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| Received:             | June 19, 2000      |
| Filed:                | August 18, 2000    |
| 90 <sup>th</sup> Day: | November 16, 2000  |
| Staff:                | Susan Sniado       |
| Staff Report:         | September 1, 2000  |
| Hearing Date:         | September 13, 2000 |
| Commission Action:    |                    |

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director  
Steve Scholl, Deputy Director  
Robert S. Merrill, North Coast District Manager  
Susan Sniado, Coastal Planner

SUBJECT: **Mendocino County LCP Amendment No. 1-00 (Reed), (Major), - Land Use Plan Amendment, Implementation Program Amendment** (Meeting of September 13, 2000, in Eureka)

**SYNOPSIS****Amendment Description**

The proposed amendment to the Mendocino County Local Coastal Plan (LCP) would increase the inn unit cap associated with Reed Manor, located in the Town of Mendocino from five units to a total of nine units. The specific changes include changes to tables in both the Land Use Plan (LUP) and Zoning Ordinance that reflect the number of units allowed at the Reed Manor Inn.

**Summary of Staff Recommendation**

The staff recommends that the Commission, upon completion of a public hearing, **deny the amendment request as submitted.**

Commission staff recommends that the proposed LCP change, which proposes an increase in the cap for visitor-serving units for the Reed Manor in the Town of Mendocino, be denied due to concerns with town character and highway capacity. Section 30253 (5) of the Coastal Act requires new development to protect special communities, which because of their unique characteristics, are popular visitor destination

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points for recreational uses. The Mendocino County LCP recognizes the Town of Mendocino as a special community protected by Coastal Act Section 30253 (5). Policy 4.13-1 of the Mendocino Town Plan states that "Visitor Serving Units listed on Table 4.13-1 (234) shall remain fixed...until the plan is further reviewed and a plan amendment is approved and certified by the California Coastal Commission." Staff interprets this policy to mean a review of the Town Plan must take place that assesses any changes in the ratio of residential development to visitor-serving facilities and determine if it is appropriate and to what degree to increase the potential visitor-serving facilities within the Town. If it is determined that it is appropriate to increase the number of visitor-serving facilities, an LCP amendment must be processed that adjusts the number of allowable visitor-serving units throughout the Town, based on an analysis of the balance between residential and visitor-serving uses. Staff has determined that this analysis is not found within the Mendocino Town Plan Review (March 1999) the county submitted with this LCP amendment. Therefore, staff recommends denial of the LCP amendment as submitted because sufficient information has not been provided to enable the Commission to determine whether the proposed increase in units would adversely affect Town Character and fail to protect the special community of the Town of Mendocino, inconsistent with section 30253 (5) of the Coastal Act.

Staff recommends denial of the LCP amendment as submitted, also in part due to concerns over how such an amendment affects the traffic carrying capacity of Highway One. Section 30250(a) of the Coastal Act requires that new development not have significant adverse effects, either individually or cumulatively, on coastal resources. When the Commission certified the Mendocino County Land Use Plan with Suggested Modifications, it found that too much build-out of the Mendocino coast would severely impact the recreational experience of Highway One and its availability for access to other recreational destination points. Because the only north-south arterial in coastal Mendocino County is Highway One, the requirements of Section 30254 are a limiting factor on the potential for new development in Mendocino County.

Since the County has not yet determined by how much the limits on inn units contained in the Town Plan can be expanded without adversely affecting Town Character, a cumulative impacts analysis that takes into account an increase of that magnitude cannot be performed. Thus, the Commission cannot determine whether the proposed increases in visitor serving facilities would have an adverse cumulative impact on State Route 1. Thus, the Commission finds that until a thorough environmental assessment is prepared that fully evaluates the cumulative impacts of the proposed LCP amendment on Highway 1 capacity, the proposed amendment cannot be found to be consistent with Coastal Act Sections 30254 and 30250(a).

Staff thus recommends that upon completion of the public hearing, the Commission deny the proposed LCP amendment as submitted, based on the findings that the amendment, as submitted, is not consistent with the policies of Chapter 3 of the Coastal Act, or the certified LCP.

The motion and resolution for denial for the Land Use Plan portion of the amendment can be found on Page 5. The motion and resolution for denial of the Implementation Program portion of the amendment can be found on Pages 5-6.

Staff does not recommend suggested modifications, which would bring the LCP amendment into compliance with the certified LCP because staff's view is that no amendments that increase potential inn

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units within the Town of Mendocino can be certified until an adequate study is performed to determine how much, if any, additional visitor serving capacity is appropriate within the Town, and how best to allocate any such increases.

Denial For Lack of Information

As noted above, staff is recommending denial based in large part on the lack of information to find consistency of the LUP portion of the amendment as submitted with Chapter 3 policies of the Coastal Act. Specifically, the amendment submittal lacks (1) an evaluation of what number and array of new visitor serving units can be added to the amounts currently allowed under the Mendocino Town Plan without affecting the overall balance between visitor serving, residential, and commercial uses in a manner that would adversely affect the Town's character, as called for in Policies 4.13-1 and 4.13-2 of the Mendocino Town Plan; and (2) once the appropriate number and array of new visitor serving units that can be added has been determined, an environmental analysis of the amendment's potential effects, including cumulative impacts, on the environment with particular regard to the proposed amendment's effects on necessary services including Highway One capacity. As discussed herein, this information is needed to assess the consistency of the proposed LCP amendment with Sections 30250, 30253(5), and 30254 of the Coastal Act. The lack of such information was also a major factor cited by the Mendocino County Superior Court for issuing its order of November 15, 1999 in the case of Edmundson v. California Coastal Commission concerning the Commission's action to certify the previous LCP amendment submitted by the County to increase the allowable number of inn units at Reed Manor (Site Three of LCP Amendment No. 1-98: Reed). That order declared that the Commission's action was arbitrary and capricious and required that the Commission invalidate its approval of the previous LCP amendment for Reed Manor.

When the County submitted the current LCP amendment, Commission staff considered not filing the amendment as complete for lack of the information noted above and informing the County that the amendment would not be scheduled for Commission action until the necessary information was developed by the County and provided to the Commission. As discussed below, staff chose instead to file the amendment despite the lack of information and schedule it for the Commission's consideration.

In a letter to Planning Director Ray Hall dated March 22, 2000 that transmitted the results of the Commission's action at the January 24, 2000 Commission meeting to rescind the Commission's prior certification of the previous LCP amendment concerning Reed Manor and then deny certification of the same amendment, Commission staff discussed the information that the County would need to submit with any future amendment that would seek to increase inn units at Reed Manor. Staff indicated that it would be necessary for the Commission to receive an evaluation of the appropriate number of inn units that could be added without adversely affecting town character and an analysis of the amendment's environmental effects, particularly with regard to the proposed amendment's effects on Highway One capacity and other necessary services.

In its cover letter transmitting the current amendment request to the Commission for certification, County staff indicates that at the time the Mendocino County Board of Supervisors

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approved the current LCP amendment on April 18, 2000, the Board reviewed a packet of information that included the March 22, 2000 letter from Commission staff. County staff states that the Board concluded "that the Reed application should not be considered the "trigger" for another Town Plan Review beyond the Mendocino Town Plan Review which the Board accepted in March of 1999," and requested that the "Coastal Commission staff present LCP No. 1-98 Site Three (Reed) to the Coastal Commission with the supporting documentation of the completed Mendocino Town Plan Review dated March, 1999. As the Board of Supervisors had been informed of the information that would be needed by the Commission to evaluate an LCP amendment proposing to increase inn units at Reed Manor and the Board specifically asked staff to schedule the amendment for the Commission's consideration without such information, staff decided to file the amendment and schedule it for Commission action despite the lack of previously requested information.

Analysis Criteria

To approve the amendment to the Land Use Plan portion of the Mendocino County Local Coastal Program, the Commission must find that the LUP, as amended, is consistent with the policies of Chapter 3 of the Coastal Act. To approve the amendment to the Implementation Program portion of the LCP, the Commission must find that the Implementation Program, as amended, is consistent with and adequate to carry out the amended Land Use Plan.

Additional Information:

For further information, please contact Susan Sniado or Bob Merrill at the North Coast District Office (707) 445-7833. Correspondence should be sent to the District Office at the above address.

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**STAFF RECOMMENDATION, MOTIONS, AND FINDINGS FOR LCP  
AMENDMENT NO. 1-98, MAJOR**

**I. MOTIONS AND RESOLUTIONS**

**A. LAND USE PLAN AMENDMENT:**

**1. Denial as Submitted**

**MOTION:** *I move that the Commission certify Land Use Plan Amendment 1-00 as submitted by the County of Mendocino.*

**STAFF RECOMMENDATION TO DENY:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO DENY:**

The Commission hereby denies certification of the Land Use Plan Amendment 1-00 as submitted by the County of Mendocino and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

**B. IMPLEMENTATION PROGRAM AMENDMENT**

**MOTION I:** *I move that the Commission reject the Implementation Program Amendment for the County of Mendocino as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program submitted for **the County of Mendocino** and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

**II. LAND USE PLAN FINDINGS**

**A. DESCRIPTION OF SITE AND LCP AMENDMENT**

The LCP amendment involves property located in the Town of Mendocino, adjacent to Little Lake Road. The site is 1.85 acres in size, and contains a five-unit inn and accessory structures (Exhibits No. 1-4). The proposal is to increase the inn unit cap associated with the Reed Manor identified in the Mendocino Town Plan and Zoning Ordinance from five units to a total of nine units. The proposal seeks to amend Mendocino Town Plan Table 4.13-1 (see Exhibit No. 5), and Zoning Code Section 20.684.025, which currently show the maximum allowable units at the Reed Manor to be five.

The LCP amendment would not affect a shoreline parcel or a parcel visible from Highway One. The LCP amendment would affect a parcel that is separated from the shoreline and Highway by other developed parts of the Town of Mendocino. There is no environmentally sensitive habitat on the subject property.

**B. BACKGROUND**

The Commission previously reviewed an LCP amendment that would have made the same changes to the LCP as currently proposed. On September 9, 1998, the Commission certified the Site Three (GP 9-97/OA 3-97, Reed) portion of the Mendocino County Local Coastal Program Amendment No. 1-98 (resubmitted now as; Mendocino County Local Coastal Program Amendment No. 1-00). This LCP amendment increased the inn unit cap associated with Reed Manor, in the Town of Mendocino, from five units to a total of nine units. The Commission's certification of this portion of the LCP amendment was challenged in a lawsuit, and on November 15, 1999 the trial court ruled in favor of the petitioners ordering the Commission to invalidate its certification of the Site Three portion of the LCP amendment. In closed session at the December 9, 1999 Commission meeting, the Commission voted not to appeal the trial court decision. At the January 24, 2000 Commission Meeting, the Commission formally rescinded its prior certification of the above referenced LCP amendment and then denied the certification in a series of unanimous votes.

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The trial court's decision to rule in favor of the petitioners was based largely in part on the court's holding that (1) the County and the Commission failed to conduct the mandatory periodic reviews, and (2) the Commission did not perform a thorough analysis of the cumulative impacts of the project, particularly with respect to the question of balance between visitor serving units and other facilities (Exhibit No. 6).

On March 22, 2000, Coastal Commission staff sent a letter to the County outlining the court's ruling and the information the Coastal Commission would need to reprocess the amendment certification (Exhibit No. 7). The information requested was based, in part, on the findings in the November 15, 1999 court decision which instructed that a review of the Mendocino Town Plan must be completed. The Coastal Commission's letter requested that the Town Plan Review include an evaluation of whether changes in the number and array of visitor serving units could be made without affecting the overall balance between visitor serving, residential, and commercial uses in a manner that would preserve the Town's character, as called for in Policy 4.13-1 (Mendocino Town Plan). Additionally, in order for the amendment request to be processed, the Coastal Commission requested an environmental analysis of the proposed changes to the Town Plan that evaluates the amendment's potential effects on the environment. In particular, staff indicated that the environmental analysis should evaluate the proposed amendment's effects on necessary services including Highway One capacity, water supply, and sewage disposal.

On June 19, 2000, the Commission staff received a letter from Mendocino County transmitting a final Mendocino Town Plan Review document along with a formal request that the Commission certify LCP amendment No. 1-98 Site Three: Reed (Exhibit No. 8-9). Because the Commission's previous certification of Mendocino County LCP Amendment No. 1-98 Site Three (Reed) was rescinded and then denied by the Commission on January 24, 2000, a new number has been assigned to the current LCP amendment: **Mendocino County LCP Amendment No. 1-00.**

**C. PROTECTING SPECIAL COMMUNITIES**

Section 302513 (5) of the Coastal Act states in applicable part "*new development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*"

The Town of Mendocino is a "special community." The Mendocino Town Plan is included as Chapter 4.13 of the Coastal Element of the Mendocino County General Plan and was certified by the California Coastal Commission in November 1985 and amended in 1992. The Town was planned for separate from the rest of Mendocino County's coastal zone because:

*The Town of Mendocino is a 'special community' as described in Section 30253 (5) of the Coastal Act, and is recognized as a special community with an existing balance of residential, commercial, and visitor-serving facilities that is to be generally maintained.*  
(Mendocino Town Plan, p. 1)

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The maintenance of community character forms the foundation of the growth management policies of the Town Plan. The Coastal Commission's findings for certification of the Mendocino Town plan in 1985 summarize the issue as follows:

Members of the community expended great effort in addressing the issue of visitor-serving facilities (VSFs) as it related to community character. The town was carefully considered and the elements which make the town attractive both as a place to live and to visit were thoughtfully analyzed. Between the Citizens Advisory Committee, the Planning Commission and the Board perhaps as many as 25 hearings addressed this issue. They concluded that the current level of VSFs had so greatly impacted the town character that a strong approach to VSF phasing was necessary. (Coastal Commission Findings for Mendocino County Coastal Element, p. 70).

Mendocino County LCP Amendment 1-00 would increase the inn unit cap associated with the Reed Manor from five units to a total of nine units. While visitor-serving facilities are a high priority coastal land use under the Coastal Act, the Commission has found that within the Town of Mendocino, a balance between residential land uses and visitor-serving facilities must be maintained, pursuant to Mendocino Town Plan Policy 4.13-1, which states that:

*The Town of Mendocino shall be designated a special community and a significant coastal resource as defined in Coastal Act Section 3025[3](1). New development shall protect this special community which, because of its unique characteristics, is a popular visitor destination point for recreational uses.*

*Mendocino shall be recognized as a historic residential community with limited commercial services that are important to the daily life of the Mendocino Coast.*

*The controlling goal of the Town Plan shall be the preservation of the town's character. This special character is a composite of historic value, natural setting, attractive community appearance and an unusual blend of cultural, educational and commercial facilities.*

*The preservation of the town's character shall be achieved, while allowing for orderly growth... This shall be done by careful delineation of land uses, provision of community services and review and phasing of development proposals. Balance shall be sought between residential units, visitor accommodations and commercial uses... The objective shall be a Town Plan which retains as much as possible the present physical and social attributes of the Mendocino Community.*

*"Balance" between residential uses, commercial uses and visitor serving uses shall be maintained by regulating additional commercial uses through development limitations cited in the Mixed Use and Commercial Land Use Classifications; and by limiting the number of visitor serving uses.*

*Visitor Serving Units listed on Table 4.13-1 (234) shall remain fixed...until the plan is further reviewed and a plan amendment is approved and certified by the California Coastal Commission.*

The 1992 Mendocino Town Plan Amendment specifically directs review of the Town Plan in Policy 4.13-2, which states:

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*This amended plan shall be reviewed three years after certification of this plan amendment date to determine the effect of development on town character. The plan shall be revised, if necessary, to preserve town character consistent with policy 4.13-1.*

The Commission interprets this policy to mean that a review of the Town Plan must take place that assesses any recent changes in the ratio of residential development to visitor-serving facilities to determine if it is appropriate to increase the potential visitor-serving facilities within the Town and by how much. An LCP amendment should be considered only after it is determined, by the review, that it is appropriate to increase the number of visitor-serving facilities. The Commission does not interpret this policy to mean that the County should submit an LCP amendment request for each new increase in the cap on visitor-serving units for each particular visitor-serving facility as an inn owner wishes to expand a particular inn. Such an approach to planning does not take into account the cumulative impacts of increasing inn units piecemeal on town character and does not allow for planning to determine where additional inn units can most appropriately be located without affecting the balance of land uses and town character, inconsistent with Policy 4.13-1 of the Town Plan. As such, this incremental approach would not protect the special community of the Town of Mendocino, inconsistent with Section 30253(5) of the Coastal Act.

LCP amendment 1-00 seeks to change the inn unit cap for one particular inn, Reed Manor. As part of the application package the County has submitted a final document entitled "Mendocino Town Plan Review" (dated March 1999). The Town Plan Review was completed in March 1999, after certification by the Commission of the original Reed amendment and before the Commission rescinded the certification by order of the court. The Town Plan Review presents the allowable number of units for Reed Manor as nine instead of four. In a supporting document (Exhibit No. 11) submitted by the County with this LCP amendment, the County states that "because the Town Plan Review reflects the 4-unit increase for Reed Manor that the impacts associated with the Reed project were appropriately analyzed in the Review".

The Town Plan Review does provide good background information as well as a good inventory of existing and approved residential, commercial, and visitor-serving development. However, it does not evaluate what is the appropriate number and balance of units required to maintain town character if additional units are allowed. The submitted Town Plan Review has no section that provides an evaluation of the appropriate number of inns that can be added to the Town without adversely affecting Town Character.

The review also does not evaluate other currently pending LCP amendments. On page 9 of the Town Plan Review, it states that two additional applications to increase the number of visitor serving facilities (an increase of 11 inn units) are being held in abeyance "pending completion of the Town Plan Review." The Town Plan Review lacks the analysis and evaluation on what is the appropriate number and balance of visitor-serving and residential units and therefore the document does not provide sufficient guidance to evaluate these additional applications pending with the County.

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The Town Plan Review is analysis of the overall appropriate level of change in the ratio of residential, commercial, and visitor-serving facilities that would best preserve the balance of development and the town's character. Pursuant to Town Plan Policy 4.13-1, balance is a crucial element in protecting town character; therefore, without such an evaluation of the appropriate number and array of inn units that can be added and maintain balance, the Coastal Commission cannot conclude that this LCP amendment would protect this special community in a manner consistent with Section 30253 (5) of the Coastal Act.

The Commission thus finds that the proposed LUP amendment is inconsistent with Coastal Act Sections 302513 (5).

**D. HIGHWAY ONE CAPACITY/TRAFFIC IMPACTS.**

Coastal Act Section 30254 states that it is the intent of the Legislature that State Highway One in rural areas of the coastal zone remain a scenic two-lane road, and that where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development. Section 30250(a) of the Coastal Act also requires that new development not have significant adverse effects, either individually or cumulatively, on coastal resources.

Changes to the County's LCP proposed by this amendment will result in an increase in density of visitor serving uses.

The Commission denies the LCP amendment as submitted, due to concerns over how such amendments affect the traffic carrying capacity of Highway One. State Highway One is one of California's most valuable scenic resources and provides the principal means for Californians to access the coast. Highway One along the Mendocino coast experiences a steady stream of tourist traffic all year long, with traffic peaks between April and October. State Highway One has also been designated a Pacific Coast Bicentennial Route, and is very popular with touring cyclists. As noted in the 1990 DKS Associates State Route 1 Capacity and Development Study, Mendocino Coast residents find themselves competing with vacationers for the limited capacity of State Route 1. Due to the highway's scenic qualities, heavy use by recreational vehicles as well as logging trucks, and limited passing opportunities along much of its length, Highway One's traffic carrying capacity is less than that of other two-lane roads.

Because the only north-south arterial in coastal Mendocino County is Highway One, the requirements of Section 30254 are a limiting factor on the potential for new development in Mendocino County. While curves can be straightened, gulches bridged, and shoulders widened, the basic configuration of the highway will remain much the same due to topography, existing lot patterns, and the priorities of Caltrans to improve the state's highway system in other areas. To assess the limited Highway One capacity, a study was prepared for the Commission in 1979 as a tool for coastal planning in Marin, Sonoma, and Mendocino counties (Highway 1 Capacity Study). The study offered some possibilities for increasing capacity and describes alternative absolute minimum levels of service. Because highway capacity is an

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important determinative for the LUP, the Commission's highway study was re-evaluated by the LUP consultant and alternative assumptions were tested.

The Highway One Capacity Study described then-current use of different segments of Highway One in terms of levels of service categories. Such categories are commonly used in traffic engineering studies to provide a measure of traffic congestion, and typically range from Level of Service A (best conditions) to Level of Service F (worst condition). The 1979 Highway One Capacity Study determined that only the leg of Highway One between Highway 128 and Mallo Pass Creek was at Service Level D (unstable flow; low freedom to maneuver; unsatisfactory conditions for most drivers) during peak hours of use in 1979; all other legs were at Level E. Service Level E (difficult speed selection and passing; low comfort) is the calculated capacity of the highway. At Level F (forced flow), volume is lower. Along the Mendocino coast, peak hour can be expected to occur between noon and 5 p.m. on summer Sundays.

Highway capacity was recognized by the Commission as a constraint that limits new development, as new development generates more traffic that uses more capacity and a lack of available capacity results in over-crowded highways for long periods of time. Prior to certification of the County's LCP, the Commission denied numerous applications for land divisions, based partially on highway capacity constraints, and also denied several Land Use Plan amendments partially based on highway capacity constraints (e.g., 1-86, Tregoning; 3-87, Moores; and 2-90, Long). The Commission has also denied certification of several LUPs throughout the State because of limited highway capacity (City of Monterey, Skyline Segment; Malibu; and Marina del Rey/Ballona), as these LUPs did not reserve available capacity for priority uses and did not provide adequate measures to mitigate the adverse cumulative impacts of new development.

When it eventually certified the Mendocino County Land Use Plan with Suggested Modifications, the Commission found that too much build-out of the Mendocino coast would severely impact the recreational experience of Highway One and its availability for access to other recreational destination points. The LUP as originally submitted would have allowed for 3,400 new residential parcels to be created potentially. The Commission found 121 geographic areas that were not in conformance with Section 30250 of the Coastal Act. The County reviewed these areas, and agreed to a proposed modification that would result in a redesignation of the identified non-conforming areas, thus reducing the total number of new residential parcels which potentially could be created by approximately 1,500. In other words, the Commission reduced by more than half the number of potential new parcels that could be created under the certified LUP, based on its conclusion that, given the information available at that time, approximately 1,500 new parcels was the maximum number of new parcels Highway One could accommodate while remaining a scenic, two-lane road.

The Commission recognized that in the future, a greater or smaller number of potential new parcels might be more appropriate, given that changes might occur that would affect highway capacity, such as new road improvements, or that development might proceed at a faster or slower pace than anticipated. To provide for an orderly process to adjust the number of potential parcels allowed under the LCP to reflect conditions as they change over time, the Commission approved Policy 3.9-4 of the LUP that required a future review of the Land Use Plan.

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Policy 3.9-4 of the County's LUP states that:

*Following approval of each 500 additional housing units in the coastal zone, or every 5 years, whichever comes first, the Land Use Plan shall be thoroughly reviewed to determine:*

*Whether the Highway 1 capacity used by non-resident travel and visitor accommodations is in scale with demand or should be increased or decreased.*

*Whether the plan assumptions about the percentage of possible development likely to occur are consistent with experience and whether the allowable build-out limits should be increased or decreased.*

*Whether any significant adverse cumulative effects on coastal resources are apparent.*

In response to this policy, in 1994 the County hired a transportation consultant firm to do a study (titled the State Route 1 Corridor Study) that would determine the impact to Highway One traffic carrying capacity from the build-out of the Coastal Element of the General Plan. The focus of the study was to project future traffic volumes which would be generated by potential development allowed by the Coastal Element in the coastal zone and by potential development from growth areas outside of the coastal zone that affect traffic conditions on Highway One. The traffic impact on the level of service (LOS) of study intersections and segments on Highway One based on incremental build-out scenarios was then determined (LOS A through E was considered acceptable in most locations; LOS F was considered unacceptable). The study also identified roadway improvement options available for increasing capacity on Highway One and other roadways that affect the Highway One corridor.

Using the information in the study, County staff evaluated the traffic impacts of the proposed LCP changes based on a "75/50" scenario (existing development plus development on 75% of existing vacant parcels plus development on 50% of potential new parcels plus 75% of commercial, industrial, and visitor-serving facility build-out potential by the year 2020), which they believe represents the maximum feasible build-out based on past and projected development patterns. Thus, for example, in the case of the subject LCP amendment, County staff first noted what the projected Levels of Service during peak times would be in the year 2020 for the relevant road segments and intersections under the existing LCP using the 75/50 build-out scenario, then determined what additional traffic would be generated by the density increase proposed by the LCP amendment, and, finally, determined what roadway improvements, if any, would be necessary to keep the Levels of Service within acceptable parameters (up to and including LOS E) if the density increase of the amendment was approved.

While the State Route 1 Corridor Study and County staff's subsequent analysis provided some of the key information called for by Policy 3.9-4 of the LUP, not all information contemplated by and necessary to satisfy the mandates of the policy has been provided. While the traffic information that was generated can be used for planning purposes to determine how much traffic additional growth would generate, information that addresses the goals of the LUP to determine when and where more development would be appropriate given the limited highway capacity has not been provided. If there is only a certain amount of limited capacity that can be provided for all development, then the type of uses that should be allowed

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to increase density should be explored and evaluated. Rather, it appears that the County is reviewing the proposed LCP change as if it were a permit application, generally assuming that the use is appropriate and merely determining how best to mitigate the impacts, and just approving those density increases that are proposed first.

The original LCP amendment for Reed Manor was reviewed by the County with regard to the 1994 State Route 1 Corridor Study, using the 75/50 development scenario with a horizon year of 2020. Project traffic will access State Route 1 at intersection 18 (Little Lake Road) and Road Segment 12 (Big River Bridge to Lansing Street). Currently, intersection 19 operates at level of service B and Road Segment 12 operates at level of service A. These facilities are projected to remain at the current level of service in the year 2020. Therefore, this project individually, which increases the cap on visitor units at the Reed Manor from four to nine, will not cause a significant impact on State Route 1. However, the cumulative impacts of the proposal have not been adequately assessed. The environmental assessment performed for the original Reed LCP amendment examined cumulative impacts on Highway One capacity along the segment of the highway near the Town to the extent that it considered the proposed increase of four units at Reed Manor together with a projected increase of 10 residential units that could be allowed in the future in the vicinity pursuant to another LCP amendment approved by the County in 1997. This analysis concluded there would be no adverse effect. However, the assessment prepared at that time does not consider the two other LCP amendment requests received by the County that the County is currently holding in abeyance that would increase the total number of inn units in the Town by an additional 11 units above what the current Reed LCP amendment would provide. Furthermore, because the assessment was prepared a few years ago, it could not take into account other proposals that may have been developed since preparation of the assessment that would increase the density of residential and other land uses in the area and resulting trip generation along this section of Highway One. Moreover, since the County has not yet determined by how much the limits on inn units contained in the Town Plan could be expanded without adversely affecting Town Character, a cumulative impacts analysis that takes into account an increase of that magnitude cannot even be performed. Thus, the Commission cannot determine the proposed increases in visitor serving facilities would not have an adverse cumulative impact on State Route 1. Thus, the Commission finds that until a thorough environmental assessment is prepared that fully evaluates the cumulative impacts of the proposed LCP amendment on Highway 1 capacity, the proposed LUP Amendment 1-00 cannot be found to be consistent with Coastal Act Sections 30254 and 30250(a).

**E. ADEQUATE SERVICES**

Section 30250(a) of the Coastal Act requires that new development be located in or near existing developed areas able to accommodate it and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is, in part, to locate development where there are existing adequate services and concentrate development to minimize adverse impacts on coastal resources.

**MENDOCINO COUNTY LCP AMENDMENT  
NO. 1-98 (MAJOR)  
PAGE 14**

The four new units desired by the owners of Reed Manor would be developed through the conversion of existing structures on the site, rather than building new structures. The Mendocino City Community Services District has indicated that the owners have established a groundwater extraction allotment for the Reed Manor and have satisfied District requirements for a total of nine units, and have also stated that sewer right of use for the additional units will be required.

Therefore, the Commission finds that the proposed LUP amendment as submitted, which would increase the visitor unit cap from its current limit of five to a total of nine for the site, is consistent with Coastal Act Policy 30250(a) with regard to the provision of water and sewer services.

**III. IMPLEMENTATION PROGRAM FINDINGS:**

**A. Amendment Description**

The proposed amendment to the implementation plan is to increase the inn unit cap associated with the Reed Manor as identified in the Mendocino Town Zoning Ordinance from five units to a total of nine units. The proposal seeks to amend Mendocino Town Zoning Code Section 20.684.025, which currently shows the maximum allowable units at the Reed Manor to be five.

**B. Analysis of Conformance with Land Use Plan**

To approve the amendment to the Implementation Program portion of the LCP, the Commission must find that the Implementation Program, as amended, is consistent with and adequate to carry out the amended Land Use Plan. Since the Commission has not certified the proposed LUP amendment the proposed Implementation Program changes cannot be approved since to do so would result in an Implementation Program that would be inconsistent with and unable to carry out the amended Land Use Plan designation.

**IV. CEQA:**

Pursuant to SB 1873, which amended the California Environmental Quality Act, the Coastal Commission is the lead agency in terms of meeting California Environmental Quality Act (CEQA) requirements for local coastal programs. In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(i) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

*...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.*

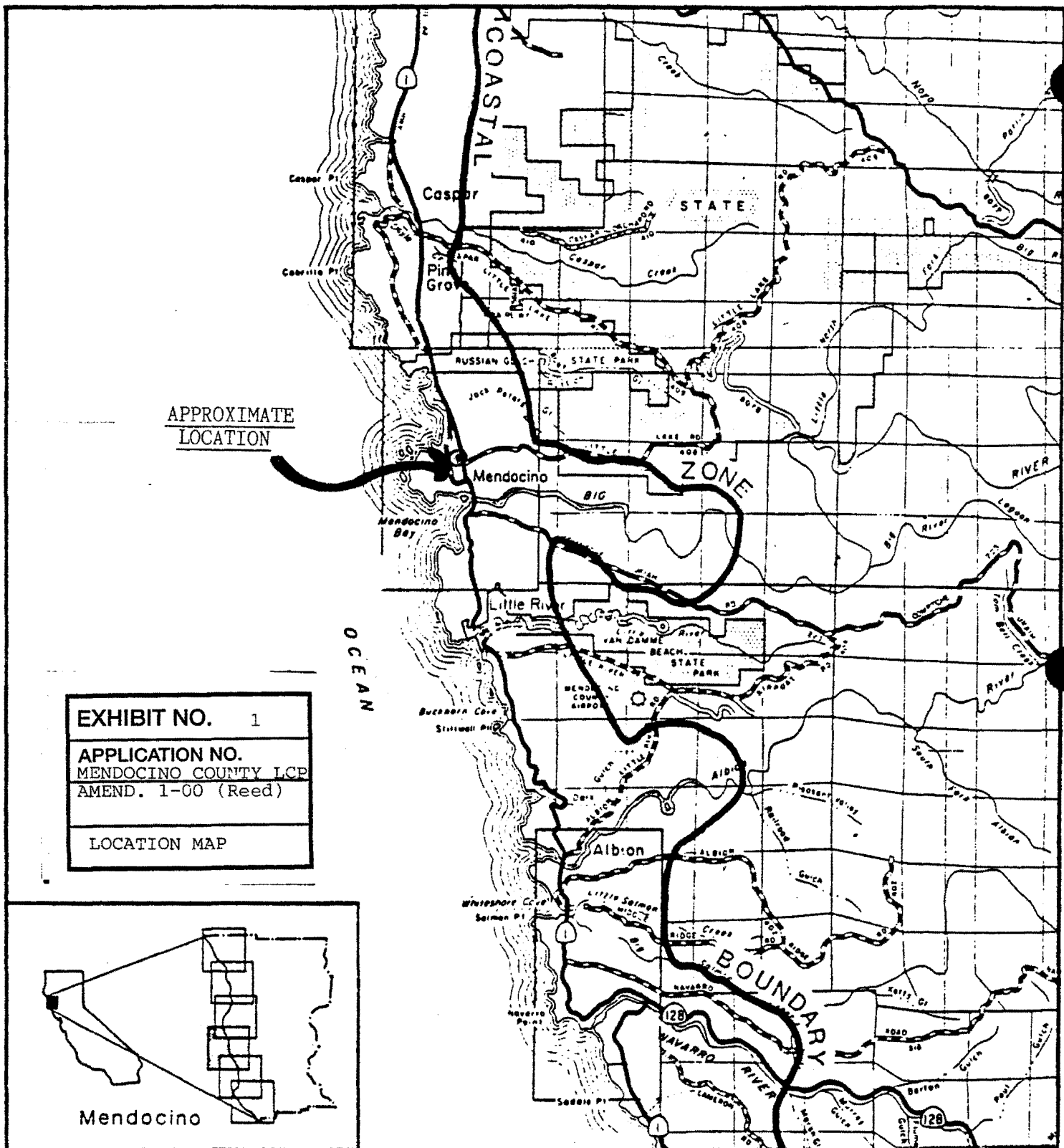
The Commission incorporates its findings on the inconsistency of the proposed LCP amendment with Coastal Act sections 30250, 30253, and 30254 at this point as if set forth in full. As discussed in the

**MENDOCINO COUNTY LCP AMENDMENT  
NO. 1-98 (MAJOR)  
PAGE 15**

findings herein, the amendment request as submitted is inconsistent with the California Coastal Act and will result in significant environmental effects within the meaning of the California Environmental Quality Act. Therefore, the proposed LCP amendment must be denied.

Exhibits:

1. Location Map
2. Project Site Map
3. Site Plan
4. LUP Map
5. LUP Table 4.13-1
6. Superior Court Decision
7. Coastal Commission Staff Letter
8. Mendocino Town Plan Review
9. County Transmittal Letter
10. Mendocino County Supporting Information
11. Resolutions
12. Ordinance



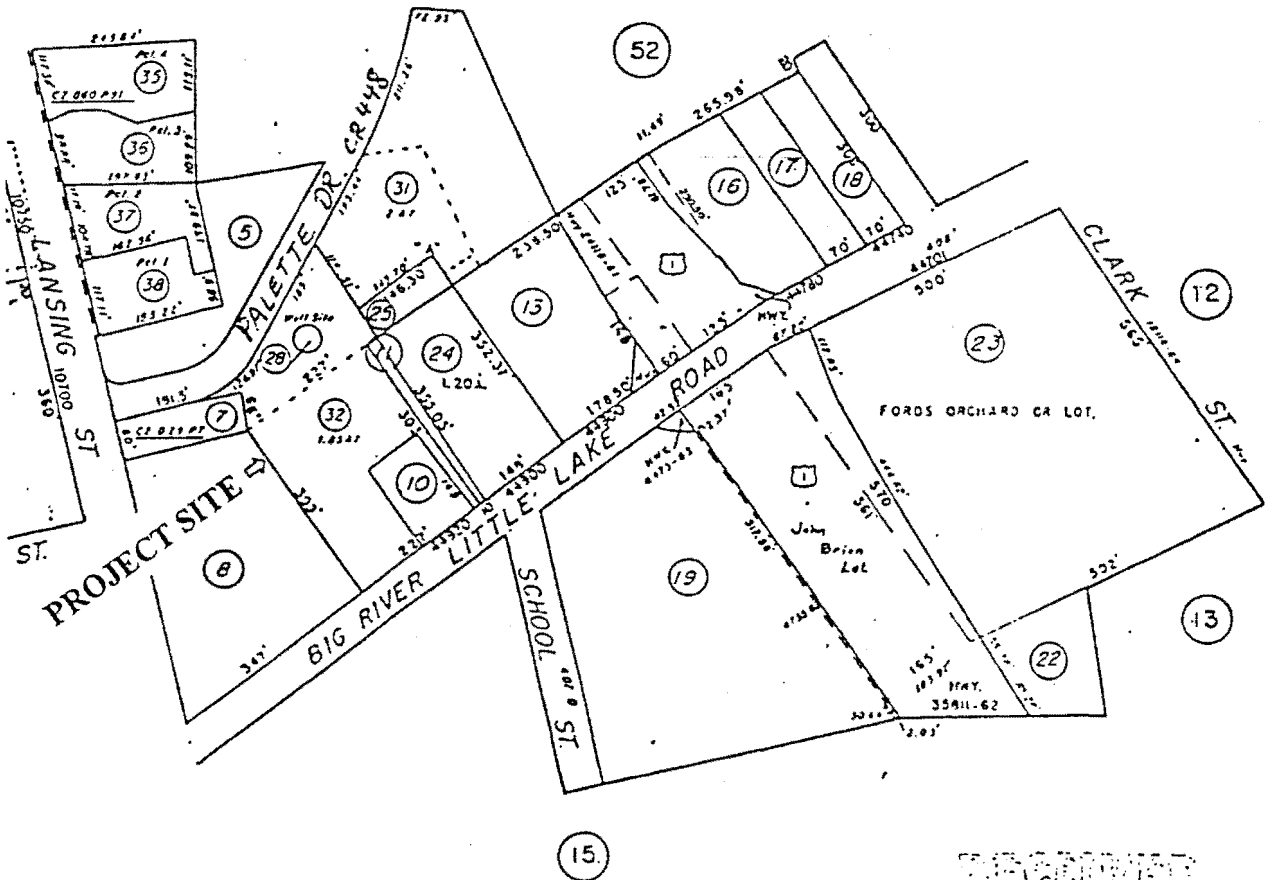
County of Mendocino

EXHIBIT NO. 2

APPLICATION NO.  
MENDOCINO COUNTY LCP  
AMEND. 1-00 (Reed)

PROJECT SITE

Fr. Mendocino & Hills Tract.



SEP 15 1955  
BY [illegible]  
PLANNING & BUILDING DEPARTMENT  
FARM, CA 95402

NOTE: This map was prepared for  
assessment purposes only. No liability  
is assumed for the data delineated.  
before [illegible]

Assessor's Map  
County of Mendocino, Calif.  
March, 1965

CASE NUMBER:

#GP 9-97/OA 3-97

APN: 119-140-32

OWNER: Barbara and Monte Reed

PROJECT SITE →

APPLICANT: Reed

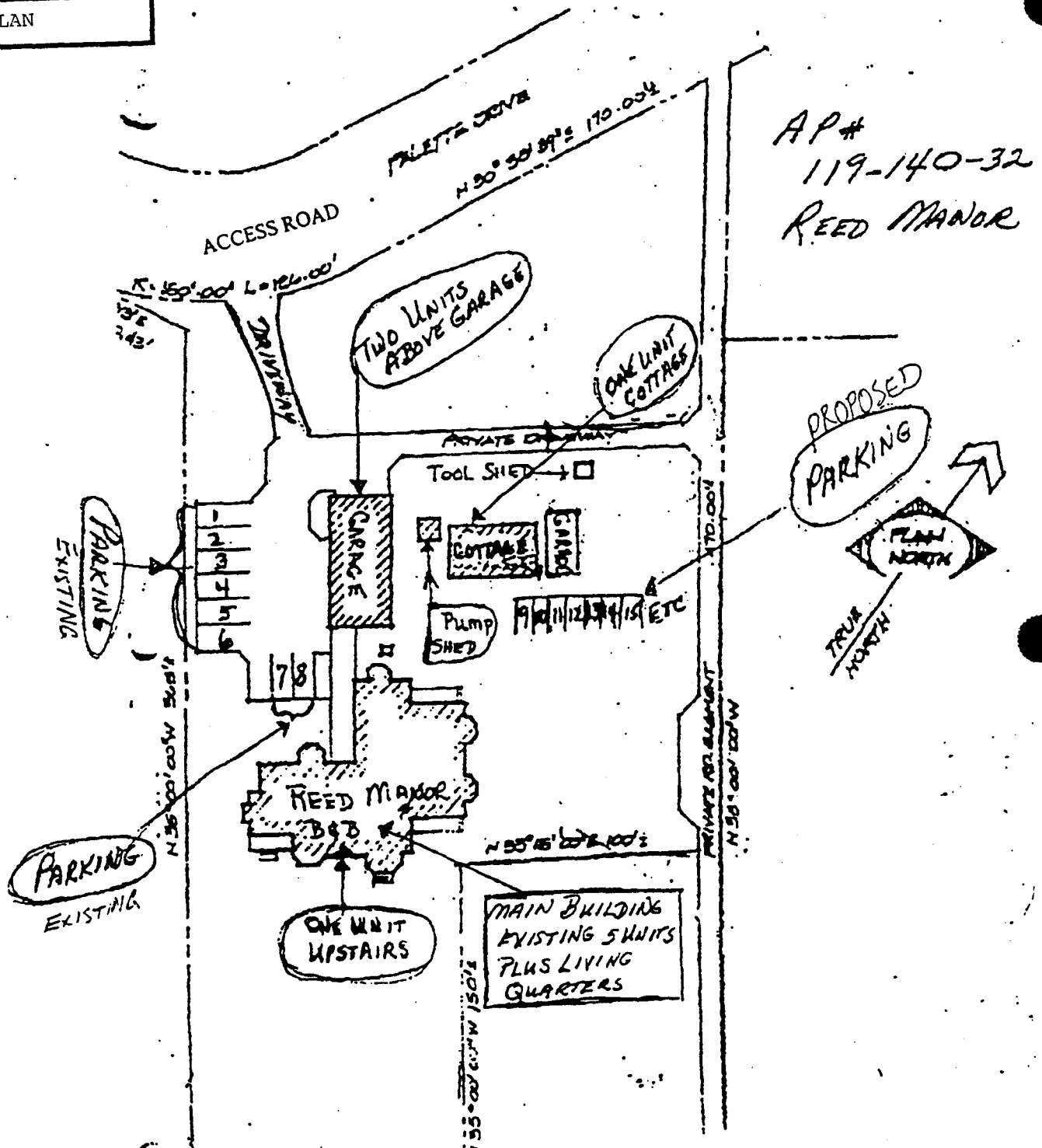
NORTH ↑  
ASSESSOR PARCEL MAP

EXHIBIT NO. 3

PAGE PG-

APPLICATION NO.  
MENDOCINO COUNTY LCP  
AMEND. 1-00 (Reed)

SITE PLAN



CASE NUMBER:

#GP 9-97/OA 3-97

OWNER: Barbara and Monte Reed

APPLICANT: Reed

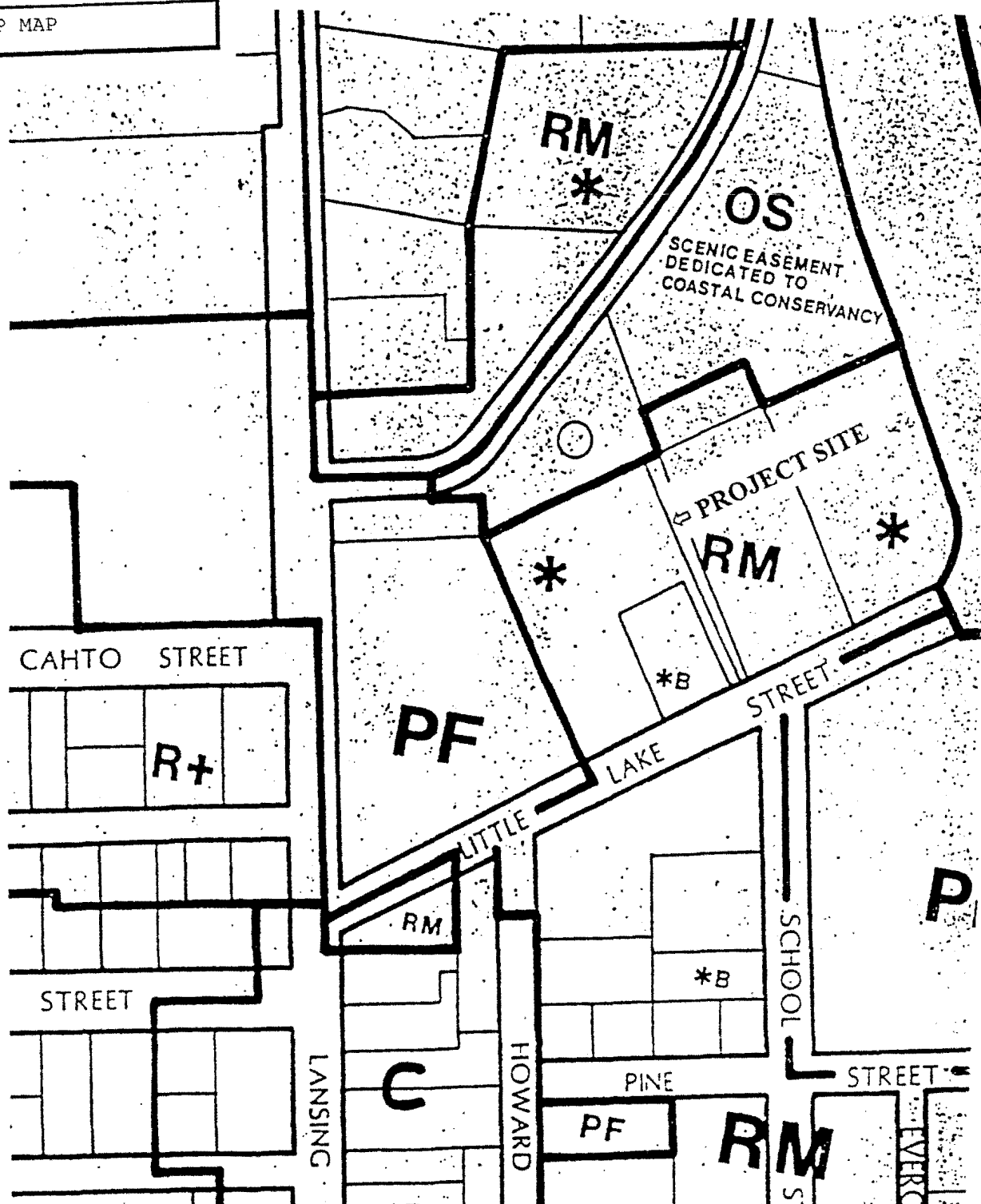
APN: 119-140-32

NORTH ↑  
SITE PLAN

EXHIBIT NO. 4

APPLICATION NO.  
MENDOCINO COUNTY LCP  
AMEND. 1-00 (Reed)

LUP MAP

CASE NUMBER:  
#GP 9-97/OA 3-97

APN: 119-140-32

OWNER: Barbara and Monte Reed

APPLICANT: Reed

PROJECT SITE ⇨

NORTH ↑  
LAND USE MAP

TABLE 4.13-1 MENDOCINO TOWN PLAN VISITOR SERVING FACILITIES

| ASSESSOR'S<br>PARCEL<br>NUMBER                         | FACILITY             | STREET<br>ADDRESS        | ALLOWABLE<br>UNITS |
|--|----------------------|--------------------------|--------------------|
| 119-080-14   | Hill House           | 10865 Lansing Street     | 44                 |
| 119-236-01   | Heeser House         | 45080 Albion Street      | 25                 |
| 119-236-10   | McCallum House       | 45065 Albion Street      | 21                 |
| 119-238-04   | Mendocino Hotel      | 45065 Albion Street      | 26                 |
| 119-238-05   |                      |                          |                    |
| Subtotal   |                      |                          | 116                |
| 119-140-13   | Joshua Grindle       | 44800 Little Lake Street | 10                 |
| 119-140-32   | Reed Manor           | 43700 (44950) L. Lake St | 5                  |
| 119-235-09   | Dougherty House      | 45110 Albion Place       | 8                  |
| 119-250-04   | SeaGull Inn          | 44960 Albion Street      | 9                  |
| 119-250-06   | Headlands Inn        | 44950 Albion Street      | 6                  |
| 119-250-09   | Whitegate Inn        | 10481 Howard Street      | 5                  |
| 119-250-15   | Sears House          | 44840 Main Street        | 8                  |
| 119-250-31   | 1021 Main Street Inn | 44781 Main Street        | 5                  |
| 119-250-37   | Village Inn          | 44860 Main Street        | 13                 |
| Subtotal   |                      |                          | 69                 |
| <b>TOTAL INNS, HOTELS AND MOTELS (5 rooms or more)</b> |                      |                          | <b>185</b>         |
| 119-080-06   | Lockey               | 10940 Lansing Street     | 3                  |
| 119-140-10   | Schrode              | 44920 Little Lake Road   | 2                  |
| 119-150-11   | Cameron              | 10521 School Street      | 2                  |
| 119-160-07   | McNamara             | 45170 Little Lake Street | 4                  |
| 119-160-10   | Wickersham           | 45110 Little Lake Street | 4                  |
| 119-180-06   | Friedman             | 45320 Little Lake Street | 3                  |
| 119-231-08   | Parsons Inn          | 45101 Little Lake Street | 2                  |
| 119-235-13   | Reeves               | 45141 Ukiah Street       | 2                  |
| 119-237-09   | Blue Heron Inn       | 390 Kasten Street        | 4                  |
| 119-250-19   | McElroy's Inn        | 44800 Main Street        | 4                  |
| <b>TOTAL BED AND BREAKFAST UNITS (2 to 4 rooms)</b>    |                      |                          | <b>30</b>          |
| 119-160-32   | Mendocino Art Center | 45200 Little Lake Street | 19                 |
| <b>TOTAL NUMBER OF UNITS ALLOWABLE</b>                 |                      |                          | <b>234</b>         |

EXHIBIT NO. 5

APPLICATION NO.  
MENDOCINO COUNTY LCP  
AMEND. 1-00- (Reed)

LUP TABLE 4.13-1

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MENDOCINO ENDORSED-FILED

\* \* \*

Ukiah Branch

NOV 15 1999

CLERK OF MENDOCINO COUNTY  
SUPERIOR COURT OF CALIFORNIA

LEE EDMUNDSON, et al.

Petitioners,

vs

No. CV 79743

CALIFORNIA COASTAL COMMISSION,  
at al.

ORDER ON PETITION  
FOR WRIT OF MANDATE

Respondents.

BOARD OF SUPERVISORS, et al.

Real Parties

Litigation. The California Coastal Commission (Commission) approved an amendment to the Mendocino Town Plan (MTP). The matter comes before the court on a petition for writ of mandate seeking either a peremptory writ of mandate invalidating the approval and remanding the matter to the Commission or an alternative writ of mandate; and, restraining orders to insure that no development permits issue during the pendency of this matter. The Commission has answered the petition and requests that the petition be denied because of failure to comply with the statute of limitations and upon substantive grounds. The Board of Supervisor (Board), a real party, filed a response and without further comment has joined in the Commission's brief. Barbara and Monte Reed (Reed), real parties, filed an answer requesting that the petition be denied and that the petitioners take nothing by way of this proceeding.

Chronology. A chronology of the relevant facts is as follows:

1992. The Mendocino Town Plan was approved and certified by the Commission and thereby became a part of the Local Coastal Program (LCO) / Land Use Plan (LUP) of the County of Mendocino (County).

|                                       |                      |
|---------------------------------------|----------------------|
| EXHIBIT NO.                           | 6                    |
| APPLICATION NO.                       | MENDOCINO COUNTY LCP |
|                                       | AMEND. 1-00 (Reed)   |
| SUPERIOR COURT<br>DECISION (12 pages) |                      |

April 1997. Reed applied for a General Plan Amendment and Ordinance Amendment seeking to amend the MTP by increasing the parcel cap on their property within the MTP.

May 1997. Commission staff notifies the County that the MTP has not been reviewed pursuant to MTP 14.13-2, and that the cumulative impacts analysis in the application may be inadequate.

October 1997. County staff recommends to the County Planning Commission that the application be denied. The County Planning Commission denies the application.

November 1997. Reed's appeal the decision of the County Planning Commission.

December 1997. County Planning Staff again recommends that the application be denied. The Board reverses the decision of the County Planning Commission and approves the application. The Board determined that no adverse environmental impacts were anticipated and that a preliminary MTP review had been prepared by staff.

January 1998. The Board passes an ordinance increasing the parcel cap for the Reed property and directs that the LCP amendment (containing 5 subparts, one of which was the Reed property) be submitted to the Commission.

February 1998. The LCP amendment was accepted for filing by the Commission.

August 1998. Commission staff recommended with regard to the Reed property that the amendment not be approved. The Commission staff noted deficiencies with regard to highway capacity, town character, lack of requisite Town Plan "review" analysis, as well as the absence of a fair way of allocating additional units.

September 1998. Commission holds a public hearing. Commission, contrary to staff recommendations approves the amendment with regard to the Reed property and directs staff to draft findings to support the Commission decision.

October 1998. Commission approves the revised findings, and on October 20, 1998 causes a Notice of Determination to be mailed to the Resources Agency

December 1998. Petitioners file this action.

Statute of Limitations The Commission argues that the petition is barred by the Statute of Limitations set forth in Public Resources Code (PRC), Section 30801

which provides in part that "Any aggrieved person shall have a right to judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure, within 60 days after the decision or action has become final." The administrative record establishes that the commission approved the amendment on September 9, 1998. The court records establish that the petition was filed on December 14, 1998 which was 96 days after the decision. The petitioners respond that the Commission did not adopt the findings until October 16, 1998, and that the petition was filed within 60 days of that date.

No definitive case law has been cited and the court has found none that states when a decision of the Commission becomes "final" within the meaning of PRC Section 30801. Ordinarily the Commission makes its decision and adopts its findings on the same date. However, when the Commission decision is a "surprise", as it was here, and contrary to the recommendations of the staff and the findings proposed by the staff new findings must be prepared and submitted to the Commission.

An administrative body "must render findings sufficient both to enable the parties to determine whether and on what basis they should seek review and, in the event of review, to apprise a reviewing court of the basis for the board's action." *Topanga Association for a Scenic Community v. County of Los Angeles* (Bassler) (1974) 11 Cal.3d 506, 513. Until findings are adopted, the parties cannot determine if review should be sought. Logically finality of the Commission's decision can only come upon the adoption of the findings supporting the ultimate decision. In *Kenneth L. Liberty II v. California Coastal Commission* (1980) 113 Cal.App.3<sup>d</sup> 491, the petitioner faced with the 60 days statute of limitation of PRC 30801, nevertheless filed his writ petition some five (5) months after the date of the decision. The petitioner had made a timely request for the administrative record and the writ petition was filed within thirty (30) days after the administrative record was received. By analogy the court concludes that a filing within the statutory period

after the findings were accepted by the Commission should be deemed a timely filing.

The court finds that the petition was filed within the statutory period.

Discussion.

The Mendocino Town Plan which was approved by the Coastal Commission in 1992 provides in part: "... This amended plan shall be reviewed three years after certification of this plan amendment date to determine the effect of development on town character. The plan shall be revised, if necessary, to preserve town character consistent with Policy 4.13-1." PRC 30519.5 provides that the Commission "... shall, from time to time, but at least once every five years after certification, review every certified local coastal program to determine whether such program is being effectively implemented in conformity with the policies of this division." Clearly both the Board and the Commission have a ministerial obligation to review the LCP and the MTP. As of the date of the Commission's approval in this matter in October 1998, neither the Board nor the Commission had conducted the reviews mandated by the plan and by state law.

*Garat v. City of Riverside* (1991) 2 Cal.App.4<sup>th</sup> 259 (Disapproved on other grounds in *Morehart v. County of Santa Barbara* (1994) 7 Cal.4<sup>th</sup> 725) involved the application of Government Code Section 65860 (Consistency of zoning ordinances with general plan; actions to enforce compliance; amendments; application to charter cities) to a charter city. In that situation the court of appeal ruled that "... the trial court erred in finding that the city's general plan was inadequate because it had not been updated, since there is *no statutory requirement* that anything other than a general plan's housing element be regularly revised." Ibid 259. (Italics added) In doing so the court noted "This conclusion does not preclude a court from looking at the results of a public entity's failure to update its entire plan or any parts thereof, i.e., the failure to update a plan and/or its parts may cause a general plan or mandatory element to not be in compliance with the statutory requirements ("legally inadequate") which, in turn, if properly challenged in a timely manner,

may subject the entity to an attack on its validity [by writ of mandate]. 2 Cal.App.4th 259, at 295-296.

The failure to obtain information that would have been developed by a review of the MTP as *required by statute* deprived the Board and the Commission of sufficient information to make a reasoned decision on the application presented. The Commission "... determined that the change would not materially affect the "balance" between residential and visitor-serving units as contemplated by the Mendocino Town Plan. (AR 860)" Respondent's Memo of Points and Authorities in Opposition. The Commission argues that this finding was supported by evidence that the number of residential units had increased, and the number of visitor-serving units had decreased. The Commission cites as authority for this statement four portions of the record before the court, AR 325, AR 323, RF 14, and RT 15.

AR 325 sets forth the minutes of the County Planning Commission meeting of October 16, 1997, where the proposed amendment was presented. A review of that citation indicates that: one commissioner questioned the propriety of proceeding without a review of the MTP; one commissioner noted that staff had completed a "... preliminary Town Plan review which was discussed in the staff report."<sup>1</sup>; one commissioner noted that the "... numbers provided by staff are subject to interpretation and should be reviewed in a public hearing prior to proceeding ...". The applicant is reported to have said "... she *felt* that 12 additional rooms can be added which, if they are granted 4 additional units, would allow for an additional 8 units for other businesses." The cited information does not support the finding.

AR 332 sets forth the county staff report. The report states "... this review indicates very little change in development trends or circumstance within the Mendocino Town Plan area related to the "balance" issue ...". "the review does not indicate a substantial change in development trends/circumstances, such as a decrease in VSF units or an increase of residential units, and therefore staff does not

---

<sup>1</sup> The court finds no indication of public participate or comment with regard to such staff review.

find adequate justification to support this application." The staff did recommend an alternative motion which would require the commission to make a finding "... that there has been a sufficient change in development trends/circumstances with the Town Plan area, particularly the increase of 7 residential parcels, to justify this proposal as it relates the "balance" issue ...". The staff report contains no other information about the "7 residential parcels", and in fact it states in the report "Residential Development: -2" apparently indicating a staff finding of a reduction in residential units. The staff report provides no basis to this proposed alternate motion, and the planning commission did not accept the alternate motion. The cited information does not support the finding.

RT 14 is a portion of the statement that Raymond Hall, Mendocino County Planning Director made at the public hearing before the Commission on September 9, 1998. He stated "... we've analyzed the growth that's occurred. And the growth that's occurred is substantially less than was anticipated in the 1986 certified plan." (RT 14:3-8). The balance the statement cited refers to the highway capacity (RT 14:1-2) and the Daniels case (another portion of the proposed amendment which is not relevant to the issue before the court). (RT14: 9-28). The citation does not address the issue of balance and it does not support the finding.

RT 17 is another portion of the statement of Mr. Hall made to the Commission on September 9, 1998. The citation commences with a statement by a commissioner who concludes with a question "Can you talk a little bit about what your problems are in terms of having the resources to actually do a comprehensive review of LCP?" (RT 17: 1-12). Mr. Hall replied "You know, what I'd have to do is guess at some numbers here." (RT 17 : 13-14), and then he proceeds to discuss his guesses as to the cost for a study of the inland area of the general plan and the coastal plan. (RT 17: 13-28). The citation does not address the issue of balance and it does not support the finding.

On October 16, 1998, the Commission conducted an open hearing for the limited purpose of discussing the findings prepared by the Commission staff. One commissioner noted that he had supported the amendment based upon a

representation of the county that that there "... had been a net reduction in visitor services beds within the town of Mendocino; and, so by approving that, we would not be exceeding the previous cap that had been set. And I didn't see that reflected in precisely that way in the findings - - -" (RT 3: 16-23). At Page 20 of the revised findings, the Commission stated "As visitor-serving facilities are a high priority coastal land use under the Coastal Act, the Commission finds that the proposed amendment is consistent with the provisions of Section 30213, 3022, and 30254 of the Coastal Act. (AR 859, paragraph 3). The Commission after quoting a portion of Town Plan Policy 4.13-1 interprets that section to mean "... that a periodic review of the Town Plan must be conducted that assesses any recent changes in the ratio of residential development to visitor-serving facilities to determine if it is appropriate to increase the potential visitor-serving facilities within the Town. If it is determined that it is appropriate to increase the number of visitor-serving facilities, an LCP amendment must be processed by the Commission that adjusts the number of allowable visitor-serving units throughout the Town, based on an analysis of supply, demand, and an evaluation of the balance between residential and visitor-serving uses. Such a review, analysis, and subsequent amendment approval have not yet been completed." (AR 859, paragraph 6). The Commission findings go on to quote the Mendocino County staff report "... there is no justification for modifying the Town Plan to allow for more visitor-serving facilities and it may be necessary to consider amendments to protect and encourage residential uses." (AR 860, paragraph 1). The Commission did find that the county should complete the study called for by Policy 4.13-1 to "determine how much, if any, additional visitor-serving facilities are appropriate, and determine a fair way of allocating the additions units ... rather than just approve such requests on a first-come, first-served basis without considering the cumulative impact of future such requests." (AR 860, paragraph 2).

After having appropriately directing the county to undertake the duty of completing a study, the Commission made its only "finding" that is remotely related to the issue of balance.

"However, in this particular case, the County has pointed out that there will be no conversion of residential units resulting from the density increase, as the additional four units allowed by the proposed LCP amendment will be located in existing structures, according to the Reeds, owners of the Reed Manor. Thus, the residential-visitor serving "balance" will not be compromised, new facilities will not be established, and location outside the town core will limit traffic impacts that might otherwise be associated with the project." (AR 860, paragraph 3).

The finding does not address the issue of "balance" between visitor serving units in relation to residential units. It concludes that the number of buildings housing visitor serving units and the number of residential buildings will not change, and, while this may be true it is not the issue that needs to be addressed.

The Commission, significantly does not cite the statement of Mr. Hall concerning the number of visitor serving units in support of the findings. The court notes that Mr. Hall did state "... what I, in particular, see is that there has been an overall decrease in the number of existing visitor-serving units within the Town of Mendocino." (RT 15: 27-28; RT 16: 1-20) It is noted by the petitioners that the statement of Mr. Hall is contrary to the information supplied by his staff and contrary to the information supplied by the Commission staff and his "vision" is not supported by any empiric facts. It is noted that Mr. Hall's statement came at the last moment. It was not presented to the Board, and it was not supplied to the Commission before the public hearing. It was contrary to all of the information compiled by his staff and made available to the public. It came as a surprise to those persons interested in the proceeding.

The Coastal Act is replete with mandates for notice and public participation. PRC 30006, 30320, 30333.1, 30336, 30339, and 30503. It is well recognized that the public has a significant interest in planning decisions, and it has the ability to provide meaningful information and assistance to those that are charged with making the ultimate decisions in these areas. The public can only provide that assistance if it is informed of the nature of the proposal, the relevant information

concerning the proposal, and has a reasonable opportunity to review those matters and formulate an opinion.

If the County or Mr. Hall had facts to support the bald statement "I . . . see an overall decrease . . ." (RT 15: 27-28) such facts should have been disclosed prior to the public hearing. As noted by a county planning commissioner ". . . the numbers provided by staff are subject to interpretation and should be reviewed in a public hearing . . ." (AR 325). The *sine qua non* of the Coastal Act and of CEQA is the full disclosure of relevant information by the agency in order that the public may make meaningful comments and thereby assist in the decision making process. In this situation, the facts or "numbers" relied upon by Mr. Hall, if they exist, are admittedly subject to interpretation and they were never disclosed. If such facts had been disclosed, the public could have considered them and commented upon them. The agencies might accept or reject the public comment and interpretation of such facts. However, when the planning commission, the Board, and the Commission proceed without receiving such public comment they are proceeding without an integral part of the decision making process. When the facts are disclosed and the public has had an opportunity to comment upon them, and the agency has considered those comments, then the agency may render its decision either accepting or rejecting the public's comments and conclusions. Under such circumstances, the agency's decision would not be subject to an attack such as the one here presented by the petitioners.

The rules of the Commission acknowledge the necessity of disseminating such information in a timely fashion. The Commission's final staff recommendation is required to be distributed to all parties known to have a particular interest in an application ". . . within a reasonable time, but no later than 7 calendar days prior to the scheduled hearing." 14 California Code of Regulations, Section 13532.

Public disclosure of the nature of the project and the information available to the governmental agency charged with decision making must necessarily be made available to the public in order that it may be informed and make appropriate comments and suggestions concerning the proposal. Public input is a necessary

ingredient to the process of developing and amending LCP's and unless the public has access to the information to be relied upon, the public's right to make meaningful comments is seriously abridged. In the present instance there is no explanation why the information that Mr. Hall purported to have concerning the number of visitor service facilities had not been made available to the public before this final public hearing. Under the circumstances, the Commission's argument that "... Director Hall spoke early in the proceedings, and petitioners spoke after him ..." (Respondent's Memo of Points and Authorities, 14: 7-8) somehow obviates the need for full disclosure rings hollow. The public, after being surprised nevertheless recovered sufficiently to point out to the Commission that there was a conflict between the statements of Mr. Hall and the latest staff report that had been presented to the Commission. (RT 30: 26-28; RT 31: 1-2).

Certainly some of the speakers at a public hearing may well provide information that is different from that information contained in staff reports. However, Mr. Hall is the director of the agency that was charged with the responsibility of developing the information upon which the ultimate decision was to rest. To have him make remarks directly contrary to the information previously provided by his agency is substantially different than having an interested member of the public supply additional or contrary information. Although at least one commissioner reported that this statement was a "... key reason why I supported that ... [the amendment as it pertained to the Reed property]" (RT 3: 17) none of the amended findings rest upon that statement. As noted above, the finding refers to "conversion of residential units" and with regard to visitor serving facilities to "existing structures."

The Commission in its findings stated:

The Commission finds that the County should complete the study called for by Policy 4.13-1, determine how much, if any, additional visitor-serving facilities are appropriate, and determine a fair way of allocating the additional units to the various existing and proposed facilities, rather than just approve such requests on a first-come, first served basis without considering the cumulative impact of future such requests." (AR 860, paragraph 2)

The Commission correctly and reasonably was interested in what steps the County was taking toward a coordinated planning effort. One commissioner asked the chair of the Mendocino County Board of Supervisors "How are you keeping track of the growth that does occur and pulling the information together in a summarized way?" (RT 25: 14-16). No concrete answer was ever provided and the commissioner ultimately said "Okay. I don't think we're quite getting there. Thank you." (RT 27: 17-18). The record contains no indication that the Board has, or is attempting to acquire growth and development information in any systematic or comprehensive way.

The Local Coastal Plan and the Mendocino Town Plan are comprehensive plans to regulate development for the common good. The Commission clearly understands the necessity for such planning and it appears frustrated when counties seek to amend such plans piece by piece. Such amendments are the antithesis of planning. While it is possible to make some amendments without infringing on the overall sanctity of the existing plan, this generally cannot be done without a reasoned study of the present conditions and the reasonably anticipated future conditions.

Without making such studies neither the County nor the Commission can make a reasoned determination of the cumulative impacts of any amendment. If the decisions are not based on reason they are necessarily arbitrary and capricious.

The Commission also directed the Board's attention to the fact that it must "... determine a fair way of allocating the additional units to the various existing and proposed facilities ..." The county has not done the studies necessary to make a reliable determination of the exact numbers of visitor service units that might be available or might be made available in the future. The information contained in the record nevertheless is clear that the demand for visitor service units is greater than the number of such units that might be available at anytime in the foreseeable future. The Commission has suggested to the Board that to permit such units to be

acquired on a first-come first-served basis is not a fair way. If it is not a fair way, then it is an arbitrary and capricious way that is inherently unfair.

Statement of Decision.

At the commencement of the proceedings counsel for the petitioner requested a statement of decision. On a trial of a question of fact by the court a party may be entitled to a statement of decision. Here a question of fact was not presented to the court for decision. The petition and the answers thereto raised questions of law. Under those circumstances a party is not entitled to a statement of decision, and the request for a statement of decision is denied.

Decision.

IT IS ORDERED that an Alternative Writ of Mandate shall issue under the seal of this Court directed to the California Coastal Commission, respondent in this action, commanding it on or before December 15, 1999, to invalidate its approval of Site Three of the LCP Amendment 1-98 (major), or

IN THE ALTERNATIVE to show cause before this Court on January 28, 2000 at 1:30 p.m. in Courtroom E why you have not done so.

IT IS FURTHER ORDERED that the real parties in interest not take action pursuant to Site Three of the LCP Amendment 1-98 (major) until further order of the court.

The request for declaratory relief and other equitable relief requested, except as herein specifically granted, is denied without prejudice.

The request for attorneys fees and costs is reserved.

Counsel for the petitioner shall forthwith prepare and submit to the court a proposed proposed writ. The proposed writ shall be submitted in hard copy and on a disk in a format compatible with Word.

Dated: November 15, 1999

CONRAD L. COX

Conrad L. Cox

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET • SUITE 200

EUREKA, CA 95501-1865

PHONE (707) 445-7833

FACSIMILE (707) 445-7877

MAILING ADDRESS:

P. O. BOX 4908

EUREKA, CA 95502-4908

EXHIBIT NO. 7

APPLICATION NO.

MENDOCINO COUNTY LCP

AMEND. 1-00 (Reed)

COASTAL COMMISSION

STAFF LETTER (2 pgs.)

March 22, 2000

Mr. Ray Hall, Director  
County of Mendocino  
Department of Planning and Building  
501 Low Gap Road, Room 1440  
Ukiah, CA 95482

REG  
MAR 27 2000  
BY  
PLANNING & BUILDING SERVICES  
Ukiah CA 95482

RE: Rescission and Denial of Mendocino County LCP Amendment No. 1-98 Site Three (GP 9-97/OA 3-97, Reed)

Dear Mr. Hall:

We are writing to provide formal notice of the Coastal Commission's action on January 24, 2000, concerning the Site Three Portion of Mendocino County LCP Amendment No. 1-98(GP 9-97/OA 3-97, Reed).

As you are already aware, on September 9, 1998, the Commission certified the Site Three portion of the Mendocino County LCP Amendment No. 1-98 (GP 9-97/OA 3-97, Reed). This portion of the amendment increased the inn unit cap associated with Reed Manor, in the Town of Mendocino, from 5 units to a total of 9 units. The Commission adopted revised findings in support of its certification on October 16, 1998. The Commission's certification of that portion of the LCP amendment was subsequently challenged in a lawsuit. On November 15, 1999, the trial court ruled in favor of the petitioners and ordered the Commission to invalidate its certification of the Site Three portion of the LCP Amendment. At the January 24, 2000 Commission meeting, the Commission formally rescinded its prior certification of the above-referenced LCP amendment and then denied certification of the Site Three portion of the LCP amendment in a series of unanimous votes.

The trial court's decision to rule in favor of the petitioners was based largely in part on the court's holding that (1) the County and the Commission failed to conduct the mandatory periodic reviews, and (2) the Commission did not perform a thorough analysis of the cumulative impacts of the project, particularly with respect to the question of balance between visitor serving units and other facilities. Accordingly, if the County is interested in pursuing certification of an amendment increasing the inn unit cap associated with Reed Manor or any other visitor serving facility, we would need the County to submit certain information with its amendment certification request. This information includes a completed review of the Town Plan in accordance with LCP Policy 4.13-1. The review must include an evaluation of whether the number and array of visitor serving units allowed under the Town Plan could be changed without adversely affecting the Town's character. This evaluation will require an analysis of whether an increase in the number of visitor-serving units would affect the overall balance between visitor-serving, residential, and commercial uses. In addition, the review must address how any increase in visitor-serving units would be allocated based upon an analysis of supply and demand.

Although the Phase I draft Mendocino Town Plan Review provides good background information as well as a good inventory of existing residential, commercial, visitor-serving development, it does not evaluate whether changes in the allowed number and array of visitor serving units would affect the balance of these uses in a manner that would adversely affect the Town's character. In addition, the report does not evaluate how any potential increase in visitor-serving units would be allocated based upon an analysis of supply and demand. In order for the amendment request to be processed, we would also need an analysis of the amendment's potential effects, including cumulative impacts, on the environment. In particular, the environmental analysis should evaluate the proposed amendment's effects on necessary services including Highway One capacity, water supply, and sewage disposal.

We understand that the Board of Supervisors has established a Citizens Advisory Committee (CAC) to provide specific policy recommendations on a number of related issues within the Town of Mendocino. As a means of satisfying the requirements of Policy 4.13-1 for a review of the balance of residential, commercial, and visitor serving development before changing the allowable visitor serving units, the County might consider expanding the scope of the CAC to include conducting such a review and making specific policy recommendations needed to attain and maintain the balance of these uses within the Town. The Planning Commission and/or the Board could then review the findings of the CAC along with an environmental analysis that your staff might prepare of any proposed changes to the number and array of allowable visitor serving units before adopting and transmitting an amendment to the Town Plan to the Commission for certification.

I would be happy to discuss this matter further with you or your staff, either over the phone or in person if you would like to arrange a meeting.

Sincerely,



ROBERT S. MERRILL  
District Manager

cc: Barbara Reed

# MENDOCINO TOWN PLAN REVIEW

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EXHIBIT NO. 8

APPLICATION NO.

MENDOCINO COUNTY LCP

AMEND. 1-00 (Reed)

MENDOCINO TOWN PLAN

REVIEW (19 pages)

March, 1999

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# MENDOCINO TOWN PLAN REVIEW

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*"This amended plan shall be reviewed three years after certification of this plan amendment date to determine the effect of development on town character. The plan shall be revised, if necessary, to preserve town character consistent with Policy 4.13-1."*  
(Mendocino Town Plan, Policy 4.13-2)

## I. INTRODUCTION

This report has been prepared by the Mendocino County Department of Planning & Building Services and initiates the "three-year review" of the Mendocino Town Plan which is mandated by Policy 4.13-2, as cited above. Presented herein is information about development which has occurred in the Town of Mendocino since certification of the plan amendment in June 1992. A summary of policies pertaining to town character and development is provided to help frame ensuing discussions about the effect of development on town character.

The information presented in this report will be discussed at public hearings before the Mendocino Historical Review Board, the Planning Commission and the Board of Supervisors. Those discussions will focus on three issues:

- (1) Is the "raw data" about development that has occurred since June 1992 accurate?
- (2) What effect has development had on town character?
- (3) Is there a need for revisions to the Mendocino Town Plan and, if so, what should the revisions attempt to accomplish?

Following the hearings, if the Board of Supervisors determines that revisions to the Town Plan are necessary, the second phase of the Mendocino Town Plan Review will provide recommended text and policy changes and will include public review, hearings, adoption and certification of a plan amendment.

## II. BACKGROUND

The Mendocino Town Plan is included as Chapter 4.13 of the Coastal Element of the Mendocino County General Plan and was certified by the California Coastal Commission in November 1985. The Town Plan addresses issues and provides policies that apply only in the Town of Mendocino. The Town was planned for separate from the rest of Mendocino County's coastal zone because:

*"The Town of Mendocino is a 'special community' as described in Section 30253(5) of the Coastal Act, and is recognized as a special community with an existing balance of residential, commercial, and visitor-serving facilities that is to be generally maintained."* (Mendocino Town Plan, p. 1)

The maintenance of community character forms the foundation of the growth management policies of the Town Plan. The Coastal Commission's findings for certification of the Mendocino Town Plan in 1985 summarize the issue as follows:

*"Members of the community expended great effort in addressing the issue of visitor-serving facilities as it related to community character. The town was carefully considered and the elements which make the town attractive both as a place to live and to visit were thoughtfully analyzed. Between the CAC, the Planning Commission and the Board, perhaps as many as 25 hearings addressed this issue. They concluded that the current level of visitor-serving facilities (VSFs) had so greatly impacted the town character that a strong approach to VSF phasing was necessary."* (Coastal Commission Findings for Mendocino County Coastal Element, p. 70)

To assure maintenance of community character, the Mendocino Town Plan included a policy requiring periodic monitoring and review of development to assess impacts on town character, as follows:

*"After certification, the plan shall be reviewed after approval of 50 additional housing units, 25,000 square feet of non-residential floor area, or after 5 years, whichever comes first, to determine the effect of development on town character. The plan shall be revised, if necessary, to further reduce growth potential."* (1985 Mendocino Town Plan, Policy 4.13-2)

In 1989, the Planning Division determined that more than 25,000 square feet of non-residential space had been approved and the Board of Supervisors appointed a Citizen's Advisory Committee (CAC) to initiate a review of the Town Plan. Based on a parcel-by-parcel inventory of land uses in the Town, the CAC found that there were 306 residential units (owner-occupied or long-term rentals), 182 commercial enterprises and 274 visitor-serving units. Furthermore, the CAC found that the ratio of residential to commercial and visitor-serving uses adversely impacted the County's ability to achieve a balance between residential uses, commercial uses and visitor serving uses and to comply with Coastal Act protections for special communities, as required by Town Plan Policy 4.13-1 (cited on pages 4-5 of this report). The CAC review resulted in an amendment to the Town Plan which included policy changes to further reduce potential commercial and visitor-serving facility development and increase the potential for residential development. These changes, as adopted by the Board of Supervisors and certified by the Coastal Commission in 1992, included the following:

- = Second dwelling units were allowed on properties within the R+ and RR-2 land use classification.

- = Vacation home rentals (VHRs) and single unit rentals (SURS) were classified as visitor-serving facilities. Tables 4.13-2 and 4.13-3 listing VHRs and SURs were included and the total number of VHRs/SURs was capped at the number in operation at the time the Plan amendment was certified by the Coastal Commission. A 13:1 ratio between residences and VHRs/SURs was adopted.
- = Language was added to Policy 4.13-1 and 4.13-4 discussing the issue of "balance" between residential, commercial and visitor-serving uses and referencing the VHR/SUR tables and the 13:1 ratio.
- = Policy 4.13-2 was revised (as cited above) requiring review of the amended plan three years after certification to determine the effect of development on town character.
- = Language was added to Policy 4.13-4 clarifying that:
  - A General Plan amendment is required for the designation of new visitor serving facilities not listed on Table 4.13-1.
  - The total number of units on Table 4.13-1 shall remain fixed until the plan is further reviewed and a plan amendment approved and certified by the Coastal Commission.
  - In the Mixed Use zone, the 50% commercial/50% residential requirement for long-term residential dwelling units shall apply to VSFs.
  - VSFs on Table 4.13-1 which are operating without a coastal development permit where one is necessary must file an application for a coastal permit within one year of adoption of the revised table or the option to continue providing visitor serving accommodations shall be deemed forfeited and such locations eliminated from the table.
- = A provision allowing for operation of 2-4 unit B&Bs in residences with a conditional use permit was deleted.
- = Table 4.13-1 was modified as follows:
  - Eliminate the Ukiah Street Inn (6 units); Sears House Annex (4 units); Mollner (4 units); Murray (2 units); Nitter (4 units).
  - Reduce the allowable units at the Seagull Inn from 10 units to 9 units.
  - Transfer several facilities to the SUR and VHR tables (Myers, Ahart, Myers, Junge).
  - Correct the names of facilities and owners, as needed.

The process of review and amendment is integral to the success of the Mendocino Town Plan. By periodically reviewing new development and engaging in an iterative evaluation of its effect on the balance between residential, commercial and visitor-serving uses, we can judge the success of the Plan's policies in maintaining the character of the town and make modifications, as needed.

### III. DEFINING TOWN CHARACTER & "BALANCE"

The discussion of "Growth" in the Mendocino Town Plan explains the inherent difficulties associated with managing growth and restricting development in Mendocino:

*"The plan attempts to achieve compromise between "no-growth" and "free-market" partisans. New restrictions on development will make developed property more valuable and will limit opportunities for profit by owners of undeveloped land. As in most highly desirable California communities, the balancing of equity between those who live there now and those who may or may not have an opportunity to live there in the future is a difficult question. The issue is further complicated by the state and national interest in Mendocino's unique character. Development is limited by planning constraints such as availability of ground water, parking capacity, and historic preservation and the Coastal Act mandate to preserve the "special community."*

*The issues surrounding Visitor Serving Accommodations are complex, and without simple resolve. A number of long term residential units have been converted to short term accommodation in the recent past and the trend is to continue to do so.*

*The intent of this plan is to reasonably preserve the long term housing inventory in the Town of Mendocino, and to maintain the property rights of owners of residential property within the Historical District; thus, changes are added to relevant policy sections within this Plan." (Mendocino Town Plan, p. 3)*

Policy 4.13-1 of the Town Plan is the cornerstone upon which the remainder of the Plan is based. It identifies Mendocino as a "special community" and provides definition of both "town character" and "balance":

*"The town of Mendocino shall be designated a special community and a significant coastal resource as defined in Coastal Act Section 30251.\* New development shall protect this special community which, because of its unique characteristics, is a popular visitor destination point for recreational uses.*

*Mendocino shall be recognized as a historic residential community with limited commercial services that are important to the daily life of the Mendocino Coast.*

*The controlling goal of the Town Plan shall be the preservation of the town's character. This special character is a composite of historic value, natural setting, attractive community appearance and an unusual blend of cultural, educational and commercial facilities.*

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\* It is noted that the citation of Coastal Act Section 30251 in this policy is incorrect. Section 30251 refers to highly scenic areas. It would be more appropriate to cite Section 30253(5) which discusses protection of special communities and/or Section 30116(e) which identifies special communities as "sensitive coastal resource areas."

*The preservation of the town's character shall be achieved, while allowing for orderly growth. This shall be done by careful delineation of land uses, provision of community services and review and phasing of development proposals. Balance shall be sought between residential units, visitor accommodations and commercial uses. Provision of open space and siting of structures to retain public views of the sea shall be considered as part of all new development proposals. The objective shall be a Town Plan which retains as much as possible the present physical and social attributes of the Mendocino Community.*

*"Balance" between residential uses, commercial uses and visitor serving uses shall be maintained by regulating additional commercial uses through development limitations cited in the Mixed Use and Commercial Land Use Classifications; and, by limiting the number of visitor serving uses." (Mendocino Town Plan, Policy 4.13-1)*

#### IV. DEVELOPMENT: June 1992- September 1998

A primary objective of the Mendocino Town Plan Review is to establish how much and what type of development has occurred since certification of the plan amendment in June 1992. The Review is intended to respond to Policy 4.13-2 by determining the effect of development on town character and whether or not revisions are necessary. It is not intended to "open up" the plan for an introspective evaluation of each and every policy and issue.

The information presented below was compiled by the Planning Division based on a review of building permits, use permits, LCP consistency reviews and coastal development permits. It is anticipated that corrections and modifications to this data will be incorporated as this study proceeds through the public review process.

##### A. Residential Development

Table 1 shows all of the projects which have either added, demolished or converted residences in Mendocino since 1992. The table includes references to permits, where obtained, and includes some projects which have not been built but which have received most of the required discretionary approvals. As shown, there has been a net loss of three dwelling units (d.u.).

TABLE 1 - RESIDENTIAL DEVELOPMENT (June 1992-September 1998)

| Net loss/<br>gain (d.u.) | Applicant | AP<br>Number | Description                | Permits                                    |
|--------------------------|-----------|--------------|----------------------------|--|
| -1 d.u.                  | Mendosa   | 119-160-31   | convert d.u. to commercial | LCP 94-06; U 23-93;<br>CC 1-94-85; 959-506 |
| -1 d.u.                  | Goodridge | 119-170-08   | convert duplex to SFR      | LCP 93-13; 939-458                         |

| Net loss/<br>gain (d.u.) | Applicant  | AP<br>Number    | Description  | Permits   |
|--------------------------|--|-----------------|--|---|
| +1 d.u.                  | Lenfest  | 119-250-21      | convert commercial to d.u.                                   | LCP 93-16; 939-652  |
| +1 d.u.                  | Brazill  | 119-120-65      | new construction/SFR   | LCP 92-54;<br>CC 1-92-65W; 929-302                                    |
| -1 d.u.                  | Hansen   | 119-140-17      | convert duplex to SFR  | MHRB 92-10; 929-261   |
| -1 d.u.                  | Lockey   | 119-070-17      | convert SFR to B&B   | LCP 95-07; CC 1-95-74;<br>959-1064                                    |
| +1 d.u.                  | Kerstein   | 119-060-03      | new construction/SFR   | CDP 35-98; 989-794  |
| +1 d.u.                  | Neibel   | 119-150-08      | convert studio to SRU  | MHRB 97-07; LCP 97-03;<br><i>no bldg permit</i>                       |
| +1 d.u.                  | Jonas  | 119-150-25      | convert accessory structure<br>to SRU                        | CDP 23-97; <i>no bldg permit</i>                                      |
| +1 d.u.                  | McCroskey  | 119-130-03      | new construction/SFR   | MHRB 97-02; CDP 08-97;<br><i>no bldg permit</i>                       |
| +1 d.u.                  | Dill   | 119-150-<br>28x | new construction/SFR   | MHRB 98-22; CE 54-98;<br><i>no bldg permit</i>                        |
| +2 d.u.                  | Mendo Ctr<br>Assoc                               | 119-234-<br>01x | convert 1 SFR to<br>commercial<br>construct 3 dwelling units | MHRB 98-02;<br>CDU 4-98 ( <i>pending</i> );<br><i>no bldg permits</i> |
| +1 d.u.                  | Ridgely/Nerney                                   | 119-130-25      | new construction/SFR   | MHRB 98-25<br>CDP <i>req'd</i> ; <i>no bldg permit</i>                |
| -2 d.u.                  | Mendosa  | 119-150-07      | convert 2 d.u. to<br>commercial<br>office space              | no permits obtained   |
| -6 d.u.                  | McCroskey  | 119-250-12      | convert 6 apts. to inn units                                 | no permits obtained*  |
| -2 d.u.                  | Net loss of<br>dwelling units<br>since June 1992 |                 |  |   |

\*The owner has applied for a general plan amendment to authorize the 6 inn units. The application has been held in abeyance pending completion of the Mendocino Town Plan Review. In the interim, the long-term rentals have been replaced with inn units. If the amendment is denied, the facility would revert to residential use.

It is important to understand that, in Mendocino, the discussion of the effect of development on town character and the "balance" of residential and non-residential uses has always been based exclusively on existing development and the incremental change which has occurred since the last review of the Town Plan.<sup>1</sup>

<sup>1</sup> Looking at changes in the actual use and intensity of development "on the ground" allows for a tangible evaluation of the effectiveness of Mendocino Town Plan policies in preserving town character at any given point in time. Elsewhere in the coastal zone, "potential build-out" scenarios are used to evaluate potential cumulative impacts in a fairly theoretical and speculative way.

As an aside, it is noted that since 1992, 17 new parcels have been created by subdivisions or recognized through the certificate of compliance process in the Town of Mendocino, as shown on Table 2. Depending on the zoning, some of these new parcels increase the residential "build-out" potential and others decrease it, with a net potential gain of 5 residential units.

TABLE 2 - NEW PARCELS

| Application Number | Applicant | AP Number  | New Parcels | Date Approved | LCP/ Zoning | Net addt'l potential Dwelling Units |
|--------------------|-----------|------------|-------------|---------------|-------------|-------------------------------------|
| MS 17-90           | Odbert    | 119-040-30 | 2           | 4/15/93       | MRR-2       | 2                                   |
| MS 11-91           | Reed      | 119-140-04 | 1           | 5/6/93        | MSR         | 1                                   |
| MS 42-92           | Calby     | 119-140-02 | 1           | 7/1/93        | MRR-1       | 1                                   |
| MS 26-93           | Veblen    | 119-040-31 | 1           | 3/3/94        | MRR-2       | 1                                   |
| MS 7-94            | Reed      | 119-080-13 | 1           | 8/4/94        | MSR         | 1                                   |
| MS 13-95           | Englebert | 119-150-28 | 3           | 3/10/97       | MRM         | -6*                                 |
| CC 30-96           | Mendosa   | 119-090-18 | 4           | 4/9/97        | MRR-2       | 4                                   |
| CC 6-97            | MCA       | 119-234-01 | 3           | 5/22/97       | MMU         | 0                                   |
| CC 1-97            | Mendosa   | 119-120-09 | 1           | 4/6/97        | MRR-2       | 1                                   |
| <b>TOTAL</b>       |           |            | <b>17</b>   |               |             | <b>5</b>                            |

\*There is a net decline in development potential on this parcel which is zoned Multiple Family Residential because the subdivision restricted future development to one single family residence on each parcel..

## B. Commercial Development

As shown in Table 3, approximately 2,000 square feet of new commercial space has been created either through conversion of other uses or new construction in the Town of Mendocino since June 1992. In addition, three dwelling units were converted from residential to office use and, since no permits were obtained, no estimate of the square footage is available. Within the past six months, several applications have received permit approvals for additional commercial space totaling nearly 4,200 sq.ft. which has not been built.

TABLE 3 - CHANGES IN COMMERCIAL SPACE (June 1992-September 1998)

| Owner        | AP Number  | Description                     | Amt. of space | Permits obtained               |
|--------------|------------|---------------------------------|---------------|--------------------------------|
| Lu's Kitchen | 119-236-11 | new construction;<br>restaurant | 90 sq.ft.     | U 15-93; CC 1-93-77<br>949-061 |
| Mendosa      | 119-160-31 | convert dwelling to retail      | 1,419 sq.ft.  | U 23-93; 959-061               |

| Owner       | AP Number  | Description  | Amt. of space              | Permits obtained  |
|-------------|------------|--|----------------------------|---|
| Wood-Onstad | 119-217-13 | new construction;<br>addtn to retail   | 384 sq.ft.                 | CDU 22-96; 979-722                                      |
| Williams    | 119-236-11 | new construction;<br>commercial/storage  | 100 sq.ft.                 | MHRB 97-11  |
|             |            | New construction or<br>conversion from res. to comm.<br>use                      | 1,993 sq.ft.               |   |
| Mendosa     | 119-150-07 | convert 2 dwellings to<br>commercial office space                                | ?                          |   |
|             |            | Conversions to commercial<br>use, no permits issued                              | ?                          |   |
| MCA         | 119-234-02 | convert residence<br>to commercial;<br>new construction;<br>commercial space     | 1,707 sq.ft.<br>562 sq.ft. | MHRB 98-02; CDU 04-98 ( <i>pending</i> )                |
| Brown       | 119-235-07 | new construction;<br>commercial space  | 390 sq. ft.                | MHRB 97-39; CDU 11-98; <i>building permits required</i> |
| Walden      | 119-160-28 | new construction;<br>commercial space  | 1,504 sq.ft.               | MHRB 98-30; CDU ( <i>pending</i> )                      |
|             |            | New commercial space<br>(in permitting process, final<br>approvals not obtained) | 4,163 sq.ft.               |   |

## C. Visitor-Serving Facilities

### Inns, Hotels, Bed & Breakfast Units and Student/Instructor Temporary Housing

Table 4.13-1 of the Mendocino Town Plan identifies the following types of visitor accommodations in Mendocino:

|                                      |                 |
|--------------------------------------|-----------------|
| Inns and Hotels                      | 5 rooms or more |
| Bed & Breakfast Units                | 2 to 4 rooms    |
| Student/Instructor Temporary Housing |                 |

A general plan amendment application to change Table 4.13-1 to increase the inn unit cap at Reed Manor from 5 units to 9 units was recently approved by the Board of Supervisors and

certified by the California Coastal Commission. A coastal development use permit must be obtained prior to actually increasing the number of inn units at the facility.

Two additional applications to amend Table 4.13-1 to increase the number of visitor-serving facilities in Mendocino are presently under review:

- Administrative Appeal #AA 2-97 (McCroskey) asserted that the six-unit Ukiah Street Inn was "inadvertently omitted" from Table 4.13-1 and should be corrected as a mapping error. The Board of Supervisors upheld the appeal and directed Planning Division staff to process a General Plan Amendment to add the inn to Table 4.13-1. General Plan Amendment application #GP 16-98 requests that Table 4.13-1 be revised to add a six-unit inn.
- General Plan Amendment application #GP 11-98 (Bechtloff) requests an additional five inn units at the Whitegate Inn.

Both of these applications are being held in abeyance, with other applications in the 1998 Coastal Watershed-North of Navarro General Plan Amendment group, pending completion of the Mendocino Town Plan Review.

Table 4, below, is an updated version of Table 4.13-1 of the Mendocino Town Plan which reflects changes in assessor's parcel numbers, street addresses, names of facilities and owners. Facilities which are not in operation or are operating with less than the total allowable units are also identified. Corrections to the data in the table are shown with deletions indicated by ~~strike-through~~ and additions by *italics*. Table 4 also indicates the number of units which are operated at each facility, as of September 1998.

**TABLE 4 - MENDOCINO TOWN PLAN VISITOR SERVING FACILITIES**  
(Updated Table 4.13-1, September 1998)

| Assessor's Parcel No.                           | Facility           | Address  | Allowable Units | No. of Units (1998) | Status                                   |
|---|--------------------|--|-----------------|---------------------|--|
| 119-080-14                                      | Hill House         | <del>10865 Lansing Street</del><br><i>10701 Palette Drive</i>      | 44              | 44                  |  |
| 119-236-01                                      | Heeser House       | 45080 Albion Street  | 25              | 25                  |  |
| 119-236-10, -12                                 | MacCallum House    | <del>45065</del><br><i>45020 Albion Street</i>                     | 21              | 21                  |  |
| <del>119-238-05</del><br><i>119-238-04, -18</i> | Mendocino Hotel    | <del>45065 Albion Street</del><br><i>45080 Main Street</i>         | 26              | 26                  |  |
| 119-140-13                                      | Joshua Grindle Inn | 44800 Little Lake Street   | 10              | 10                  |  |
| 119-140-32                                      | Reed Manor         | <del>43700 (44950) L. Lake St.</del><br><i>10691 Palette Drive</i> | 9               | 5                   | #GP 9-97<br>increased cap<br>by +4 units |

| Assessor's Parcel No. | Facility                                  | Address                                    | Allowable Units | No. of Units (1998) | Status                      |
|-----------------------|---|--|-----------------|---------------------|-----------------------------|
| 119-235-09            | Dougherty House                           | 45110 Albion Place<br>45111 Ukiah Street   | 8               | 6                   | CDUP for +2 units (pending) |
| 119-250-04, -42       | Seagull Inn                               | 44960<br>44594 Albion Street               | 9               | 9                   |                             |
| 119-250-06, -43       | Headlands Inn                             | 44950 Albion Street<br>10453 Howard Street | 6               | 6                   |                             |
| 119-250-09, -45       | Whitegate Inn                             | 10481 Howard Street                        | 5               | 5                   | #GP 11-98 requests +5 units |
| 119-250-15            | Sears House<br>Sweetwater Spa and Inn     | 44840 Main Street                          | 8               | 8                   |                             |
| 119-250-31            | 1021 Main Street Inn<br>Captains Cove Inn | 44781 Main Street                          | 5               | 5                   |                             |
| 119-250-37            | Mendocino Village Inn                     | 44860 Main Street                          | 13              | 13                  |                             |
|                       | <b>TOTAL INNS, HOTELS AND MOTELS</b>      |  | <b>189</b>      | <b>183</b>          |                             |

|                                     |  |                          |           |           |                 |
|-------------------------------------|--|--------------------------|-----------|-----------|-----------------|
| <del>119-080-06</del><br>119-070-19 | Lockey/Mendocino Cottage               | 10940 Lansing Street     | 3         | 3         |                 |
| 119-140-10                          | Schrode<br>Epright                     | 44920 Little Lake Street | 2         | 0         | no bus. license |
| 119-150-11                          | Cameron/Lupe Gordon House              | 10521 School Street      | 2         | 0         |                 |
| 119-160-07                          | McNamara<br>Levin/Packard House        | 45170 Little Lake Street | 4         | 4         |                 |
| 119-160-10                          | Wickersham/Blair House                 | 45110 Little Lake Street | 4         | 4         |                 |
| 119-180-06                          | Friedman                               | 45320 Little Lake Street | 3         | 3         |                 |
| 119-231-08                          | Killough/Parsons Inn                   | 45105 Little Lake Street | 2         | 2         |                 |
| 119-235-13                          | Reeves                                 | 45141 Ukiah Street       | 2         | 1         |                 |
| 119-237-09                          | Cone/Blue Heron Inn                    | 390 Kasten Street        | 4         | 4         |                 |
| 119-250-19                          | McCabe/McElroy's Inn                   | 44800 Main Street        | 4         | 4         |                 |
|                                     | <b>TOTAL BED &amp; BREAKFAST UNITS</b> |                          | <b>30</b> | <b>25</b> |                 |

|            |   |                          |           |           |                 |
|------------|---|--------------------------|-----------|-----------|-----------------|
| 119-160-32 | Mendocino Art Center                    | 45200 Little Lake Street | 19        | 13        | no bus. license |
|            | <b>TOTAL STUDENT/INSTRUCTOR HOUSING</b> |                          | <b>19</b> | <b>13</b> |                 |

|  |                    |  |            |            |  |
|--|--------------------|--|------------|------------|--|
|  | <b>TOTAL UNITS</b> |  | <b>238</b> | <b>221</b> |  |
|--|--------------------|--|------------|------------|--|

As shown on Table 4, there are presently 208 inn and B&B units in Mendocino, as well as 13 units of student/instructor housing which are operated as short-term rentals for part of the year and long-term rentals for the remainder of the year. Applications are pending to authorize construction of two additional units at the Dougherty House (Wells), operation of six units at the Ukiah Street Inn (McCroskey), and operation of up to five additional units at the Whitegate Inn (Bechtloff). The additional units at the Ukiah Street Inn and the Whitegate Inn require general plan amendments and their applications have been put on hold until the review of the Town Plan is completed.

Included on Table 4 are two new inn/B&B units which have been authorized and constructed since 1992: one unit at the Headlands Inn and one unit at the Mendocino Village Inn.

### Single Unit Rentals & Vacation Home Rentals

The Mendocino Town Plan defines Single Unit Rentals (SURs) as follows:

*An attached or detached structure, operated as a visitor serving unit, in conjunction with a dwelling unit or commercial use, as a short term rental for transient occupancy, for a fee charged, and subject to Chapter 520 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Tax) of the Mendocino County Code. (Mendocino Town Plan, p. 8).*

Vacation Home Rentals (VHRs) are defined as follows:

*A dwelling unit that is the only use on the property which may be rented short term, for a fee charged, for transient occupancy subject to Chapter 520 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Chapter) of the Mendocino County Code (Mendocino Town Plan, p. 8).*

Table 4.13-2 of the Mendocino Town Plan provides a list of 23 SURs and Table 4.13-3 lists 23 VHRs. The criteria for updating these tables are established in Mendocino Town Plan Policy 4.13-4(5) which states, in part, that:

*"Tables 4.13-2 and 4.13-3 shall remain flexible as to location, and the County of Mendocino shall have the authority to adjust locations on these tables from time to time without a plan amendment process, but not to add to the tables numbers of units that would exceed the following criteria:*

*To preserve town character and maintain the town as a residential community with limited commercial services, the County shall maintain, at all times, for new Vacation Home Rentals or Single Unit Rentals approved subsequent to certification of this amendment, a ratio of thirteen long term residential dwelling units to either one Single Unit Rental or Vacation Home Rental, but shall not require any reduction in the number of Vacation Home Rentals or Single Unit Rentals in existence on the date of certification by the Coastal Commission of this amendment.*

*Single Unit Rentals (Table 4.13-2) shall be exempted from the above limitations in the Commercial Zone.*

*Business licenses for Single Unit Rentals (Table 4.13-2) and Vacation Home Rentals (Table 4.13-3) shall not be transferable.*" (Mendocino Town Plan Policy 4.13-4(5)).

The implications of this policy relative to Tables 4.13-1 and 4.13-2 are as follows:

- (1) The policy states that the County shall not require a reduction in the total number of VHRs and SURs in existence on June 10, 1992. According to Planning Division records, there were 34 VHRs and 19 SURs in existence at the time the Plan amendments were certified, not 23 and 23 as shown on Tables 4.13-2 and 4.13-3. Therefore, **a maximum of 53 VHRs/SURs are permitted** and additional units may only be allowed in accordance with the 13:1 ratio between long term residential units and VHRs/SURs.
- (2) Since business licenses for SURs and VHRs are not transferable, properties which have changed ownership lose their status on the Tables. In other words, when a property with an SUR or VHR is sold, it converts back to residential use.
- (3) SURs and VHRs must obtain business licenses and are subject to the Uniform Transient Occupancy Tax. In instances where business licenses have not been renewed and more than one year has passed since the renewal date, a new business license must be obtained. In these cases, unless there is evidence that the VHR/SUR has been in continuous operation (i.e., payment of Transient Occupancy Taxes), the facility is removed from the Tables.
- (4) As new spaces become available on the SUR and VHR Tables, priority is given to applicants on the "chronological waiting list for VHRs/SURs" which is maintained by the Planning Division. At present, there are 19 applicants on the waiting list.

Table 5, below, includes all of the VHRs and SURs in Mendocino which are presently operating in conformance with planning and zoning requirements. Three facilities are included which do not have current business licenses, but which have paid transient occupancy taxes in the past year. Table 6 indicates facilities which were included in Tables 4.13-2 and 4.13-3 and subsequent lists maintained by the Planning Division, but which are no longer eligible, based on change in ownership and/or failure to renew business licenses. Some of the facilities indicated on Tables 5 and 6 are not included on Tables 4.13-2 and 4.13-3 of the Town Plan, but were in operation when the plan was certified in June of 1992.

Corrections to the information presented in Tables 4.13-2 and 4.13-3 are shown in Tables 5 and 6 with ~~strike-through~~ text indicating deletions and *italicized* text indicating additions and corrections.

TABLE 5: SINGLE UNIT RENTALS AND VACATION HOME RENTALS IN  
MENDOCINO OPERATING WITH REQUIRED PERMITS  
(September 1998)

| Assessor's<br>Parcel No.            | Owner        | Address                                 | Zoning/<br>Status   | Type | No. |
|-------------------------------------|--------------|---|---|------|-----|
| 119-120-02,-63                      | Myers        | 10490 Hills Street                      | MRR-2   | SUR  | 1   |
| 119-150-06                          | Graham       | 10485 Lansing Street                    | MC  | SUR  | 2   |
| 119-160-27                          | Berenson     | 45080 Calpella Street                   | MMU   | SUR  | 3   |
| 119-160-33                          | Barrett      | 45084 Little Lake Street                | MTR   | SUR  | 4   |
| 119-212-03                          | Fike         | 45370 Calpella Street                   | MTR   | SUR  | 5   |
| 119-212-04                          | Myers        | 45350 Calpella Street                   | MTR   | SUR  | 6   |
| 119-217-07                          | Pier         | 45260 Albion Place Street               | MTR   | SUR  | 7   |
| 119-217-10                          | Sussex       | 45217 Albion Place<br>45270 Main Street | MTR   | SUR  | 8   |
| 119-231-02                          | McNeil       | 45131 Little Lake Street                | MTR   | SUR  | 9   |
| 119-235-15                          | Pollard      | 45120-45130 Albion Place<br>Street      | MTR   | SUR  | 10  |
| 119-237-11                          | Raymond      | 45104 Main Street                       | MC  | SUR  | 11  |
| 119-060-05                          | Siew Hwa Beh | 10961 Palette Drive                     | MSR   | VHR  | 12  |
| 119-060-25                          | Beals/Watson | 10974 Palette Drive                     | MSR   | VHR  | 13  |
| 119-070-04                          | Hoylman      | 10850 Palette Drive                     | MSR; no bus.<br>license since<br>1995; pd TOT<br>in 1997  | VHR  | 14  |
| <del>119-080-02</del><br>119-060-26 | Lemley       | 11050 Lansing Street                    | MRR; no bus.<br>license since<br>1994; pd TOT<br>in 1997  | VHR  | 15  |
| 119-150-24                          | Lucas        | 10551 Evergreen Street                  | MRM   | VHR  | 16  |
| <del>119-160-09</del><br>119-060-09 | Tucker       | 10931 Palette Drive                     | MSR   | VHR  | 17  |
| 119-213-03                          | Sisk         | 45300 Calpella Street                   | MTR   | VHR  | 18  |
| 119-214-11                          | Erwin        | 45340 Ukiah Street                      | MTR   | VHR  | 19  |
| 119-214-12                          | Walker       | 10531 Kelly Street                      | MTR   | VHR  | 20  |
| 119-217-04                          | Sieg         | 45281 Ukiah Street                      | MTR   | VHR  | 21  |
| 119-217-08                          | Aguilar      | 10401 Heeser Street                     | MTR   | VHR  | 22  |
| 119-232-10                          | Junge        | 45100 Ukiah Street                      | MTR   | VHR  | 23  |
| 119-510-10                          | Lobue        | 44877 Meadow Circle                     | MRR   | VHR  | 24  |
| 119-520-09                          | Young        | 10881 Hills Ranch Road                  | MRR; no bus.<br>license since<br>1995; pd. TOT<br>in 1997 | VHR  | 25  |
| 119-270-14                          | Cook         | 44771 Crestwood Drive                   | MRR   | VHR  | 26  |

|            |                          |                          |     |     |    |
|------------|--------------------------|--------------------------|-----|-----|----|
| 119-060-22 | Darnell                  | 10960 Palette Drive      | MSR | VHR | 27 |
| 119-530-10 | Loncke, Snyder,<br>Spitz | 44721 Forest Court       | MRR | VHR | 28 |
| 119-070-07 | Sivell                   | 10824 Palette Drive      | MSR | VHR | 29 |
| 119-060-07 | Rossiter                 | 10941 Palette Drive      | MSR | VHR | 30 |
| 119-214-08 | Taylor                   | 45350 Ukiah Street       | MTR | VHR | 31 |
| 119-160-26 | Rogers                   | 10501 Ford Street        | MMU | SUR | 32 |
| 119-160-29 | Jones                    | 45021 Little Lake Street | MC  | SUR | 33 |
| 119-231-05 | Roberts                  | 45121 Little Lake Street | MTR | SUR | 34 |

Note: The facilities listed as items 25-34 (highlighted) are not listed on Tables 4.13-2 and 4.13-3 in the Mendocino Town Plan, but were in existence on the date the Plan was certified by the Coastal Commission.

**TABLE 6 - VHRS AND SURS DELETED FROM TABLES 4.13-2 AND 4.13-3  
(as updated by Planning Division, September 1998)**

| Assessor's<br>Parcel No.            | Owner                           | Address   | Status  | Type |
|-------------------------------------|---------------------------------|---|---|------|
| <del>119-080-21</del><br>119-070-17 | <del>Bruce</del><br>Jones       | <del>10485</del><br>10910 Lansing Street                | change in owner, no bus.<br>license since 1994 ( <i>DELETE</i> )            | SUR  |
| 119-120-45                          | Koch                            | 10501 Hills Street                                      | no bus. license since 1992<br>( <i>DELETE</i> )                             | SUR  |
| 119-130-01,-28                      | Hahn                            | <del>Pine and Clark Streets</del><br>10400 Clark Street | no bus. license since 1994<br>( <i>DELETE</i> )                             | SUR  |
| 119-170-05                          | Files                           | 45101 Heeser Drive                                      | no bus. license since 1992<br>( <i>DELETE</i> )                             | SUR  |
| 119-213-01                          | <del>Keserie</del><br>Fox       | 10601 Heeser Street                                     | change in owner, no bus.<br>license since 1994 ( <i>DELETE</i> )            | SUR  |
| 119-216-07                          | <del>Caldwell</del><br>Bowery   | 10451 Rundle Street                                     | change in owner, no bus.<br>license since 1994 ( <i>DELETE</i> )            | SUR  |
| 119-236-03                          | <del>Mendosa</del><br>Jones     | 45051 Ukiah Street                                      | change in owner, no bus.<br>license since 1992 ( <i>DELETE</i> )            | SUR  |
| 119-238-09                          | <del>Raymond</del><br>Williams  | 45050 Main Street                                       | change in owner, no bus.<br>license since 1995 ( <i>DELETE</i> )            | SUR  |
| 119-250-10                          | Wood                            | 44871 Ukiah Street                                      | no bus. license since 1994<br>( <i>DELETE</i> )                             | SUR  |
| 119-250-30                          | Ditto                           | 44797 Main Street                                       | no bus. license since 1994<br>( <i>DELETE</i> )                             | SUR  |
| 119-250-38                          | <del>Kipnis</del><br>Fleissbach | 44845 Ukiah Street                                      | change in owner;<br>current bus. license for 955<br>Ukiah ( <i>DELETE</i> ) | SUR  |
| 119-370-11                          | Robson                          | <del>44698 Ukiah</del> Crestwood<br>Drive               | no bus. license since 1992<br>( <i>DELETE</i> )                             | SUR  |
| 119-060-02                          | Richardson                      | 10991 Palette Drive                                     | no bus. license since 1992<br>( <i>DELETE</i> )                             | VHR  |

|            |                                       |                                 |   |     |
|------------|---------------------------------------|---------------------------------|---|-----|
| 119-070-05 | Kearney                               | 10840 Palette Drive             | no bus. license since 1994<br>(DELETE)                  | VHR |
| 119-213-07 | Richmond                              | 10580 Williams Street           | no bus. license since 1994<br>(DELETE)                  | VHR |
| 119-217-05 | Entwistle<br>Fetzer                   | 45271 Ukiah Street              | change in owner, no bus.<br>license since 1994 (DELETE) | VHR |
| 119-250-29 | Marin Conv.<br>Hosp<br>Standing/Block | 44801 Main Street               | change in owner, no bus.<br>license since 1995 (DELETE) | VHR |
| 119-370-04 | Fry<br>Johnson                        | 44681 Crestwood Drive           | change in owner, no bus.<br>license since 1992 (DELETE) | VHR |
| 119-370-08 | Vanneman<br>Sternglass                | 44692 Crestwood Drive           | change in owner, no bus.<br>license since 1992 (DELETE) | VHR |
| 119-520-10 | dePaoli                               | 10877 10887 Hills Ranch<br>Road | no bus. license since 1994<br>(DELETE)                  | VHR |
| 119-530-13 | Hardy<br>McCabe                       | 10989 Hills Ranch Road          | change in owner, no bus.<br>license since 1992 (DELETE) | VHR |
| 119-510-03 | Hall                                  | 44835 Sun Trap Meadow<br>Circle | no bus. license since 1994<br>(DELETE)                  | VHR |
| 119-214-07 | Lizborne                              | 10450 Heeser Street             | no bus. license since 1995<br>(DELETE)                  | VHR |
| 119-060-18 | Vrooman                               | 10880 Palette Drive             | no bus. license since 1993<br>(DELETE)                  | VHR |
| 119-530-01 | Hasenback                             | 11045 Hills Ranch Road          | no bus. license since 1995<br>(DELETE)                  | VHR |
| 119-510-04 | Ralph                                 | 44841 Sun Trap Meadow<br>Circle | no bus. license since 1994<br>(DELETE)                  | VHR |
| 119-214-23 | Grimes                                | 45375 Ukiah Street              | change in ownership<br>(DELETE)                         | VHR |

Several properties on Table 6 were included on Tables 4.13-2 and 4.13-3 but were not in operation when the Town Plan amendment was certified by the Coastal Commission. These were not included in the 53-unit VHR/SUR cap. Others were in operation (and included in the 53 cap), but not shown on the Tables in the Town Plan. The bottomline is that there were 53 VHRs/SURs in operation in 1992; and there are presently 34 which are operating with the required permits. There are 19 applicants on the "chronological waiting list for VHRs/SURs." Assuming that these applicants obtain the necessary conditional use permits to operate such facilities, there will be one VHR/SUR slot available before the 53-unit maximum is reached. The turnover has no effect on the number of residential units, since the conversion of residences to VHRs/SURs, and vice versa is capped at 1992 levels. There has not been a net gain of 13 or more residential units in Mendocino, consequently, no additional VHRs/SURs would be authorized in accordance with the 13:1 ratio.

Table 7 identifies the 18 properties which are on the "chronological waiting list for VHRs/SURs."

**TABLE 7 - CHRONOLOGICAL WAITING LIST FOR VHRs/SURs  
(as of October 1998)**

|    |                |             |                          |     |
|----|----------------|-------------|--------------------------|-----|
| 1  | Wittneben      | 119-270-12  | 44791 Crestwood Drive    | VHR |
| 2  | Arcuri         | 119-231-09' | 10600 Kasten Street      | VHR |
| 3  | Lobell         | 119-232-08  | 45116 Ukiah Street       | SUR |
| 4  | Rodgers        | 119-120-50  | 10470 Hills Road         | SUR |
| 5  | Goodridge      | 119-170-08  | 10900 Ford Street        | SUR |
| 6  | Haskins        | 119-235-14  | 45170 Albion Street      | SUR |
| 7  | Schnell        | 119-060-28  | 11000 Lansing Street     | VHR |
| 8  | Curry          | 119-150-14  | 44920 Pine Street        | VHR |
| 9  | O'Rourke       | 119-090-16  | 44460 Little Lake Road   | SUR |
| 10 | Fliessbach     | 119-040-23  | 10750 Gurley Lane        | SUR |
| 11 | Arnold         | 119-510-03  | 44835 Meadow Circle      | VHR |
| 12 | Cusick         | 119-150-22  | 44875 Pine Street        | SUR |
| 13 | Clay           | 119-232-02  | 45150 Ukiah Street       | VHR |
| 14 | Levin          | 119-160-08  | 45164 Little Lake Street | SUR |
| 15 | Pasterick      | 119-170-07  | 10950 Ford Street        | VHR |
| 16 | Block/Standing | 119-250-29  | 44801 Main Street        | SUR |
| 17 | Litton         | 119-231-04  | 45130 Calpella Street    | SUR |
| 18 | Scully         | 119-520-01  | 44868 Cypress Court      | VHR |
| 19 | Bill Crecilius | 119-130-06  | 44741 Pine Street        | VHR |

## V. SUMMARY OF NEW DEVELOPMENT

Table 8 provides a summary of the information contained in this report documenting new development and changes in use that have occurred since adoption of the Mendocino Town Plan amendment in June 1992. Table 8 also includes projects for which permits are currently being processed but for which all of the necessary approvals have not been obtained.

**TABLE 8 - SUMMARY OF NEW DEVELOPMENT IN MENDOCINO SINCE JUNE 1992**

| Description                                   | Net loss/gain since June 1992  |
|---|--|
| Net loss in residential dwelling units        | -2 dwelling units  |
| New commercial space (approved/built)         | 1,993 sq. ft. commercial space   |
| New commercial space (add'l permits required) | 4,163 sq. ft. commercial space (add'l permits required)                |
| New inn units (approved/built)                | +2 inn units (Headlands Inn; Mendocino Village Inn)                    |
| New inn units (add'l permits required)        | +2 inn units (Dougherty House/Wells)<br>+4 inn units (Reed Manor/Reed) |

|  |  |
|--|--|
| New inn units (proposed; general plan amendments and addtl approvals required) | +6 inn units (Nicholson House/McCroskey)<br>+5 inn units (Whitegate Inn/Bechtloff) |
| Net loss in VHRs/SURs  | -19 VHRs/SURs  |
| No. of applicants on "Chronological Waiting List for VHRs/SURs"                | +19 VHRs/SURs  |

## VI. OPTIONS

Options available for action on the Mendocino Town Plan Review include the following:

- (1) Determine that there has been no significant change in the "balance" between residential and non-residential uses and community character and take no action.
- (2) Determine that there has been some change, but no immediate action needs to be taken in response to those changes.
- (3) Determine that there has been enough change to require revisions to the Mendocino Town Plan. Identify what such revisions are intended to accomplish and direct staff to prepare recommended policy changes.



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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CALIFORNIA  
COASTAL COMMISSION

EXHIBIT NO. 9

APPLICATION NO.  
MENDOCINO COUNTY LCP  
AMEND. 1-00 (Reed)

COUNTY TRANSMITTAL  
LETTER (3 pages)

June 14, 2000

Mr. Robert Merrill  
California Coastal Commission  
710 E Street, Suite 200  
Eureka, CA 95501-1865

Re: Mendocino County LCP Amendment No. 1-98, Site Three (GP 9-97/OA 3-97-Reed)

Dear Mr. Merrill:

In a letter dated March 22, 2000, you informed this office that as a result of a court ruling, the Coastal Commission was ordered to invalidate its certification of "Site Three". As stated in your letter, the court based its decision in part upon the holding that the County and the Commission had not conducted the periodic Mendocino Town Plan review in accordance with Mendocino Town Plan Policies 4.13-1 and 4.13-2.

Subsequent to the court's decision, property owners Mr. and Mrs. Reed, resubmitted their application to the County for consideration. On April 18, 2000, the County Board of Supervisors was presented a packet of information (attached) explaining the various issues surrounding this project. County staff provided the Board with several options available for processing this application.

After a lengthy discussion of the pertinent issues, the Board directed County staff to submit the completed Mendocino Town Plan Review dated March-1999 to the Coastal Commission along with a letter requesting that the Commission schedule a hearing for consideration of "Site Three (Reed)" in light of the completed Town Plan Review. The information enclosed with this correspondence is considered a supplement to the information previously submitted in association with the Reed application (Mendocino County, First Submittal of 1998, Section C).

The Town Plan Review concluded that there had not been a significant change in the "balance" between residential and nonresidential uses in the Town of Mendocino since 1992. You will recall that, at the time the Town Plan Review was completed, the Reed proposal had been approved by the Coastal Commission. The Town Plan review contained updated information regarding development since 1992, and in reaching its conclusions, the review included the increase of four inn units associated with the Reed proposal.

In reading your letter of March 22, 2000, it is apparent that there are two levels of comments and analysis present. Certain comments and recommendations are related directly to the Reed application, while others relate to the bigger picture of the Mendocino Town Plan Review. It is difficult to separate

the two as they involve many of the same issues, however, the scale of the issues related to each level varies significantly.

I. REED REAPPLICATION: With respect to the Reed proposal, at the time that the application was reviewed by the Board of Supervisors, only preliminary Town Plan Review information was available. The Board acted upon the application based upon this preliminary information. Subsequently, the Draft Mendocino Town Plan Review (November 1998) was completed. In making a recommendation to the Board of Supervisors on the Draft Mendocino Town Plan Review, the Planning Commission found that

- “(a) There has been no significant documented change in the “balance” between residential and nonresidential uses in the Town of Mendocino since the plan amendment was adopted in 1992; and
- (b) While not necessarily related to new development, there has been a change in town character since 1992.”(Note - The staff report to the BOS related to the Town Plan Review noted that character changes can be attributed to increased tourism, change in visitor use patterns, and escalating land values as opposed to being brought about by development.)

In March of 1999, the Board of Supervisors accepted the Mendocino Town Plan Review with the intent of meeting the requirement of Mendocino Town Policy 4.13-2 which stipulates that a Town Plan Review be conducted. The Reed project had received Coastal Commission approval at the time the Mendocino Town Plan Review was completed, and the Plan review reflects this fact by including the 4 unit increase within the updated information as of November 1998. Because of this situation, it seems fair to argue that impacts associated with the Reed project were appropriately analyzed as part of the Mendocino Town Plan Review.

II. IN-DEPTH TOWN PLAN REVIEW: In consideration of the “bigger picture” relating to a more in-depth Town Plan Review, you have made recommendations at a staff level which would entail substantial effort and expense on the part of the County to conduct a more thorough Town Plan Review which would further analyze the issues of town character, particularly residential/nonresidential use type balance, and evaluate methods of allocation of possible additional VSF units. Commission staff is of the opinion that the Reed reapplication triggers this additional level of review, however, the County Board of Supervisors does not agree with this position.

Also, you have recommended expanding the scope of the Mendocino CAC. As currently established by the Board of Supervisors on April 13, 1999, the CAC has been directed to provide the Board with specific policy recommendations regarding the following issues: 1) the number of vacation home rentals and single unit rentals; 2) incentives for residential development including second residential units and other alternatives for increasing affordable housing stock; 3) revisions to cottage industry and home occupation regulations proposed by staff; 4) parking and circulation; and 5) formation of a Municipal Advisory Council.

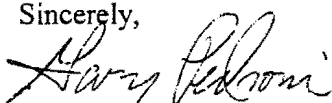
Under the Coastal Commission staff proposal, the scope of the CAC would be expanded to include a review of the balance of residential, commercial, and visitor serving development before proposing to change the allowable number of units. The CAC would conduct this review and make specific policy recommendations needed to attain and maintain balance of these uses within the Town. The question of where the “town character/VSF threshold” should be set is an extremely subjective one. The Mendocino Town Plan Review did not attempt to answer this question as that level of analysis would exceed the requirements of Policy 4.13-2.

Additionally, your letter suggests that a more thorough analysis of environmental issues associated with the Reed application should be conducted, specifically related to Highway One capacity, water supply and sewage disposal. County staff would direct your attention to pages C-17 through C-20 of the County's submittal. County staff prepared an environmental analysis of potential site specific and cumulative impacts of the project. For example, intersections and road segments are analyzed for potential changes due to this project, as well as other projects within the group. County staff would point out that this environmental analysis was deemed sufficient to satisfy the standards of the Coastal Commission at the time the project was approved. It is unclear what the justification is for changing the standard at this point.

In summary, the Mendocino County Board of Supervisors concluded that the Reed application should not be considered the "trigger" for another Town Plan Review beyond the Mendocino Town Plan Review which the Board accepted in March of 1999. The Board of Supervisors respectfully requests that the Coastal Commission staff present LCP No. 1-98 Site Three (Reed) to the Coastal Commission with the supporting documentation of the completed Mendocino Town Plan Review dated March, 1999.

Thank you for your prompt attention to this request. Should you have any questions, please contact me at (707) 463-4281.

Sincerely,



Gary Pedroni  
Planner II

cc: Raymond Hall, Director  
Alan Falleri, Chief Planner  
LCP Amendment No. 1-98 File  
Barbara and Monte Reed

Attachment: BOS Staff Report and Minutes of April 18, 2000  
Mendocino Town Plan Review - March 1999

## SUPPORTING INFORMATION

REED - #GP 9-97/OA 3-97

April 2000

SUMMARY OF COASTAL COMMISSION STAFF COMMENTS:

Planning and Building Services Department received a letter from the Coastal Commission staff (Robert Merrill, District Manager) dated March 22, 2000 (Exhibit 3), which details the Coastal Commission staff position regarding 1) the court ruling regarding the Reed application, 2) the Reed reapplication, and 3) the "bigger picture" of the Mendocino Town Plan review.

Mr. Merrill summarizes the court ruling in this case as follows:

"The trial court's decision to rule in favor of the petitioners was based largely in part on the court's holding that (1) the County and the Commission failed to conduct the mandatory periodic reviews, and (2) the Commission did not perform a thorough analysis of the cumulative impacts of the project, particularly with respect to the question of balance between visitor serving units and other facilities."

The Commission staff has determined that, in their opinion, the Mendocino Town Plan Review (November, 1998) is incomplete for the purposes of adequately reviewing the Reed application and must include a) an evaluation of whether the number and array of visitor serving units allowed under the Town Plan could be changed without adversely affecting the Town's character/balance of uses, and b) how would any increase in visitor serving units be allocated. Additionally, the Coastal Commission staff requests more information regarding potential cumulative impacts of the project associated with Highway One capacity, water supply, and sewage disposal. Finally, Mr. Merrill suggests that the Board of Supervisors may want to consider expanding the scope of the recently established Mendocino CAC to include a review of the balance of residential, commercial, and visitor serving development before proposing to change the allowable number of units. Under this scenario, the CAC would conduct this review and make specific policy recommendations needed to attain and maintain balance of these uses within the Town.

COUNTY STAFF COMMENTS/DISCUSSION: There are two categories of comments found in the Coastal Commission letter dated March 22, 2000. Certain comments/requirements are related directly to the Reed application, while others relate to the Town Plan Review. It is difficult to separate the two as they involve many of the same issues, however, the scale of the issues related to each category varies fairly significantly.

I. REED REAPPLICATION: With respect to the Reed application, at the time that the application was reviewed by the Board of Supervisors, only preliminary Town Plan review information was available. The Board acted upon the application based upon this preliminary information. Subsequently, the Mendocino Town Plan Review (November 1998) was completed. In making a recommendation to the Board of Supervisors on the Mendocino Town Plan Review, the Planning Commission found that

- "(a) There has been no significant documented change in the "balance" between residential and nonresidential uses in the Town of Mendocino since the plan amendment was adopted in 1992; and
- (b) While not necessarily related to new development, there has been a change in town character since 1992." (Note - The staff report to the BOS related to the plan review noted that character changes can be attributed to increased tourism, change in visitor use patterns, and escalating land values as opposed to being brought about by development.)

In March of 1999, the Board of Supervisors accepted the Mendocino Town Plan Review (November 1998), with the intent of meeting the requirement of MTP Policy 4.13-2 which stipulates that a Town Plan review be conducted. The Reed project had received Coastal Commission approval at the time the Mendocino Town Plan Review was completed, and the Plan review reflects this fact by including the 4 unit increase within the updated information as of November 1998. Because of this situation, it may be fair to argue that impacts associated with the Reed project were appropriately analyzed as part of the Mendocino Town Plan Review as well as the documentation and findings which supported project approval by both the Board of Supervisors and the Coastal Commission.

Should the Board decide to send the Reed reapplication back to the Coastal Commission without "starting over" in the process, this is a point which should be stressed (see Recommended Motion).

II. IN-DEPTH TOWN PLAN REVIEW: In consideration of the "bigger picture" relating to a more in-depth town plan review, Coastal Commission staff recommendations would entail substantial effort on the part of the County to conduct a more thorough town plan review which would analyze the issues of town character, particularly residential/nonresidential use type balance, and evaluate methods of allocation of possible additional VSF units. Commission staff is of the opinion that the Reed reapplication triggers this additional level of review.

Of particular interest is the Coastal Commission's inference that an allocation system be developed. Until now, applications have been driven by economics, first come first serve. An allocation system for additional units, such as a lottery system, would be a different approach than is taken elsewhere in the County. The BOS would have to indicate that they wanted a policy change with respect to this matter.

Also, Commission staff recommends expanding the scope of the Mendocino CAC. As currently established by the Board of Supervisors on April 13, 1999, the CAC has been directed to provide the Board with specific policy recommendations regarding the following issues: 1) the number of vacation home rentals and single unit rentals; 2) incentives for residential development including second residential units and other alternatives for increasing affordable housing stock; 3) revisions to cottage industry and home occupation regulations proposed by staff; 4) parking and circulation; and 5) formation of a Municipal Advisory Council.

Under the Coastal Commission staff proposal, the scope of the CAC would be expanded to include a review of the balance of residential, commercial, and visitor serving development before proposing to change the allowable number of units. The CAC would conduct this review and make specific policy recommendations needed to attain and maintain balance of these uses within the Town. The question of where the "town character VSF threshold" is located is an extremely subjective one. The Mendocino Town Plan Review did not attempt to answer this question, and it appears that the Coastal Commission (at least at a staff level) wants an answer.

#### PRELIMINARY ACTION REQUIRED BY THE BOARD OF SUPERVISORS

In the opinion of Planning and Building Services staff, in deciding how best to proceed with processing of the Reed reapplication, it will first be necessary for the Board of Supervisors to make a decision regarding:

- 1) Whether or not the Reed reapplication can be considered separate from a more in-depth town plan review or not, in other words, is the Reed reapplication the trigger which launches more review of the Town Plan?

It may also be beneficial as part of this discussion for the Board to provide direction regarding the issue raised by the Coastal Commission staff relative to whether or not the role of the CAC should be expanded to include policy recommendations regarding town balance. (Note- there may be fairly significant budgetary consequences associated with this option.)

BOARD OF SUPERVISORS  
DECEMBER 8, 1997

EXHIBIT 1  
PAGE BOS-2

2/2657

13. #GP 9-97 / OA 3-97 BARBARA & MONTE REED (OWNERS)

LOCATION: Town of Mendocino, lying adjacent to the N side of Little Lake Rd, 350 + - E of its intersection with Lansing St; APN 119-140-32. REQUEST: Increase the inn unit cap associated with the Reed Manor as stipulated in the Mendocino Town Plan and Zoning Ordinance from 5 units to a total of 9 units.

Planner Gary Pedroni presented the staff report and briefly reviewed the action taken by the Planning Commission on October 16, 1997. Correspondence was routed to the Board.

David Wells, read a letter on behalf of Mr. Smith as to Policy 4.13-4 on units allowable in the Mendocino Town Plan.

County Counsel Klein responded to questions relative to the Policy.

THE PUBLIC HEARING WAS OPENED and the following spoke: Barbara Reed, Bud Kamb, Ernie Banker, Wendy Squires read a letter from Paula Douglas, Frank McMichael, Tony Graham, Mary Stinson, Joan Curry, Loretta Mathers, David Wells, Bob Savage, Bob Parker, Andy Ploker, Al Beltrami, and Monte Reed. THE PUBLIC HEARING WAS CLOSED.

Ms. Reed responded to comments made by the public.

A lengthy question and answer period ensued relative to visitor serving facilities.

Upon motion by Supervisor Campbell, seconded by Supervisor Pinches, and carried (3-2, with Supervisors Shoemaker and Peterson dissenting); IT IS ORDERED that the Board of Supervisors approves #GP 9-97 / #OA 3-97 for inclusion in the 1997 North of Navarro Group, finding:

1. That an initial study has been prepared and no adverse environmental impacts are anticipated given mitigation as discussed in the staff report to the Planning Commission dated October 16, 1997; and
2. Given that a preliminary Town Plan review has been completed by County staff consistent with Policy 4.13-2, and in recognition of (a) the high priority granted visitor serving accommodations by the Coastal Act; (b) the existing demand for visitor serving units within the Coastal Zone, especially in the vicinity of the Town of Mendocino; (c) the inn property's potential to accommodate additional parking; (d) the inn's centralized location allowing inn guests to walk to town; (e) additional units are proposed to be located within existing buildings; (f) preliminary indications that adequate infrastructure (sewer and water capacity) exists to accommodate the proposed units; (g) the proposal would not convert land currently designated Multiple Family Residential to Commercial; (h) the proposal would not convert land currently designated Multiple Family Residential to Commercial; and (i) that there has been a sufficient change in development trends / circumstances within the Town Plan area, particularly the increase of 7 residential parcels, to justify this proposal as it relates to the 'balance' issue discussed in Town Plan Policy 4.13-1, the Board finds the project consistent with the goals and policies of the Mendocino Town Plan.
3. The Board further requires that water saving fixtures be mandated.

BOARD OF SUPERVISORS  
ACTION AGENDA SUMMARY - PLANNING MATTERS

TO: BOARD OF SUPERVISORS

DATE SUBMITTED: 2/19/99

FROM: PLANNING &amp; BUILDING SERVICES

REPLY NECESSARY: YES ☒ NO ☐INFORMATION ONLY: YES ☐ NO ☒

AGENDA DATE: MARCH 8, 1999

AGENDA #: \_\_\_\_\_

AGENDA TITLE: MENDOCINO TOWN PLAN REVIEW

**BRIEF SUMMARY:** The Mendocino Town Plan, which was certified by the Coastal Commission in 1985 and amended in 1992, includes a policy which states: "This amended plan shall be reviewed three years after certification of this plan amendment date to determine the effect of development on town character. The plan shall be revised, if necessary, to preserve town character consistent with Policy 4.13-1." (Mendocino Town Plan, Policy 4.13-2)

In response to Policy 4.13-2, the draft Mendocino Town Plan Review documents development which has occurred in the Town of Mendocino since certification of the plan amendment in June 1992 and provides a summary of policies pertaining to town character and development. To date, two public hearings have been held in Mendocino to obtain public comment on the draft Mendocino Town Plan Review: one in conjunction with the December 7, 1998 meeting of the Mendocino Historical Review Board and another on January 21, 1999 before the Mendocino County Planning Commission. The Planning Division requested comments on the following issues:

- (1) Is the "raw data" about development that has occurred since June 1992 accurate?
- (2) What effect has development had on town character?
- (3) Is there a need for revisions to the Mendocino Town Plan and, if so, what should the revisions attempt to accomplish?

In the course of the public review, several minor corrections to the data were noted, with broader concerns expressed about the accuracy of data relating to visitor serving facilities. Several people alleged that there are unauthorized inn units and vacation home rentals operating in Mendocino in violation of Town Plan policies. Many people expressed concerns about perceived changes to "town character" that have occurred since the Town Plan was amended in 1992, but no one asserted that these changes were due to development which had occurred since 1992. The nearly unanimous sentiment of public commentators was that a Citizen's Advisory Committee (CAC) should be appointed to develop recommended changes to the Town Plan which address concerns about town character. The Planning Commission recommended that a CAC be established to provide policy recommendations addressing phasing out or reducing the number of vacation home rentals (VHRs) and single unit rentals (SURs), parking, affordable housing, cottage industry regulations, and other issues.

A great deal of public comment focused on the effects of VHRs/SURs on the residential character of the town. Planning Commissioners supported the concept of reducing or phasing out VHRs/SURs in the town, but felt that applicants who have been on the "Chronological Waiting List for VHRs/SURs" which is maintained by the Planning Division should be permitted to proceed in accordance with established policies.

Options available for Board action on the Mendocino Town Plan Review include the following:

- X →
- (1) Determine that there have been no significant changes in the "balance" between residential and non-residential uses and changes to community character. Direct staff to make corrections to data in the Mendocino Town Plan Review report, process minor "clean up" amendments, close the review process and refer the conclusions to the California Coastal Commission.
  - (2) Determine that there has been enough change to community character to require revisions to the Mendocino Town Plan. Either appoint a CAC or direct staff to draft amendments for the Mendocino Town Plan which address specific issues, as identified by the Board. In this case, the Board should provide direction to staff regarding the present applicants on the "Chronological waiting list for VHRs/SURs" and whether or not to continue processing applications for coastal permits and general plan amendments for visitor-serving facilities during the CAC review process.

**PREVIOUS ACTION:** On December 7, 1998, a hearing was held in conjunction with the regular monthly meeting of the Mendocino Historical Review Board to obtain public comment on the draft Mendocino Town Plan Review. The comments received at the hearing are summarized in a memorandum to the Planning Commission dated December 16, 1998, which is included in the Board packets.

On January 21, 1999, the Planning Commission held a public hearing in Mendocino on the draft Mendocino Town Plan Review. Minutes of that meeting are included in the Board packets. The Planning Commission adopted a motion (5-0, Berry, Piper absent) making findings and a recommendation to the Board of Supervisors, as follows:

Based on information presented in the draft Mendocino Town Plan Review and public testimony, the Planning Commission finds that:

- (a) There has been no significant documented change in the "balance" between residential and non-residential uses in the Town of Mendocino since the plan amendment was adopted in 1992; and
- (b) While not necessarily related to new development, there has been a change in town character since 1992.

The Planning Commission recommends to the Board of Supervisors that:

- (1) The Mendocino Town Plan should be revised to incorporate new and updated information presented in the Mendocino Town Plan Review.
- (2) A Citizen's Advisory Committee (CAC) should be appointed to provide specific policy recommendations about the following issues:
  - Phasing out and/or reducing the number of vacation home rentals and single unit rentals;
  - Incentives for residential development including second residential units and other alternatives for increasing affordable housing stock;
  - Revisions to cottage industry and home occupation regulations proposed by staff;
  - Parking and circulation;
  - Formation of a Municipal Advisory Council.

The CAC should be comprised predominantly of residents, but should include business owners, property owners and employees, and should be formed for a limited term.

Relative to the "Chronological waiting list for Vacation Home Rentals/Single Unit Rentals" the Planning Commission adopted the following motion (5-0, Berry, Piper absent):

BOS-3

The Commission recognizes that information regarding development may not be complete but that the 18 persons on the Vacation Home Rental/Single Unit Rental waiting list (Table 7) shall be notified that they have the right to file the necessary permit applications to potentially establish a Vacation Home Rental or Single Unit Rental. *the 18 recognized*

Further, the Planning Commission recommends to the Board of Supervisors that no use permits for Vacation Home Rentals or Single Unit Rentals, except those 18 identified on Table 7, shall be processed until such time as the Citizen's Advisory Committee has completed their Mendocino Town Plan review.

**AFF RECOMMENDATION:** The draft Mendocino Town Plan Review identifies the net amount of new development which has occurred in Mendocino since June 1992. As Table 8 on page 16 of the Mendocino Town Plan Review indicates, development activity has been minimal. Policy 4.13-2 reads:

This amended plan shall be reviewed three years after certification of this plan amendment date *to determine the effect of development on town character*. The Plan shall be revised, if necessary, to preserve town character consistent with Policy 4.13-1. *(emphasis added)*

Staff believes that development, per se, has had little effect on town character and that the "balance" between residential, visitor-serving and commercial uses has not changed substantially since 1992. The Planning Commission concurred with this position with finding (a), cited above, but concluded (b) that "While not necessarily related to new development, there has been a change in town character since 1992."

Staff does not refute the cited changes in town character, but notes that many factors contributing to the changes are not related to planning policies and land use regulations. For instance, increased tourism and visitor use of Mendocino is not due to new development, but rather to changes in visitor use patterns with increasing numbers of visitors coming during off-season and mid-week periods. Changes in commercial tenancy and the loss of local shopkeepers and artisans is due in large part to escalating land values. Staff concurs that a CAC's review of the specific issues identified by the Planning Commission could help to address some of the town character concerns raised at the hearings. But, from an administrative standpoint, we note that providing staff support to a CAC and shepherding an amendment through the public review, adoption and certification process will require a significant allocation of staff resources. Attending to a Mendocino planning effort will divert our resources from other departmental activities, including the mandated review of the Local Coastal Program, possible assistance to the Caspar community planning effort, permit processing, and on-going work on "clean up" amendments and permit-streamlining activities in the coastal zone.

Because of these competing objectives, and premised on the assumption that amendments are not mandated since changes in town character are not due specifically to development which has occurred since 1992, staff recommends that the Board authorize preparation of a minor "clean up" amendment to incorporate changes in the visitor-serving facility tables, and that further review of the Mendocino Town Plan be postponed.

Staff notes that implicit in this recommendation is the assumption that the applicants on the "Chronological waiting list for VHRs/SURs" will be given the opportunity to apply for the necessary permits, and that further applications will be processed in accordance with the established policies of the Mendocino Town Plan.

**RECOMMENDED MOTION:** The Board of Supervisors accepts the draft Mendocino Town Plan Review and directs staff to prepare a final report which incorporates corrections to the data. Staff is further directed to initiate a "clean up" amendment for the Mendocino Town Plan and Zoning Code which includes corrections to the visitor-serving facility tables and an update to Policy 4.13-2.

**ALTERNATIVE MOTION:** The Board of Supervisors concurs with the recommendation of the Planning Commission and shall appoint a Citizen's Advisory Committee (CAC) comprised predominantly of Mendocino residents, but also including business owners, property owners and employees, for a limited term, to provide specific policy recommendations about the following issues:

- Phasing out and/or reducing the number of vacation home rentals and single unit rentals;
- Incentives for residential development including second residential units and other alternatives for increasing affordable housing stock;
- Revisions to cottage industry and home occupation regulations proposed by staff;
- Parking and circulation;
- Formation of a Municipal Advisory Council.

The Board directs staff to revise the draft Mendocino Town Plan Review to incorporate corrections to the data. Applicants on the "Chronological waiting list for VHRs/SURs," as shown on Table 7 of the draft Mendocino Town Plan Review, shall be given the opportunity to apply for the required permits, and no further coastal development permits or general plan amendments for visitor-serving facilities shall be processed until the Citizen's Advisory Committee has completed its review process.

RESOURCE PERSON: Ruffing ☒ TO BE PRESENT ☐ ON CALL PHONE EXT: 4281

BOARD ACTION

DATE OF ACTION

- 1) ☐ Approved ☐ Approved as Revised
- 2) ☐ Denied
- 3) ☐ Referred to \_\_\_\_\_ Committee; Calendared for Board Agenda \_\_\_\_\_
- 4) ☐ Referred to Dept. for additional info. CAO to clarify by memo \_\_\_\_\_
- 5) ☐ Other \_\_\_\_\_

BOARD OF SUPERVISORS PLANNING MATTERS - March 8, 1999

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4. DRAFT "MENDOCINO TOWN PLAN REVIEW"

The draft report presents information about development which has occurred in the Town of Mendocino since June of 1992. Review and comment to address three issues: (1) Is the "raw data" about development that has occurred since June 1992 accurate? (2) What effect has development had on town character? (3) Is there a need for revisions to the Mendocino Town Plan and, if so, what should the revisions attempt to accomplish?

Linda Ruffing, Supervising Planner at the coast office summarized the Staff report, reported the Planning Commissions recommendations, answered the Board's questions, and presented Staff's recommendation.

1-3817

RECESS 10:38 - 10:50 a.m.

2-1

THE PUBLIC HEARING WAS OPENED. The following members of the public spoke to the issues: Paul Clark, Joan Curry, Margaret Calby, Bill Crecilius, Ruth Schnell, and Lynn Johnson. PUBLIC HEARING CLOSED.

2-1445

Discussion ensued regarding the Town Plan update, the permitting process for vacation home and single unit rentals, and the establishment of a citizens advisory committee with its possible ramifications relative to staff time, Brown Act requirements and conflict of interest issues.

Upon motion by Supervisor Lucier, seconded by Supervisor Delbar, and \*carried, (4-1) Supervisor Shoemaker dissenting, IT IS ORDERED that the Board of Supervisors accepts the draft Mendocino Town Plan Review and directs staff to prepare a final report which incorporates corrections to the data. Staff is further directed to initiate a "clean up" amendment for the Mendocino Town Plan and Zoning Code which includes corrections to the visitor-serving facility tables and an update to Policy 4.13-2; Furthermore, the Board recognizes that information regarding development may not be complete but directs that the 19 persons on the Vacation Home Rental/Single Unit Rental waiting list shall be notified that they have the right to file the necessary permit applications to potentially establish a Vacation Home Rental or Single Unit Rental.

DISCUSSION ON MOTION.

Supervisor Colfax indicated he would support this motion but would like to make another motion to establish a citizens advisory council.

LUNCH: 12:05 - 1:30 p.m.

The Clerk restated the motion.

*See next page*

BOARD OF SUPERVISORS PLANNING MATTERS - March 8, 1999

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\*MOTION CARRIED, 4-1, with Supervisor Shoemaker dissenting.

Supervisor Campbell reiterated the concerns voiced by both her and Chairman Shoemaker pertaining to people who are able to obtain a slot out of the 53 Vacation Home Rental/Single Unit Rentals that are permitted, and then do not rent. This would impede someone else who's on the waiting list from being able to get their permits to rent out their property. She indicated there should be a time-frame determined so that if a person chooses not to rent, they will be bumped out of the process.

Supervisor Colfax offered a motion to appoint a citizens advisory committee to provide specific policy recommendations on a couple of issues regarding vacation home rentals and incentives for residential development. No action taken.

THERE BEING NOTHING FURTHER TO COME BEFORE THE BOARD, THE MEETING  
ADJOURNED AT 1:35 p.m.  
2-2940

RICHARD SHOEMAKER, CHAIR

ATTEST: JOYCE A. BEARD  
Clerk of the Board

\_\_\_\_\_  
By: Norma I. Leon  
Assistant Clerk of the Board

BOARD OF SUPERVISORS MINUTES - April 13, 1999

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information technology delivery model and that staff is directed to develop a Transition Plan.

**5. CONSENT CALENDAR (Continued)****Warrant Registers**

Upon motion by Supervisor Delbar, seconded by Supervisor Campbell, and carried unanimously, IT IS ORDERED that the Warrant Registers are approved and the Chairman is authorized to sign same.

**13. APPOINTMENTS TO BOARDS AND COMMISSIONS****13s. Gualala Community Services District**

Supervisor Colfax pointed out that this Board no longer has a quorum so the Board of Supervisors has appointing authority to bring them to a quorum status.

Upon motion by Supervisor Colfax, seconded by Supervisor Campbell, and carried unanimously, IT IS ORDERED that Naomi Schwartz is appointed to the Gualala Community Services District Board to fill the unexpired term of Robert Juengling.

1-2688

**10a. BOS 99-066 AGREEMENT WITH ECLIPSE SOLUTIONS, INC. FOR THE PROVISION OF AUTOMATED CHILD SUPPORT SERVICE SUPPORT - DISTRICT ATTORNEY / FAMILY SUPPORT**

James Griffiths, Director of Family Support reviewed the background of this item and the proposed transition to a new program KIDZ Automated Child Support System by the end of April.

A question and answer period followed.

Upon motion by Supervisor Campbell, seconded by Supervisor Colfax, and carried unanimously, IT IS ORDERED that the agreement is approved and the Chairman is authorized to sign same.

2-334

**8b. DISCUSSION / DIRECTION RE ESTABLISHMENT OF CITIZENS ADVISORY COMMITTEE FOR THE TOWN OF MENDOCINO RELATIVE TO REVISION OF THE MENDOCINO TOWN PLAN**

Supervisor Lucier stated that it was his understanding that establishment of a CAC was brought up in public meetings in review of the Town Plan, but since then the Board reviewed the Plan, accepted it, directed continued implementation; therefore, questioned the purpose of a CAC. Planning and Building Services Director Hall distributed a memorandum and reviewed the background.

**RECESS 3:21 - 3:40 P.M.**

Supervisor Lucier restated his concern that part of the past action was to not have a CAC. Discussion ensued relative the charge of the CAC.

BOARD OF SUPERVISORS MINUTES - April 13, 1999

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Lee Edmundson, Margaret Kelby, Jim Moorehead, Gail Dailey, Miriam Block, Joan Curry, Grail Dawson, spoke in support of establishing a CAC; Al Beltrami, representing Mendocino County Employer's Council urged the Board to review written material submitted, and requested that future notices also be posted at the post office.

BY ORDER OF THE CHAIR in anticipation of Board action to establish a CAC, Supervisors Campbell and Colfax are appointed as an ad hoc committee with Planning Director Hall or his designee as staff; the ad hoc committee will determine the number of members, tasks, and time line and return with a recommendation in 30-days.

Supervisor Lucier suggested that if a CAC is formed, it look at formation of a Municipal Advisory Council vs incorporation.

Upon motion by Supervisor Colfax, seconded by Supervisor Campbell, and carried unanimously IT IS ORDERED that a CAC be established to provide specific policy recommendations about the following issues: (1) the number of vacation home rentals and single unit rentals; (2) incentives for residential development including second residential units and other alternatives for increasing affordable housing stock; (3) revisions to cottage industry and home occupation regulations proposed by staff; (4) parking and circulation; and (5) formation of a Municipal Advisory Council; the CAC would be comprised predominantly of residents, and will include business owners, property owners and employees and formed for a limited term.

Supervisor Delbar questioned the time line of other projects and the impact of this action. Board members confirmed that support of this motion, does not hold up the previous Board action.

2-2488

11. DEPARTMENT OF TRANSPORTATION  
Consent Calendar

Upon motion by Supervisor Delbar, seconded by Supervisor Campbell, and carried unanimously, IT IS ORDERED that Department of Transportation Consent Calendar items (11a-11b) are approved as follows:

- (11a) Authorization to Advertise for Bids, DOT Contract No. 980055, Replacement of Bridge and Approaches over Mill Creek on Reeves Canyon Road, CR 219, at M.P. 4.29, DOT Project No. B-9401(2) and Construction of Bridge and Approaches over Howard Creek on Deerwood Drive Extension, CR 215BX, at M.P. 1.80, DOT Project No. D-9802(3), Ukiah Area -

Limited  
Review



# MENDOCINO COUNTY BOARD OF SUPERVISORS

## AGENDA SUMMARY – PLANNING MATTERS

BOARD AGENDA # \_\_\_\_\_

Agenda Summaries must be submitted no later than noon Wednesday, 13 days prior to the meeting date

TO: Board of Supervisors DATE: April 12, 2000

FROM: Planning and Building Services AGENDA DATE: April 18, 2000

DEPARTMENT RESOURCE: Falleri/Pedroni PHONE: 463-4281 PRESENT: ☒ ON CALL: ☐

Consent ☐ Regular Agenda ☒ Est. Time for Item: 45 minutes Urgent ☐ Routine ☒

■ AGENDA TITLE: Direction regarding Resubmittal and Waiver of Fees associated with #General Plan Amendment/Ordinance Amendment; #GP 9-97/OA 3-97 for Reed

■ SUMMARY: The applicant has resubmitted an application which proposes to amend the Mendocino Town Plan to add four visitor serving units to an existing five unit bed and breakfast inn located within the Town of Mendocino. The proposed units would be developed through the conversion of existing structures on site. Both the Mendocino Town Plan and the Zoning Code currently limit the number of inn units allowed on this parcel at five. As the Coastal Commission has rescinded their certification of this case based upon a court ruling, County staff is seeking direction from the Board regarding Reed's reapplication and fee waiver request.

■ PREVIOUS ACTION: Consistent with County Planning staff's recommendation, the Planning Commission, on October 16, 1997, by a 4-2 vote, found the proposal inconsistent with the Mendocino Town Plan and recommended project denial. The Board of Supervisors, on December 8, 1997, approved the request for inclusion in the 1997 North of Navarro Group of Amendments to be submitted to the Coastal Commission with findings as detailed in the attached minutes. On September 9, 1998, the Coastal Commission certified the Reed proposal. This action was subsequently challenged in a lawsuit. Based upon the court ruling, the Coastal Commission rescinded their prior certification and denied this project.

■ STAFF RECOMMENDATION: (1) Staff recommends that any fees associated with the reprocessing of the request to amend the Mendocino Town Plan to allow 4 additional visitor serving units be waived. (2) The Board of Supervisors has several options regarding this proposed amendment to the Mendocino Town Plan. These options include A) The Board of Supervisors directs staff to schedule this case, with proper notice, for a future Board hearing for a decision regarding project approval or denial; B) direct that the application be heard by the Planning Commission prior to returning to the Board of Supervisors; and C) expand the role of the Mendocino Town CAC as suggested by the Coastal Commission staff prior to proceeding with further processing of this application. Staff would recommend that the Board direct staff to notice the project so that the Board of Supervisors can pursue Option A.

■ RECOMMENDED ACTION/MOTION: The Board of Supervisors directs staff to schedule this case, with proper notice, for a future Board hearing for a decision regarding project approval or denial.

■ ALTERNATIVE ACTION/MOTION: Several alternatives are discussed under "Staff Recommendation".

### ATTACHMENTS:

- Exhibit 1 - BOS Minutes December 8, 1997
- Exhibit 2 - Supporting Information (April, 2000; PBS Staff)
- Exhibit 3 - Coastal Commission Staff Letter (March 22, 2000)
- Exhibit 4 - Reed Reapplication Letter (March 16, 2000)

### BOARD ACTION

Date of Action \_\_\_\_\_

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Approved _____    | 3) <input type="checkbox"/> Denied _____ |
| 2) <input type="checkbox"/> Referred to _____ | 4) <input type="checkbox"/> Other _____  |

|   |
|---|
| EXHIBIT NO. 11  |
| APPLICATION NO.<br>MENDOCINO COUNTY LCP<br>AMEND. 1-00 (Reed) |
| RESOLUTIONS<br>(4 pages)                                      |

RESOLUTION NO. 98-013

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY  
OF MENDOCINO TO AMEND THE LOCAL  
COASTAL PROGRAM FOR MENDOCINO COUNTY  
(#GP 9-97 - Reed)**

WHEREAS, the County of Mendocino has adopted a Local Coastal Program, and

WHEREAS, the Local Coastal Program has been certified by the California Coastal Commission, and

WHEREAS, an application has been submitted to the County requesting amendment of the County's Local Coastal Program, and

WHEREAS, the County Planning Commission has held a public hearing on the requested amendment and submitted its recommendation to the Board of Supervisors, and

WHEREAS, the Board of Supervisors has held a public hearing on the requested amendment and has determined that the Local Coastal Program should be amended,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Mendocino adopts #GP 9-97 amending the Local Coastal Program, Mendocino Town Plan Table 4.13-1 as shown on attached Exhibit A by increasing the allowable units for the Reed Manor, Assessor's Parcel Number 119-140-32, from 5 to 9.

BE IT FURTHER RESOLVED, that Planning and Building Services staff is directed to include the amendment proposed herein in the next submittal to be made to the California Coastal Commission for certification, and

BE IT FURTHER RESOLVED, that the amendment shall not become effective until after the California Coastal Commission approves the amendment without suggested modification. In the event that the California Coastal Commission suggests modifications, the amendment shall not become effective until after the Board of Supervisors of the County of Mendocino accepts any modification suggested by the California Coastal Commission and formally adopts the proposed amendment.

BE IT FURTHER RESOLVED, that the Local Coastal Program, as is proposed to be amended, is intended to be carried out in a manner fully in conformity with the California Coastal Act of 1976.


BE IT FURTHER RESOLVED, that in the event that the California Coastal Commission denies certification of the amendment proposed to be adopted in this resolution, this resolution shall become inoperative and will be immediately repealed without further action by the Board of Supervisors insofar as this resolution pertains to such amendment for which certification is denied. This resolution shall

remain operative and binding for those amendments proposed herein that are certified by the California Coastal Commission.

The foregoing Resolution was introduced by Supervisor Delbar, seconded by Supervisor Campbell and carried this 26th day of January, 1998 by the following roll call vote:

AYES: Supervisors Delbar, Shoemaker, Campbell, Peterson, Pinches  
NOES: None  
ABSENT: None

Whereupon the Chairman declared said Resolution passed and adopted and SO ORDERED

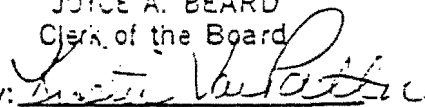
  
\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST: JOYCE A. BEARD  
Clerk of the Board

By:   
DEPUTY

#GP 9-97 - Reed

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

JOYCE A. BEARD  
Clerk of the Board  
By:   
DEPUTY

BOARD OF SUPERVISORS MINUTES  
APRIL 18, 2000

10D. PLANNING MATTERS:

1) Discussion and Possible Direction Regarding the Resubmittal and Waiver of Fees Associated with #GP 9-97/OA 3-97 – Barbara and Monte Reed Coastal Commission Application

Mr. Alan Falleri, Chief Planner, and Mr. Gary Pedroni, Planner II, provided a brief summary and background relating to the item noting that the applicant has resubmitted an application which proposes to amend the Mendocino Town Plan by adding four visitor serving units to an existing five unit bed and breakfast inn. Mr. Falleri noted that both the Mendocino Town Plan and the Zoning Code limit the number of inn units on this parcel at five and that the Coastal Commission rescinded their certification of this case based upon a court ruling.

Mr. Falleri suggested the following options for Board consideration:

- 1) Any fees be waived which are associated with the reprocessing of the request to amend the Mendocino Town Plan to allow four additional visitor serving units;
- 2) Mendocino Town Plan Amendment Alternatives:
  - a. Direct staff to schedule a public hearing regarding project approval or denial;
  - b. Direct that the application be heard by the Planning Commission prior to returning to the Board;
  - c. Expand the role of the Town of Mendocino Citizens' Advisory Council as suggested by the Coastal Commission prior to proceeding with further processing.

Planning staff is recommending a waiver of additional fees and that the Board schedule and publicly notice the project for a public hearing.

Discussion ensued relative to the timelines and reasoning for providing direction to staff, timelines relative to the Mendocino Town Plan review, and the processing of the application submitted by the Reeds.

Counsel Klein provided input relative to previous Board action and the options available to the Board relative to future action on this item.

2-1

Discussion ensued relative to the minimal impacts this request will have on the community; the previous approval of the Town Plan Review by the Board, which included the Reed application; communications received by the Coastal Commission relative to the Town Plan Review; and the process to address the application with the Coastal Commission.

CHANGE IN CLERK: HEIKE ARNOLD

Ms. Barbara Reed, representing Reed Manor, briefly spoke to the issue.

Upon motion by Supervisor Campbell, seconded by Supervisor Lucier, and carried (4, with Supervisor Colfax dissenting); IT IS ORDERED that the Board of Supervisors directs Planning and Building Services staff to prepare and compile a package containing all relevant information, including the status of the Reed's approved application and the Board's approval of the Town Plan Review, and resubmit the package to the Coastal Commission. Further, all fees associated with the reprocessing of the application are to be waived.

|                      |    |
|----------------------|----|
| EXHIBIT NO.          | 12 |
| APPLICATION NO.      |    |
| MENDOCINO COUNTY LCE |    |
| AMEND. 1-00 (Reed)   |    |
| ORDINANCE (2 pages)  |    |

ORDINANCE NO. 3996

AN ORDINANCE AMENDING SECTION 20.684.025  
OF DIVISION III OF TITLE 20 OF THE MENDOCINO COUNTY CODE  
MAXIMUM DENSITY FOR VISITOR ACCOMMODATIONS

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 20.684.025 of the Mendocino County Code is amended to read as follows:

Sec. 20.684.025 Maximum Density for \* Districts

Maximum dwelling units as specified in the base zone. The maximum visitor accommodations per site are as follows:


| VISITOR SERVING<br>FACILITIES                                       | ASSESSOR'S PARCEL<br>NUMBER | TOTAL VISITOR<br>ACCOMMODATION<br>UNITS |
|---|-----------------------------|---|
| INNS, HOTELS, MOTELS (5<br>rooms or more)                           | 119-080-14,15               | 44                                      |
|   | 119-140-04,05,29            |   |
|   | 119-140-32                  | 9                                       |
|   | 119-140-13                  | 10                                      |
|   | 119-235-09                  | 8                                       |
|   | 119-236-01                  | 25                                      |
|   | 119-236-10                  | 21                                      |
|   | 119-238-04,05               | 26                                      |
|   | 119-250-04                  | 9                                       |
|   | 119-250-06                  | 6                                       |
|   | 119-250-09                  | 5                                       |
|   | 119-250-15                  | 8                                       |
|   | 119-250-31                  | 5                                       |
|   | 119-250-37                  | 13                                      |
| STUDENT/INSTRUCTOR<br>TEMPORARY<br>INTERMITTENT HOUSING<br>FACILITY | 119-160-32                  | 19                                      |

This ordinance shall not become effective or operative until the California Coastal Commission approves said ordinance without suggested modification.

Passed and adopted by the Board of Supervisors of the County of Mendocino, State of California, on this 26<sup>th</sup> day of January, 1998, by the following vote:

AYES Supervisors Delbar, Shoemaker, Campbell, Peterson, Pinches  
NOES: None  
ABSENT: None

WHEREUPON, the Chairman declared said Ordinance passed and adopted and SO ORDERED.


  
\_\_\_\_\_  
Chairman of said Board of Supervisors

ATTEST: JOYCE BEARD  
Clerk of said Board


By   
\_\_\_\_\_  
DEPUTY

APPROVED AS TO FORM:

H. PETER KLEIN  
COUNTY COUNSEL

By   
\_\_\_\_\_

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

JOYCE A. BEARD  
Clerk of the Board  
By:   
\_\_\_\_\_  
DEPUTY