Co., Inc.

AS DESCRIBED IN Book 1015, Page 225 of the official records of said County
and hereby declares this 13th day of May 1996, pursuant to Section
66499.35(a) of the Government Code of the State of California, that said parcel has
not been created in violation of State law or County Ordinance.

CC App. # 58-91

SV #

MS #

A/P # 131-010-14(portion)

As one legal parcel as described
in attached Exhibit "A".

RAYMOND HALL

Planning & Building Services Department
Mendocino County

By Frank Lynch
Frank Lynch, Supervising Planner

NOTE: A CERTIFICATE OF COMPLIANCE DOES NOT GUARANTEE THE ISSUANCE OF SUBSEQUENT
BUILDING PERMITS NOR DOES IT MAKE ANY REFERENCE AS TO THE LEGALITY OF THE USE OR
STRUCTURE ON THE PARCEL. THE REQUIREMENTS OF THE (1) PUBLIC HEALTH DEPARTMENT, (2)
BUILDING INSPECTION DEPARTMENT, AND (3) COUNTY ZONING REGULATIONS MUST BE COMPLIED
WITH PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS.

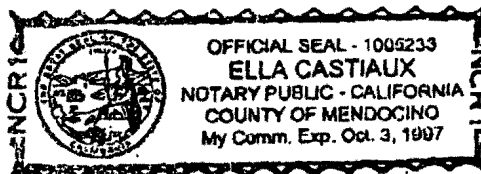
PREVIOUSLY RECORDED 6-18-92 DOCUMENT 14 13155

STATE OF CALIFORNIA
County of Mendocino

On the 13th day of May, 1996, before me, the undersigned, a Notary Public in
and for said State, personally appeared Frank Lynch, Supervising Planner of the
Planning and Building Services Department, County of Mendocino, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person whose name is
subscribed to the within instrument and acknowledged to me that he executed the same
in his authorized capacity, and that by his signature on the instrument the person, or
the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Ella Castiaux



3 of 12

EXHIBIT "A"

That portion of Lot 4 of Section 2 of Township 14 North, Range 17 West, Mount Diablo Base and Meridian which was contained in the "Judgement Settling Final Account and Report of Administrator, Allowing Extraordinary Compensation and for Final Distribution" Case No. 35727 in the matter of the Estate of Calion Beacon, recorded January 3, 1972 in Book 872 Official Records, Page 372 Mendocino County Records.

Saving and excepting that portion delineated as Parcel 1 on the Parcel Map of Minor Division No. 77-74 filed for record December 30, 1974 in Map Case 2, Drawer 25, Page 55 Mendocino County Records.

AP 131-010-14 (x)

4 of 12

WHEN RECORDED, PLEASE MAIL
COPY TO: MENDOCINO COUNTY
PLANNING & BUILDING SERVICES
DEPARTMENT

WHEN RECORDED, PLEASE MAIL
THIS INSTRUMENT TO:

Calion Land Company

c/o R.D. Beacon

P.O. Box 114

Elk, CA 95432

COPY of Document Recorded

6/18/92 # 13154

2001-57

Has not been compared with
original. Original will be returned
when processing has been
completed.

MENDOCINO COUNTY RECORDER

CERTIFICATE OF COMPLIANCE
(66499.35(a) OF THE GOVERNMENT CODE)

Notice is hereby given that the County of Mendocino has reviewed the status
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CALION LAND CO., INC.

AS DESCRIBED IN Book 1015, Page 225 of the official records of said County
and hereby declares this 16th day of June 1992, pursuant to Section
66499.35(a) of the Government Code of the State of California, that said parcel has
not been created in violation of State law or County Ordinance.

CC App. # 58-91

SV # _____

MS # _____

A/P # 131-010-14(X) being one parcel
as described in attached
Exhibit "A".

RAYMOND HALL

Planning & Building Services Department
Mendocino County

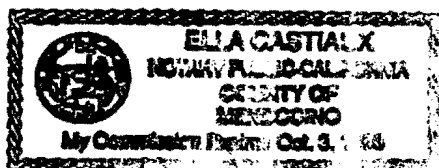
By Frank Lynch
Frank Lynch, Senior Planner

NOTE: A CERTIFICATE OF COMPLIANCE DOES NOT GUARANTEE THE ISSUANCE OF SUBSEQUENT
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BUILDING INSPECTION DEPARTMENT, AND (3) COUNTY ZONING REGULATIONS MUST BE COMPLIED
WITH PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS.

STATE OF CALIFORNIA
County of Mendocino

ss:

On the 16th day of June 1992, before me, the undersigned, a Notary
Public in and for said State, personally appeared Frank Lynch, known to me to be the
Senior Planner of the Planning and Building Services Department, County of Mendocino,
a political subdivision and known to be the person who executed the within instrument
on behalf of said Mendocino County, and acknowledged to me that such political
subdivision executed the same. WITNESS my hand and official seal.



Elia Castiaux

EXHIBIT "A"

That portion of Lot 4 of Section 2 of Township 14 North, Range 17 West, Mount Diablo Base and Meridian which was contained in the "Judgement Settling Final Account and Report of Administrator, Allowing Extraordinary Compensation and for Final Distribution" Case No. 35727 in the matter of the Estate of Calion Beacon, recorded January 3, 1972 in Book 872 Official Records, Page 372 Mendocino County Records.

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AP 131-010-14 (x)

WHEN RECORDED, PLEASE MAIL
COPY TO: MENDOCINO COUNTY
PLANNING & BUILDING SERVICES
DEPARTMENT

WHEN RECORDED, PLEASE MAIL
THIS INSTRUMENT TO:

Calion Land Company

c/o R.D. Beacon

P.O. Box 114

Elk, CA 95432

COPY of Document Recorded
6/18/92 # 13/55
2001-59
Has not been compared with
original. Original will be returned
when processing has been
completed.
MENDOCINO COUNTY RECORDER

CERTIFICATE OF COMPLIANCE
(66499.35(a) OF THE GOVERNMENT CODE)

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CC App. # 58-91

SV #

MS #

A/P # 131-010-02 & 131-010 12X

being one parcel as described
in attached Exhibit "A".

RAYMOND HALL

Planning & Building Services Department
Mendocino County

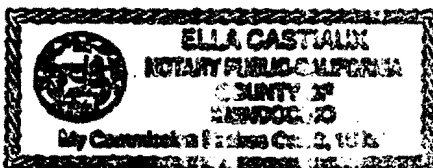
By Frank Lynch
Frank Lynch, Senior Planner

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STATE OF CALIFORNIA
County of Mendocino

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Public in and for said State, personally appeared Frank Lynch, known to me to be the
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a political subdivision and known to be the person who executed the within instrument
on behalf of said Mendocino County, and acknowledged to me that such political
subdivision executed the same. WITNESS my hand and official seal.



Ella Castiano

EXHIBIT "A"

That portion of Lots 2 and 3 of Section 2 of Township 14 North, Range 17 West, Mount Diablo Base and Meridian which was contained in the "Judgement Settling Final Account and Report of Administrator, Allowing Extraordinary Compensation and for Final Distribution" Case No. 35727 in the matter of the Estate of Calion Beacon, recorded January 3, 1972 in Book 872 Official Records, Page 372 Mendocino County Records.

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AP 131-010-^{14(x)}~~22~~ ; 131-010-12 X

WHEN RECORDED, PLEASE MAIL
COPY TO: MENDOCINO COUNTY
PLANNING & BUILDING SERVICES
DEPARTMENT

WHEN RECORDED, PLEASE MAIL
THIS INSTRUMENT TO:

Calion Land Company

c/o R.D. Beacon

P.O. Box 114

Elk, CA 95432

COPY of Document Recorded
6/18/92 # 13153

2001-55
Has not been compared with
original. Original will be returned
when processing has been
completed.

MENDOCINO COUNTY RECORDER

CERTIFICATE OF COMPLIANCE
(66499.35(a) OF THE GOVERNMENT CODE)

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CC App. # 58-91

SV # _____

MS # _____

A/P # 131-010-12X being one parcel
as described in attached
Exhibit "A".

RAYMOND HALL

Planning & Building Services Department
Mendocino County

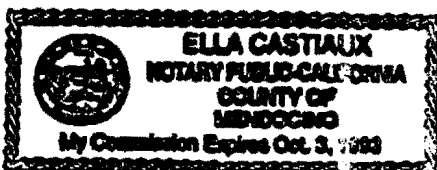
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Ella Castiaux

EXHIBIT "A"

That portion of the Southeast quarter of the Northeast quarter of Section 2 of Township 14 North, Range 17 West, Mount Diablo Base and Meridian which was contained in the "Judgement Settling Final Account and Report of Administrator, Allowing Extraordinary Compensation and for Final Distribution" Case No. 35727 in the matter of the Estate of Calion Beacon, recorded January 3, 1972 in Book 872 Official Records, Page 372 Mendocino County Records.

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AP 131-010-12 X

WHEN RECORDED, PLEASE MAIL
COPY TO: MENDOCINO COUNTY
PLANNING & BUILDING SERVICES
DEPARTMENT

WHEN RECORDED, PLEASE MAIL
THIS INSTRUMENT TO:

Calion Land Company

c/o R.D. Beacon

P.O. Box 114

Elk, CA 95432

COPY of Document Recorded
6/18/92 # 13152

2001-53

Has not been compared with
original. Original will be returned
when processing has been
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MENDOCINO COUNTY RECORDER

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Planning & Building Services Department
Mendocino County

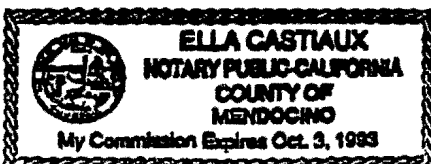
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Frank Lynch, Senior Planner

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subdivision executed the same. WITNESS my hand and official seal.



Ella Castiaux

11 08 12

EXHIBIT "A"

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AP 131-010-12 X

Land-Use Density

The determination of availability of ground water for a specific development requires professional judgement and interpretation of all available data. This study, though not site specific, has identified coastal areas of differing ground water availability (see Figure 3). From this information, general guidelines can be drawn to aid the planner in reviewing proposed developments.

It is recommended that:

1. Areas designated SWR (Sufficient Water Resources) shall have a minimum lot size of 2 acres (ac); "proof of water" not required. All lots less than 2 ac shall be required to demonstrate "proof of water" (as outlined in Appendix B).
2. Area designed MWR (Marginal Water Resources) shall have a minimum lot size of 5 ac; "proof of water" not required. All lots less than 5 ac shall be required to demonstrate "proof of water".
3. Areas designated CWR (Critical Water Resources) shall have a minimum lot size of 5 ac and demonstration of "proof of water". All lots less than 5 ac shall demonstrate "proof of water" and may require an environmental impact statement.
4. Critical Water Resources-Bedrock areas
 - a. Areas designated CWRub (Critical Water Resources, upland bedrock) should have a minimum size of 20 ac. Smaller lots, to a minimum size of 2 ac, may be developed with "proof of water" on each lot.
 - b. Bedrock areas that lie west of the eastern limits of the marine terrace deposits shall be designated CWRtb (Critical Water Resources, terrace bedrock). These areas shall have a minimum lot size of 5 ac and demonstration of proof of water. All lots less than 5 ac shall demonstrate proof of water and may require hydrologic study.

EXHIBIT NO. 9
APPLICATION NO. A-1-MEN-00-20
COASTAL GROUNDWATER STUDY RECOMMENDATIONS

APPENDIX 3. GEOTECHNICAL EVALUATION REQUIREMENTS

The Hazards Maps incorporated in the Land Use Plan show geotechnical hazards in the coastal zone. The extent of additional geotechnical study needed before approval of a project depends on both the site and the type of project. Potential projects are ranked according to suitability for accepting risk, with those requiring the greatest caution listed first.

Land Use and Building Types

Type 1: Public, High Occupancy and Critical Use, including:

- Hospitals
- Fire and Police Stations
- Communication Facilities
- Schools
- Auditoriums, Theaters
- Penal Institutions
- High-rise Hotels, Office and Apartment Buildings (over 3 stories)
- Major Utility Facilities

Type 2: Low Occupancy, including:

- Low-rise Commercial and Office Buildings (1-3 stories)
- Restaurants (except in high-rise category)
- Residential (over 8 attached units and less than 3 stories)

Type 3: Residential (less than 8 attached units) and

Manufacturing and Storage/Warehouses (except where highly toxic substances are involved which should be evaluated on an individual basis with mandatory geotechnical review)

Type 4: Open Space, Agriculture, Golf Courses, etc.

Potential Hazards

Fault Rupture. Presently available geologic maps defining active or potentially active fault traces within the San Andreas fault zone have been used to determine special studies zones called for by California Public Resources Code, Sections 30000-30900. Before proceeding with any Type 1 development, published geologic information should be reviewed, the site should be mapped geologically, and aerial photographs of the site and vicinity should be examined for lineaments. Where these methods indicate the possibility of faulting, a thorough investigation is required to determine if the area contains a potential for fault rupture.

EXHIBIT NO.	10
APPLICATION NO.	A-1-MEN-00-20
LUP APPENDIX 3 (1 of 3)	

Coastal Erosion. Planning for an Eroding Shoreline (#17, California Coastal Commission) describes areas requiring special studies based on bluff configuration. The Statewide Interpretive Guidelines for Geologic Stability of Bluff Top Development provide further development guidelines.

Source: Harding-Lawson Associates, Engineers, Geologists, and Geophysicists, 1979.

Seismic-Related Ground Failure. Suggested site investigation requirements for seismic-related ground failure potential of the four land use/building types listed above are described in the following table:

<u>Land Use/ Building Types</u>	<u>Seismic Related Ground Failure Zones (From Hazard Maps)</u>		
	High (Zone 3)	Moderate (Zone 2)	Low (Zone 1)
Type 1	D	C	B
Type 2	C	C	A
Type 3	B	B	A
Type 4	—	—	—

- A. Current building code requirements must be met, as well as other existing state and local ordinances and regulations. A preliminary geotechnical investigation should be made to determine whether or not the hazards zone indicated by the maps is reflected by site conditions.
- B. In addition to A, geotechnical investigation and structural analysis sufficient to determine structural stability of the site for the proposed use is necessary. It may be necessary to extend the investigation beyond site boundaries in order to evaluate the shaking hazard. All critical use structure sites require detailed subsurface investigation.
- C. In addition to A and B, surface and/or subsurface investigation and analyses sufficient to evaluate the site's potential for liquefaction and related ground failure shall be required.
- D. In addition to A, B and C, detailed dynamic ground response analyses must be undertaken.

Dangerous or unspecified land uses should be evaluated and assigned categories of investigation on an individual basis.

Tsunami. Land Use Types 1, 2, and 3 should be disallowed in tsunami-prone areas. Development of harbors and Type 4 uses should be permitted, provided a tsunami warning plan is established.

Landsliding. Because of the high potential for landsliding in almost all of the coastal zone, all development plans should undergo a preliminary evaluation of landsliding potential. The effect of the development on the landslide potential must be taken into account, because slides can result from excavation, drainage changes, and deforestation. If landslide conditions exist and cannot be avoided, positive stabilization measures should be taken to mitigate the hazard.