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 Staff: Jim Baskin
 Staff Report: March 22, 2002
 Hearing Date: April 11, 2002
 Commission Action:

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE

APPEAL NO.: **A-1-MEN-02-013**

APPLICANTS: **William and Sandra MacIver**

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

PROJECT LOCATION: 45350 Chapman Road, Mendocino, Mendocino County, APN 119-330-23.

PROJECT DESCRIPTION: 1) Remove approximately 95 cubic yards of soil materials and place approximately 37 cubic yards of fill materials; 2) construct approximately 725 lineal feet of rammed earth retaining walls, varying in height from 1 to 6.5 feet; 3) install two artificial turf putting greens totaling 5,400-sq.ft.; 4) install Natafim™ underground irrigation systems in all planting beds; and 5) restore all previously disturbed areas outside of the parcel's approved building envelope.

APPELLANT: **Joan Curry**

SUBSTANTIVE FILE: 1) Mendocino County CDP No. 109-00; and
DOCUMENTS 2) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that NO substantial issue exists with respect to the grounds on which the appeal has been filed. These grounds include alleged project inconsistencies with Mendocino County's certified Local Coastal Program (LCP) policies pertaining to visual resources. Staff believes that the appellant has not raised any substantial issue with the local government's action and its consistency with the certified LCP.

The project as approved by the County of Mendocino consists of the development of several landscaping-related improvements to a developed single-family residential lot ("Parcel 1" of the Chapman Point Subdivision) located on the west side of Highway One, approximately 1½ mile south of the town of Mendocino. The site development would result in the construction of approximately 725 lineal feet of terraced, rammed-earth retaining walls of one to 6½ feet in height, forming a series of planting beds and patio areas within the backyard area of the existing 4,691-square-foot, one-story residence. Natafim™ underground irrigation systems would be installed in front of and behind each planting bed retaining wall. The project would also include development of approximately 5,400 square feet of artificial turf putting greens. Areas previously disturbed by the construction of putting greens outside of the authorized building envelope would be restored to their original condition. Altogether, the project would entail removal of approximately 95 cubic yards of soils materials and import of approximately 37 cubic yards of fill materials.

The project was approved under Coastal Development Permit No. 109-00 (CDP #109-00) issued by the County's Coastal Permit Administrator on January 24, 2002. The permit included conditions requiring that the lot's approved building envelope be staked prior to the start of construction, restricting new development to areas within the approved building envelope, limitations on the use of mechanized equipment in areas outside of the authorized building envelope, stipulating that restoration of previously disturbed areas be completed within 180 days, requiring a revised landscaping plan for screening, setting limits on the appearance of exterior building materials and finishes, and requiring that mitigation measures within the approved archaeological report be implemented.

The appellant contends that the approved project raises a substantial issue of conformance with the portions of the Coastal Act and the Mendocino County Coastal Land Use Plan and Zoning Code pertaining to visual resource protection. The appellant indicates that the proposed planter bed retaining walls, berms, and putting greens would adversely affect the designated highly scenic area in which they would be constructed and would likely be visible from the Mendocino Headlands State Park, a public parkland. Thus, the appellant alleges that the County's action is inconsistent with the County's LCP policies and standards which require that new development in highly scenic areas: (1) be subordinate to the natural setting; (2) be sited and designed to protect views to and along the ocean and scenic coastal areas; (3) minimize alteration of natural land forms; (4) be

visually compatible with the character of surrounding areas; (5) restore and enhance visual quality in visually degraded areas, where feasible; and (6) have building materials that blend in hue and brightness with their surroundings.

The appellant has also included the assertion that the applicants provided misleading information in a letter to County officials in 1996 downplaying the visibility of the previously approved single-family residence from the Mendocino Headlands State Park.

Although the approved site improvements would arguably be visible from public vantage points within parklands and from special community areas, the degree to which coastal visual resources would be affected is not substantial. The "naked-eye view" of the portions of the project improvements visible from the Mendocino Headlands State Park and southwesterly portions of the Town of Mendocino represents a relatively small segment of the southerly panoramic vistas afforded from these locations. Depending upon the viewer's location along the southern flanks of the Mendocino headlands, portions of the proposed site improvements would be visible within an approximate one to two degree arc of 1 mile-distant horizon views of the Chapman Point terrace.

Additionally, given the presence of other more prominent intervening permitted residential developments on Chapman Point (i.e., the 3,700-sq.ft. "Lambie house" on neighboring Parcel 3 and the MacIver house itself, approved by the County in 1996), staff does not agree with the allegation that the project would be incompatible with the surrounding character. Further, with respect to the LCP requirements that new development in highly scenic areas be subordinate to the character of its setting, only a small portion of the grounds improvements would be visible from the Mendocino headlands through breaks in the existing bluff top vegetation. Finally, as regards the LCP requirements that building materials blend in hue and brightness with their surroundings, considering the proposed use of earthen retaining wall materials and landscape plantings they will contain, the project improvements would effectively mimic the landforms and vegetation on the Chapman Point headlands. Therefore staff believes the contention does not raise a substantial issue of conformance of the project as approved with the visual resource policies and standards certified LCP.

Finally, with regard to the appellant's assertion that misleading information was previously provided to the County regarding the degree of visibility of the previously approved residence, the letter addresses a project that is not the subject of the appeal before the Commission. Therefore, staff believes this contention does not constitute valid grounds for appeal.

For all of the above reasons, staff recommends the Commission find that the appeal raises no substantial issue of consistency with the certified LCP. The Motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 6.

STAFF NOTES:

1. **Appeal Process.**

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

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

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

The subject development is appealable to the Commission pursuant to Coastal Act Section 30603(a), subsections (1) through (3) because the development is located: (a) between the sea and the first public road paralleling the sea; (b) within 300 feet of the top of the seaward face of a coastal bluff; and (c) in a sensitive coastal resource area, the highly scenic area designated in the certified LCP as comprising lands west of Highway One between the estuary of the Ten Mile River and the Navarro River.

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

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before

the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. **Filing of Appeal.**

The appellant filed an appeal (see Exhibit No. 7) to the Commission in a timely manner on February 22, 2002, within 10 working days of receipt by the Commission on February 7, 2002 of the County's Notice of Final Action.

3. **Relation of Project to Enforcement Actions.**

The subject coastal development permit application was submitted to the County of Mendocino in part to help resolve a violation of Coastal Development Permit No. 1-88-164 for the Chapman Point Subdivision. In 2001, several golfing putting greens and holes were installed on the lot without benefit of a coastal development permit and in violation of the conditions of the permit for the subdivision requiring that areas outside of a designated building envelope be left as open space. The applicants have decided to remove the greens and holes outside of the building envelope and retain those within the envelope. Thus, part of the development involves restoring the areas outside of the building envelope where holes were installed. Commission staff has determined that restoration of the open space area is consistent with the terms of the open space deed restriction and thus does not require an amendment to the Commission CDP for the subdivision. In addition, a separate condition of the original coastal development permit for the subdivision requiring the planting of a row of trees along the southern boundary of the building envelope was never satisfied. The applicants have indicated that they will submit a permit amendment application to substitute landscaping approved under the current project (located between the envelope and the southern property boundary). Thus, the Commission will consider as part of a separate permit amendment review in the future the adequacy of landscaping to screen from view development within the building envelope from Van Damme State Park.

I. **MOTION, STAFF RECOMMENDATION, AND RESOLUTION ON SUBSTANTIAL ISSUE:**

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-02-013 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-MEN-02-013 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the project approved by the local government with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. APPELLANT' CONTENTIONS

The Commission received an appeal of the County of Mendocino's decision to approve the development, located west of Highway One, about 1½ miles south of the town of Mendocino within the Chapman Point Subdivision. The project as approved by the County consists of:

- Removal of approximately 95 cubic yards of soil materials and placement of approximately 37 cubic yards of fill materials;
- Construction of approximately 725 lineal feet of terraced, rammed-earth retaining walls of one to 6½ feet in height, to form a series of planting beds and patio areas adjoining the backyard area of an existing 4,691-square-foot, one-story residence;
- Installation of Natafim™ underground irrigation systems in front of and behind each planting bed retaining wall;
- Development of approximately 5,400 square feet of artificial turf putting greens; and
- Restoration of areas previously disturbed by the construction of putting greens outside of the lot's authorized building envelope.

The appeal was received from Joan Curry. The appeal raises contentions involving inconsistency with the County's LCP policies regarding the protection of visual resources. The appellant also asserts that the applicant provided information within correspondence to County officials that misrepresents the visual intensity of the previously approved residential structures from the Mendocino headlands area. The appellant's contentions are summarized below and the full text of the appellant's contentions are included as Exhibit No. 7.

1. Visual Resources.

The appellant contends that the project as approved by the County will negatively impact the designated highly scenic area in which it is located. Portions of the authorized retaining walls and putting greens may be visible from the Mendocino Headlands and from the Town of Mendocino, a designated special community warranting heightened protection under the certified LCP. The appellant asserts that the project as approved with retaining walls having up to 6.5-foot heights and extensive terra-formed putting greens would be inconsistent with LCP policies and standards regarding visual resource protection as the development would: (a) adversely impact views to and along the coast and scenic areas; (b) not be in character with its surroundings; (c) not be subordinate to the natural setting; and (d) not have building materials that blend in hue and brightness with their surroundings. The appellant indicates the development as approved would be inconsistent with LUP Chapter 3.5, especially Policies 3.5-3 and 3.5-5, and Coastal Zoning Code Chapter 20.504, especially Sections 20.504.010 and 20.504.020. In addition, though not a standard for reviewing the appeal, the appellant cites Coastal Act Sections 30251 (protection of visual resources) and 30253(5) (protection of special communities).

2. Misrepresentation of Project.

The appellant further contends that the visual prominence of the previously approved residence on the project site was misrepresented to Mendocino County officials. The appellant states in her appeal cover letter that, "the basis [of the appeal is] views from the Mendocino Headlands State Park to the north ... [would be] greatly impacted by the previous project (house)..." The appellant provided a copy of a letter from applicant William MacIver to Supervisor Charles Peterson, dated August 26, 1996. The primary thrust of the letter, sent over three months after the County took action on the permit for the house on May 23, 1996, was to lodge a complaint regarding actions taken by County staff during the processing of the coastal development permit application for the residence. The appellant has highlighted several statements in the letter, most notably Mr. MacIver's observations regarding information provided as part of the application had shown that, "...no visual impacts problems existed from the State Park nor the Headlands..." and "natural screening and siting leaves only 250 square feet of our 5,438 square foot structure visible from the beach on the Headlands at the end of Heeser Street." The appellant also includes a photograph taken from an undisclosed location on

the Mendocino Headlands showing portions of the constructed house as visible to substantiate her claim that Mr. MacIver's statements had been inaccurate. The appellant's cover letter states, "In order to prevent further visual contamination I request the north side of the current house and all future development on that side be screened from view from the Mendocino Headlands State Park. This will correct the misinformation given by Mr. MacIver in 1996 and will prevent any future attempts to construct projects visible from the Headlands."

B. LOCAL GOVERNMENT ACTION

On December 28, 2000, Tad Sanders, agent-of-record for William and Sandra MacIver submitted Coastal Development Permit Application No. 109-00 (CDP #109-00) to the Mendocino County Planning and Building Services Department for a coastal development permit seeking authorization to construct various landscaping and grounds improvements adjacent to their existing single-family residence on a parcel of land south of the unincorporated town of Mendocino in central coastal Mendocino County (see Section II.C.2, below, for a more detailed project description). The application was accepted and on January 31, 2001 copies of the application materials were referred to various review agencies requesting comments on the project.

On January 24, 2002, the Coastal Permit Administrator for the County of Mendocino approved Coastal Development Permit No. #109-00 (CDP #109-00) for the subject development. The Coastal Permit Administrator attached a number of special conditions, including requirements that: (1) the lot's approved building envelope be staked; (2) new development be restricted to areas within the lot's approved building envelope be limited; (3) use of mechanized equipment in areas outside of the authorized building envelope; (4) restoration of previously disturbed areas be completed within 180 days; (5) a revised landscaping plan for screening be prepared and submitted for approval by the County; (6) exterior building materials and finishes be limited to certain kinds and colors; and (7) mitigation measures recommended by the approved archaeological report be implemented.

The decision of the Coastal Permit Administrator was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action on February 4, 2000, which was received by Commission staff on February 7, 2002 (see Exhibit No. 6).

C. SITE AND PROJECT DESCRIPTION

The project site for the approved single-family residential development comprises the southernmost Parcel 1 of the Chapman Subdivision, created by parcel map in 1988 pursuant to Coastal Development Permit No. 1-88-164, approved by the Commission prior to certification of the Mendocino County LCP. The site is one of the series of lots located west of Highway One on the east and County Road No. 526 (former alignment of

Highway 1) on the west, approximately 1½ miles south of the unincorporated town of Mendocino (see Exhibit No. 2).

It should be noted that while the project site is in the general vicinity of the Town of Mendocino, the site does not lie within the bounds of the Mendocino Town Plan planning area. Accordingly, development at the MacIver parcel is not governed by the policies and standards contained in the Town Plan segment of the County's certified LCP.

The project site lies within the LCP's Russian Gulch to Van Damme State Park (aka: Big River) Planning Area. The parcel is currently designated in the Land Use Plan and on the Coastal Zoning Map as Rural Residential – 5-acre Minimum Lot Area, Planned Development (RR:L-5-PD). The subject property is within a highly scenic area as designated on the Land Use Map (see Exhibit No. 4). The bluff top parcel adjoins the northernmost extent of Van Damme State Park. This roughly rectangular property is approximately five acres in size and consists of a moderately sloped, grassy lot with scattered tree cover, primarily Bishop Pine (Pinus muricata) and Monterey Cypress (Cupressus macrocarpa). Lower stratum plant cover consists of a mixture of shrubs, forbs, and upland grasses, including bracken fern (Pteridium aquilinum), ice plant (Carpobrotus sp.), sheep sorrel (Rumex acetosella), lupine (Lupinus sp.), velvet grass (Holcus lanatus), spurge (Euphorbia peplus), and redtop (Agrostis stolonifera). The site does not contain any known environmentally sensitive habitat areas, however, patches of Mendocino Coast Indian paintbrush (Castilleja mendocinensis), have been found on the bluff face portions of several neighboring residential parcels to the north several hundred feet from the project site. An archaeological resource area is located on the site, consisting of a shell midden that spans from the property's southwest corner onto the adjacent state parks land. In addition, several rocky offshore areas lie adjacent to the property that are used by seals and sea lions as a haul-out area.

As a condition of the approved Coastal Development Permit No. 1-88-164 for the subdivision in which the subject parcel is located, construction of all structural improvements on these lots were limited to authorized building envelopes established for each lot. Areas outside of the building envelope were restricted to open space uses. For the MacIver parcel, the building envelope entailed an approximately 325-foot-deep by 215-foot-wide area situated on the most landward portions of the five-acre lot, lying a minimum of 200 feet inland from the top of the bluff face.

The site is currently developed with 4,692-square-foot, single-story residence with an attached 746-square-foot garage and two detached accessory buildings. Due to its distance from the highway and the presence of intervening vegetation, no views to and along the ocean from Highway One across the MacIver parcel exist. The westerly portions of the parcel and parts of the residence are visible from public roads and parklands within the Town of Mendocino and the Mendocino Headlands State Park, approximately one mile straight-line distance to the north of the project site across Mendocino Bay.

The house and site improvements were developed pursuant to County of Mendocino Coastal Development Permit No. 05-96 (CDP #05-96), approved in 1996. The County addressed the visual impacts of the development by including specific findings regarding the extent of the development's effects on visual resources and attaching special conditions to the permit to minimize the visual impacts of the project. The permit conditions included requirements that the applicants: (1) submit revised site plans demonstrating the residence was in character with the size of other surrounding development on Chapman Point; (2) limit exterior building materials to those with a natural-looking appearance, have earth-tone colors, and are non-reflective; (3) treat the proposed copper roof with a chemical patina to reduce its reflectivity and provide a subordinate appearance to that of the natural setting; (4) submit a lighting plan for review and approval of the Coastal Permit Administrator, demonstrating the use of fixtures that were fully shielded and had a downward directional cast; (5) submit a landscaping plan prepared in conjunction with the California Department of Parks and Recreation for review and approval of the Coastal Permit Administrator, for the planting of trees along the southern portion of the property to mitigate the visual impacts of the residence from state park property; and (6) limit tree removal to that within the building footprints and that all existing trees be retained and maintained to screen the development from public view. Landscaping installed to satisfy this requirement includes approximately six to eight conifers planted along the southern side of the residence.

The development approved under the current action by the County would result in the construction of approximately 725 lineal feet of rammed-earth retaining walls ranging in height from one to 6.5 feet above existing grade forming a series of planting beds and patio areas at the rear of the residence. Underground Natafim™ irrigations systems would be installed in front of and behind each planter. In addition, two artificial turf putting greens comprising a total of 5,400 square feet would be developed within the approved building envelope for the lot along the southwest and north sides of the residence. The County's permit conditions require that one of these golf greens that straddles the boundary of the building envelope be relocated or modified such that none of this private recreational facility would be sited outside of the building envelope. In addition, all areas outside of the lot's approved building envelope previously disturbed by development undertaken without securement of Commission and local agency permits would be restored. To accomplish all of the proposed work, the greens would be removed and approximately 95 cubic yards of soils materials would be exported from the parcel with approximately 37 cubic yards of fill materials being imported. Furthermore, to mitigate the portion of the archaeological site affected by development of one of the golf greens to be removed, the site would be treated with a covering of long-term erosion control fabric, installed under the supervision of an archaeologist. A row of shore pine (*Pinus contorta* ssp. *contorta*) intermixed with Pacific wax-myrtle (*Myrica californica*) would also be planted for screening in the area between the residence and the southern property boundary.

D. SUBSTANTIAL ISSUE ANALYSIS

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

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

1. Appellant's Contentions That Are Valid Grounds for Appeal.

One of the contentions raised in this appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. This contention alleges that the approval of the project by the County raises substantial issues related to LCP provisions regarding the protection of visual resources. The Commission finds that this contention does not raise a substantial issue, for the reasons discussed below.

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

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

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

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and

- Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County raises no substantial issue.

a. Visual Resources

The appellant contends that the approved project raises a substantial issue of conformance with Mendocino County LUP Chapter 3.5, especially LUP Policies 3.5-3 and 3.5-5 and Coastal Zoning Code (CZC) Chapter 20.504, including Sections 20.504.010 and 20.504.020 requiring that new development protect views to and along the ocean and scenic areas, be visually compatible with its surroundings, be subordinate to the character of its setting, and utilize building materials that blend in hue and brightness with their surroundings. Specifically, the appellant contends that the approved project would likely have great impacts on the public views from the Mendocino Headlands State Park. Furthermore, by reference to the Coastal Act policy requiring that new development protect the coastal resources of identified special communities, the appellant is apparently also asserting that the approved grounds improvements would impact the visual resources of the Town of Mendocino, a designated special community within the certified LCP.

Summary of LCP Provisions:

LUP Policy 3.5-1 states in applicable part:

...The scenic and visual qualities of Mendocino county coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

LUP Policy 3.5-2 states in applicable part:

The Town of Mendocino is designated as a "special community". Development in the Mendocino Town shall maintain and enhance community character, as defined in the Mendocino Town Plan...

LUP Policy 3.5-3 states, in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes...

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

Note: Coastal Zoning Ordinance 20.504.015(A)(2) reiterates this section of coastline as being a "highly scenic area."

LUP Policy 3.5-4 states in applicable part:

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists...

Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area.

LUP Policy 3.5-5 states, in applicable part:

Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged ...

Coastal Zoning Ordinance Section 20.504.010 states:

The purpose of this section is to insure that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

Coastal Zoning Ordinance Section 20.504.015(C) states, in applicable part:

- (1) *Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes...*
- (3) *New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials shall be selected to blend in hue and brightness with their surroundings...*
- (5) *Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area...*
- (7) *Minimize visual impacts of development on terraces by the following criteria:*
 - (a) *Avoiding development, other than farm buildings, in large open areas if alternative site exists;*
 - (b) *Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;*
 - (c) *Provide bluff setbacks for development adjacent to or near public areas along the shoreline;*
 - (d) *Design development to be in scale with rural character of the area...*
- (9) *Tree planting to screen buildings shall be encouraged, however new development shall not allow trees to interfere with coastal/ocean views from public areas.*

Coastal Zoning Ordinance Section 20.504.020 states, in applicable part:

- (A) *The Town of Mendocino is the only recognized special community in the Coastal Element. Division III of Title 20 provides specific criteria for new development in Mendocino... [emphasis added]*

Discussion:

In addition to calling for the protection of views to and along the ocean and scenic coastal areas, LUP Policies 3.5-1, 3.5-3, and Coastal Zoning Ordinance Section 20.504.015 provide that development in highly scenic areas must be subordinate to the character of its setting. The policies also provide guidance on how to ensure that new development is subordinate to its setting in highly scenic areas. LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 provide that buildings and building groups that must be sited in highly scenic areas shall be sited: (a) near the toe of a slope; (b) below rather than on a ridge; and (c) in or near a wooded area. These policies also state that the visual impacts of development on terraces must be minimized by avoiding large open areas if alternative building sites exist, clustering buildings close together, providing bluff top setbacks from public shoreline areas, and designing the improvements to be in scale with rural improvements in the area.

Coastal Zoning Ordinance Section 20.504.015 further provides that new development in highly scenic areas: (1) be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures; (2) be subordinate to the natural setting and minimize reflective surfaces; (3) that building materials be selected to blend in hue and brightness with their surroundings; and (4) in specified areas require that tree thinning or removal be made a condition of permit approval. As to this last criterion, LUP Policy 3.5-5 sets forth guidance for administering tree removal requirements, directing that considerations be made of circumstances where the beneficial use of tree planting (i.e., to screen structures) should be pursued, even in areas designated for tree removal.

LUP Policy 3.5-2 identifies the unincorporated Town of Mendocino as the County's sole "special community" for which protection of its unique community character is to be maintained and enhanced through the provisions of the Mendocino Town Plan. The Town of Mendocino is a separate segment of the certified Mendocino County LCP. This segment of the LCP includes the Mendocino Town Plan, the Mendocino Town Zoning Ordinance, and the balance of the certified County-wide LCP as it pertains within the town. Neither LUP Policy 3.5-2 nor the Town of Mendocino segment of the certified LCP address development occurring outside of the town planning area, such as that proposed for the MacIver parcel on Chapman Point.

As noted previously, the approved development is located within a designated highly scenic area along the western side of Highway One. The subject property is located in a rural residential area 1½ miles south of the Town of Mendocino on a roughly five-acre parcel of land situated at the end of Chapman Road. This roughly rectangular-shaped lot is generally flat and is vegetated with a variety of grasses, forbs, and scrub-shrub plant species as well as scattered tree cover. The site affords no views to motorists traveling on Highway One due to its distance from the highway and the presence of intervening

vegetation. Portions of the site are visible from the north from the westerly portions of the Town of Mendocino and the Mendocino Headlands State Park through breaks in the site's bluff top vegetation. The project site is also visible from the south from the northern portions of Van Damme State Park.

The approved project entails the construction of a series of planting beds and landscaped patio deck levels adjacent to the rear of an existing single-family residence, and development of two golf putting greens within the lot's backyard and northern side yard. Approximately 725 lineal feet of retaining walls ranging in height from one to 6½ feet would be constructed using "rammed-earth" materials. The project would involve the export of approximately 95 cubic yards of soil materials and import of approximately 37 cubic yards of fill materials to form the retaining walls, fill the planters, sculpt the greens, and restore the disturbed areas outside of the lot's approved building envelope.

The appellant is apparently contending that any development at the project site that would be visible from the public vantages within the Mendocino Headlands State Park or the Town of Mendocino special community would be inconsistent with the LCP provisions that require that views to and along the coast be protected. Furthermore, the appeal contends that the development would not be compatible with its surroundings, subordinate to the natural setting, or properly sited to prevent impacts from development to terraces. Moreover, the appeal contends that the approved building materials would not blend into the project setting in terms of their hue and brightness. Apart from stating that the proposed putting greens and berms might be visible from the Mendocino headlands area and would impact views from the Mendocino Headlands State Park, the appellant provides no specific information as the scope and nature of these visual impacts and why the appellant believes the impacts are significant.

Protecting Views to and Along the Ocean and Scenic Coastal Areas

LUP Policy 3.5-1 and Coastal Zoning Code Section 20.504.015 require that new development protect views to and along the ocean and scenic coastal areas. The effect on views to and along the ocean from the Mendocino town and headlands areas of the construction of the approved grounds improvements and screening would not be significant. From locations along central Main Street, views of the Chapman Point project site are obscured by intervening development and vegetation. Only from near the western end of Main Street into the state park lands further to the west would the approved improvements become visible. From these vantage points, the development can be seen through several small approximately 10- to 60-foot-wide gaps in the bluff top terrace vegetation at the project site (see Exhibit No 8). Because of the approximately one mile straight-line distance between the Mendocino headlands area and the project site, these views of the patio areas and planting bed retaining walls comprise a total of approximately one to two degrees of arc of distant, near horizon vistas.

Once constructed, only fleeting glimpses of the proposed grounds improvements would be visible from the Town of Mendocino and state park area. In addition, the planting bed

to be formed by the retaining walls is intended to be planted fore and aft with a variety of hedge and drooping landscaping plants that would further screen and visually break-up the relatively short expanses of the retaining walls.

Though not raised specifically in the appellant's contention that the project is inconsistent with the visual policies of the LCP, as discussed above, portions of the proposed retaining walls, patios, planting beds, and the putting greens would also be visible through from the northernmost parts of Van Damme State Park adjoining the project parcel to the south. Without additional landscaping, views of the development from the park would be limited to small gaps between existing trees and shrubs on the rear of the lot, and from alongside the residence near the southern property boundary. Views of proposed rear yard improvements from the northwest corner of the Van Damme State Park would be minor, muted by the presence of intervening vegetation. Views of project improvements from the southerly parklands directly alongside the house would be more substantial if no additional landscaping were proposed; the patio terraces, retaining walls, planting beds, and southerly putting green would be in full sight along two, approximately 50-foot-wide gaps in the existing site vegetation. Special Condition 3 of the local government approval for the site improvements specifically requires that landscaping be installed within this area to screen the approved development from view of the park (see Exhibit No. 7). The project plans include a landscaping proposal in this area comprised of a mixture of approximately 34 pine and wax-myrtle trees being placed between the building envelope and the southern property boundary. The condition requires that a final landscaping plan based on the applicants proposed landscaping plan, and including details on irrigation and maintenance provisions, be reviewed and approved by the County prior to issuance of the permit and that the landscaping be installed prior to final permit check-off. The condition further requires that the landscaping be maintained in perpetuity.

Therefore, the Commission finds that given: (1) the relatively minor degree of visibility of project improvements from the Mendocino town and headlands areas; and (2) the County's inclusion of a special condition to require that said landscaping be installed and maintained along the southern side of the residence to screen views of the development from Van Damme State Park, the project as approved will not adversely affect views to and along the coast and scenic coastal areas from public view areas, including the Town of Mendocino, Mendocino Headlands State Park, or Van Damme State Park. Therefore, the Commission finds that the appeal raises no substantial issue with regard to conformance of the approved project with the requirements of LUP Policy 3.5-1, 3.5-3, and Coastal Zoning Code Section 20.504.015(C)(1) that permitted development be sited and designed to protect views along the ocean and scenic coastal areas.

Minimizing Visual Impacts of Development on Terraces

As noted previously, the parcel involved in the approved development is on a coastal terrace within a highly scenic area and, as such, is subject to the requirements of LUP Policy 3.5-3 and Coastal Zoning Code Section 20.504.015(C)(7) that the visual impacts

of development on terraces be minimized by avoiding large open areas if alternative development sites exist, clustering development close together, providing bluff top setbacks from public shoreline areas, and designing the improvements to be in scale with rural improvements in the area. With respect to compliance with these policies and standards, as approved by the County, the visual impacts of development in large open areas would be avoided. The two approved putting greens and all of the new structural improvements including the retaining walls, patios, and walkways would be located within a confined building envelope previously designated by the Commission in its approval of the subdivision that created the subject lot. The only development approved in the large open space area of the property outside of the building envelope is restoration work, designed to restore areas disturbed by unauthorized putting green development to their previous condition, and thereby restore the visual qualities of the site. As approved, all development except for restorative work in the open space area would be clustered close to itself and close to the existing house within the designated building envelope. As the building envelope is situated a minimum of 200 feet inland from the bluff top, the project provides bluff setbacks for development adjacent to or near public areas along the shoreline. Furthermore, the project as approved conforms with the requirement that development on terraces be in scale with rural improvements in the area, as the project is located in an rural residential setting containing numerous homes with significant landscaping and grounds amenities, such as multi-level gardens, decks, patios, and spa areas. Therefore, the Commission finds that the appeal raises no substantial issue with regard to conformance of the approved project with the requirements of LUP Policy 3.5-3 and Coastal Zoning Code Section 20.504.015(C) for siting development within designated highly scenic areas.

Compatibility of Building Material Colors

Coastal Zoning Code Section 20.504.015(C)(3) requires that developments in highly scenic areas use building materials that blend in hue and brightness with their surroundings. The County authorized the use of rammed-earth building materials to form the patios and planting beds. Rammed-earth is a construction technique whereby walls of a structure are built by compacting a soil-cement mixture in forms. The forms are then removed, leaving solid earth walls. For the proposed patio/planter retaining walls, sieved soils meeting would be mixed with cement and water onsite. Once the forms have been removed and wall materials allowed to dry and cure, the walls would initially have a dull earthen, non-reflective appearance similar in color and tone to that of the existing adjoining residence. In addition, because of the presence of natural soil materials within the rammed earth composite, overtime the retaining walls would become substrate for epiphytic algae, mosses, and lichens that would further cause the walls to blend in with their surroundings. In considering the potential visual impacts of the project, the County determined that the retaining colors would approximate that of the house in terms of hue and brightness. The County further conditioned the permit to require that any future change in the color of the proposed walls be subject to review by the Coastal Permit Administrator. Therefore, the Commission finds that the appeal raises no substantial issue with regard to the conformance of the approved project with the requirements of Coastal

Zoning Code Section 20.504.015(C)(3) that in highly scenic areas, building materials be selected to blend in hue and brightness with their surroundings.

The specifics discussed above about the project's conformance with LCP requirements that: (a) views to and along the ocean and scenic coastal areas be protected; (b) visual impacts of development on terraces be minimized; and (c) building materials be selected to blend in hue and brightness with their surroundings, relate to a broader contention of the appellant that the project as approved is inconsistent with the requirements of the LCP that development in highly scenic areas be subordinate to the character of its setting (LUP Policies 3.5-1 and 3.5-3, and Coastal Zoning Code Section 20.504.015(C)). As discussed more specifically above in preceding sections, the Commission finds that the project as approved raises no substantial issue with regard to LCP requirements that new development be subordinate to the character of its setting because: (1) views to and along the ocean and coastal scenic areas of the approved grounds improvements and screening would not be significantly affected because of the distance of the site from public viewing points and the presence of intervening development and vegetation; (2) once constructed, only fleeting glimpses of the approved grounds improvements would be visible from the public viewing points as the approved development includes a variety of hedge and drooping landscaping plants that would further screen and visually break-up the relatively short expanses of exposed retaining walls; (3) the improvements would be clustered next to existing development, within a wooded area, and located a minimum of 200 feet from the bluff top edge to minimize impacts to its terrace setting and to public areas along the shoreline; (4) the project improvements are similar in scale with other rural residential landscaping and grounds amenities in the Big River - Chapman Point area; and (5) the appearance of the soil-based building materials will approximate the hue and brightness of the surroundings.

These factors present a high degree of factual support for the County's decision that the development is consistent with the certified LCP policies requiring that new development in highly scenic areas be subordinate to the character of its setting. In addition, the Commission finds that the extent and scope of the development as approved by the County is relatively small considering that apart from restoration work on various parts of the property, the development includes landscaping, patios, walks, retaining walls and two putting greens, all appurtenant to an existing approved residence and all required to be contained within a building envelope previously established by the Commission pursuant to Coastal Development Permit No.1-88-164 for the subdivision that created the subject parcel. The building envelope was established specifically to protect views and other coastal resources on the property. Therefore, the Commission finds that the appeal raises no substantial issue of consistency of the approved project with the visual resource provisions of the certified LCP, including LUP Policies 3.5-1 and 3.5-3 requiring that new development be subordinate to the character of its setting.

2. **Appellant's Contentions That Are Not Valid Grounds for Appeal.**

a. **Misrepresentation of a Formerly Approved Project to County Officials**

The appellant further contends that the visual prominence of the previously approved residence on the project site was misrepresented to Mendocino County officials. The appellant states in her appeal cover letter that, "the basis [of the appeal is] views from the Mendocino Headlands State Park to the north ... [would be] greatly impacted by the previous project (house)..." The appellant provided a copy of a letter from applicant William MacIver to Supervisor Charles Peterson, dated August 26, 1996. The primary thrust of the letter, sent over three months after the County took action on the permit for the house on May 23, 1996, was to lodge a complaint regarding actions taken by County staff during the processing of the coastal development permit application for the residence. The appellant has highlighted several statements in the letter, most notably Mr. MacIver's observations regarding information provided as part of the application had shown that, "...no visual impacts problems existed from the State Park nor the Headlands..." and "natural screening and siting leaves only 250 square feet of our 5,438 square foot structure visible from the beach on the Headlands at the end of Heeser Street." The appellant also included a photograph taken from an undisclosed location on the Mendocino Headlands showing portions of the constructed house as visible to substantiate her claim that Mr. MacIver's statements had been inaccurate. The appellant's cover letter states, "In order to prevent further visual contamination I request the north side of the current house and all future development on that side be screened from view from the Mendocino Headlands State Park. This will correct the misinformation given by Mr. MacIver in 1996 and will prevent any future attempts to construct projects visible from the Headlands."

Discussion:

The appellant's contention is not a valid grounds for an appeal as established by Section 30603(b)(1) of the Coastal Act as the contention does not allege an inconsistency of the approved project on appeal with the certified LCP. That is, rather than challenging the project on appeal as approved, the appellants challenge the consistency of a previous project with the LCP, the County's original approval of the house in 1996, under Mendocino County Coastal Development Permit No. 05-96. The project description of the current project approved by the County does not include development of the house itself. Instead, the current project is limited to: (a) various landscaping improvements that are appurtenant to the house within the building envelope on the parcel created as part of the original subdivision of the property, including installing retaining walls, stairways, patios, two golf holes, and the planting of trees and other vegetation; and (b) restoring areas disturbed by unauthorized development outside of the designated building envelope. Even if the County had denied the current project, the original approval of the house would be unaffected as it is not part of the scope of the current project.

Therefore, the Commission concludes that this contention is not a valid ground for appeal, as the contention does not allege an inconsistency of the project as approved with a policy or standard of the certified LCP or the public access policies of the Coastal Act. The Commission further notes that in its 1996 approval of a coastal development permit for the house, the County did not make a finding that the project would be invisible as viewed from the Town of Mendocino. Instead, the County stated as follows that the design and siting of the proposed house, similar to other development in the area, would incorporate existing vegetation to screen and diminish the appearance of the house, rather than fully obscure the structures from all public view:

As previously mentioned, the subject building will be visible from the Town of Mendocino. There are numerous residences along the shore of Mendocino Bay to Chapman Point that are visible from public areas in Mendocino. These residences use existing vegetation to screen portions of the development or use vegetation and the hillside as a backdrop to soften the visual impacts of the rooflines...

Although a proposed residence will be visible to public views from any area within the building envelope, the development location will take advantage of existing vegetation to help screen the eastern most portion of the residence. - *County of Mendocino CDP #05-96 Staff Report, dated May 23, 1996, pp. 4-5 [emphases added]*

3. Conclusion.

The Commission finds that, for the reasons stated above, that the appeal raises no substantial issue with respect to conformance of the approved project with the certified LCP.

E. EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Site Plat Map
4. Portion, Land Use Plan Map No. 17 - *Mendocino*
5. Site Plans for Grounds, Patio, Putting Greens, and Restoration Improvements
6. Notice of Final Action
7. Appeal, filed February 22, 2002 (Curry)
8. Photographs of Project Site Taken from Mendocino Headlands Areas
9. Correspondence

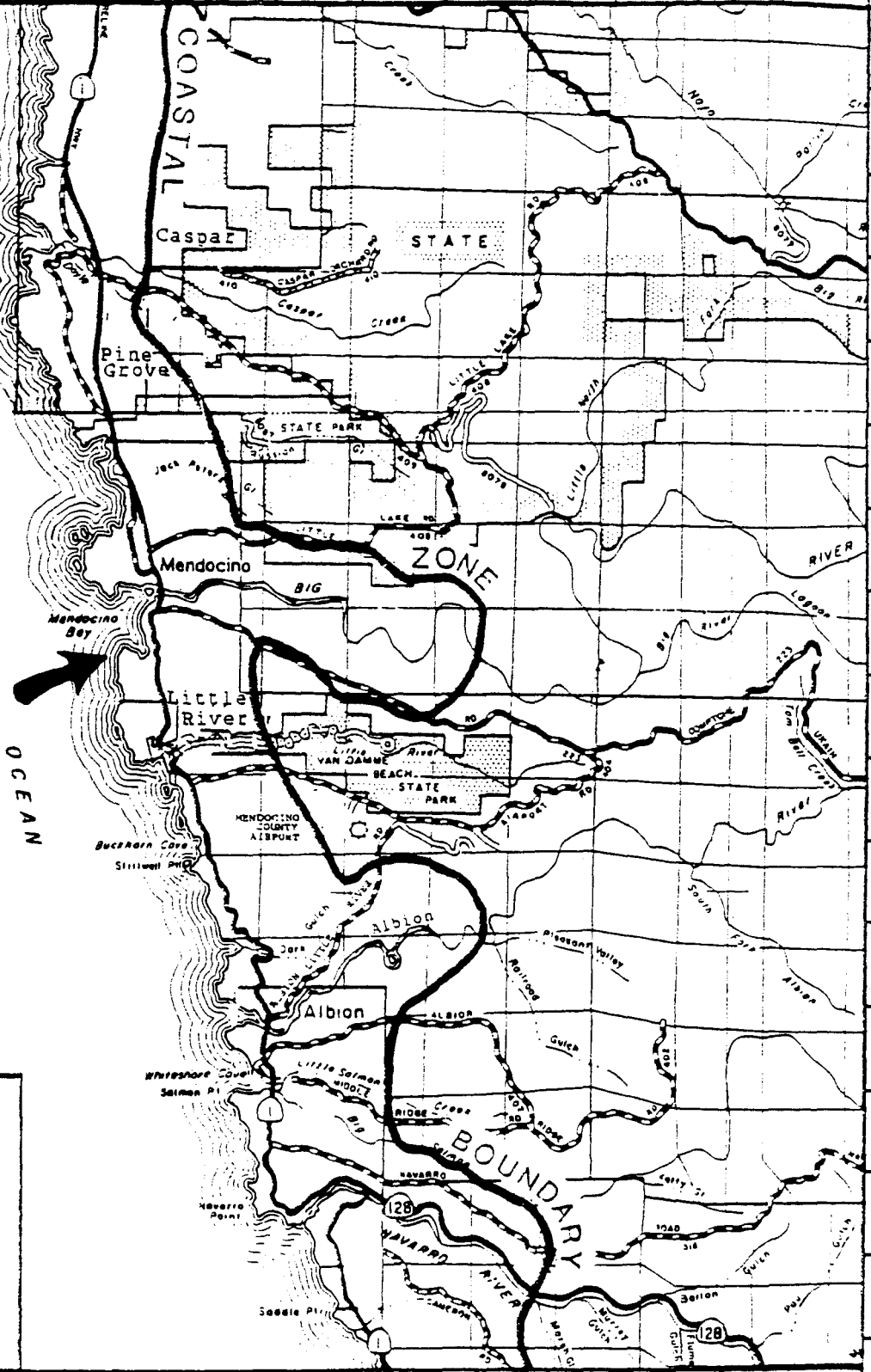


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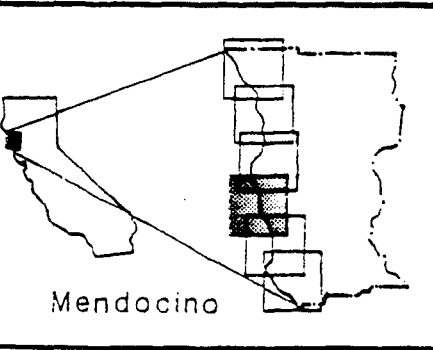
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PROJECT SITE

EXHIBIT NO. 1
APPLICATION NO. A-1-MEN-02-013
MacIVER
REGIONAL LOCATION MAP



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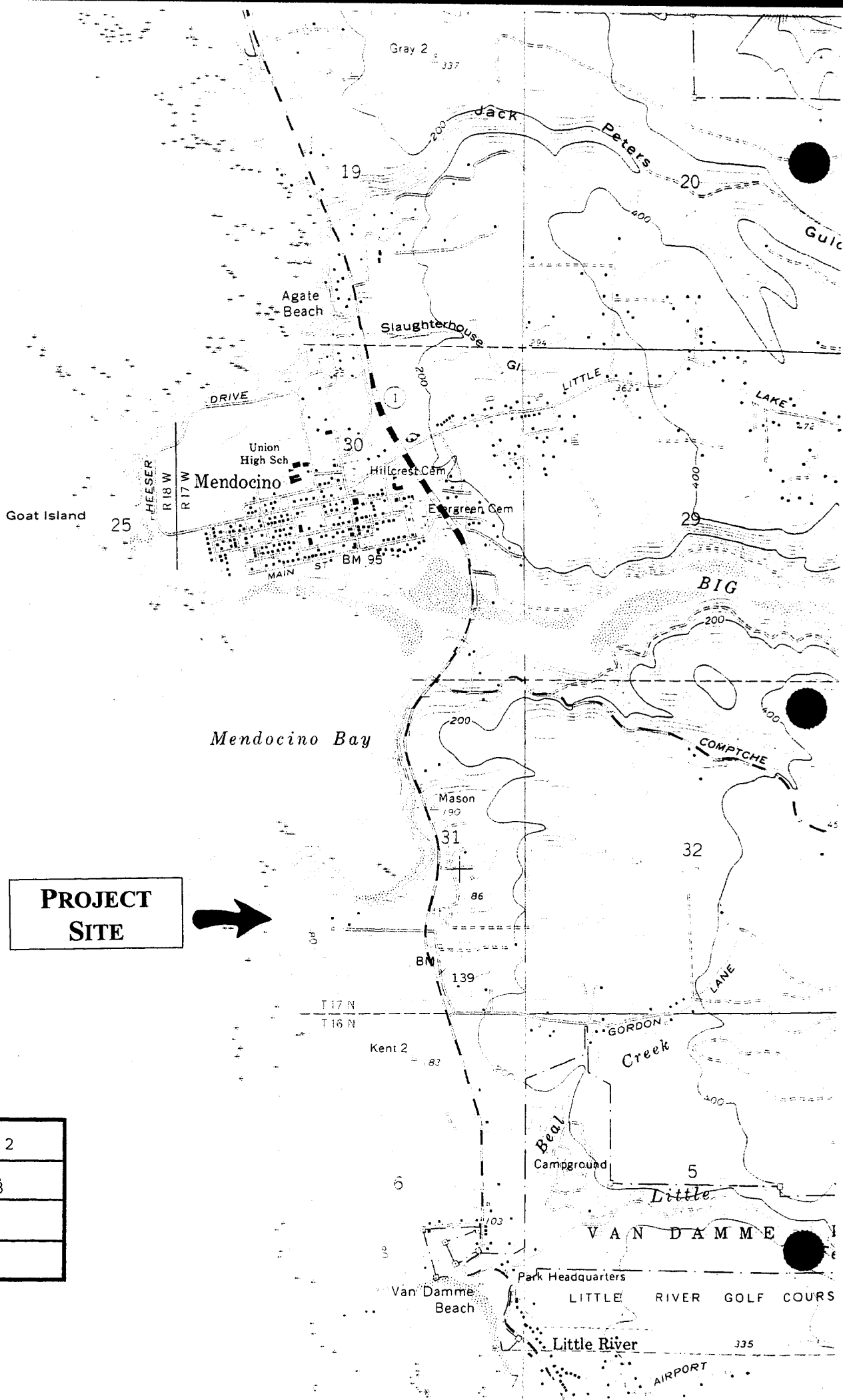
Mendocino

LOCATION MAP



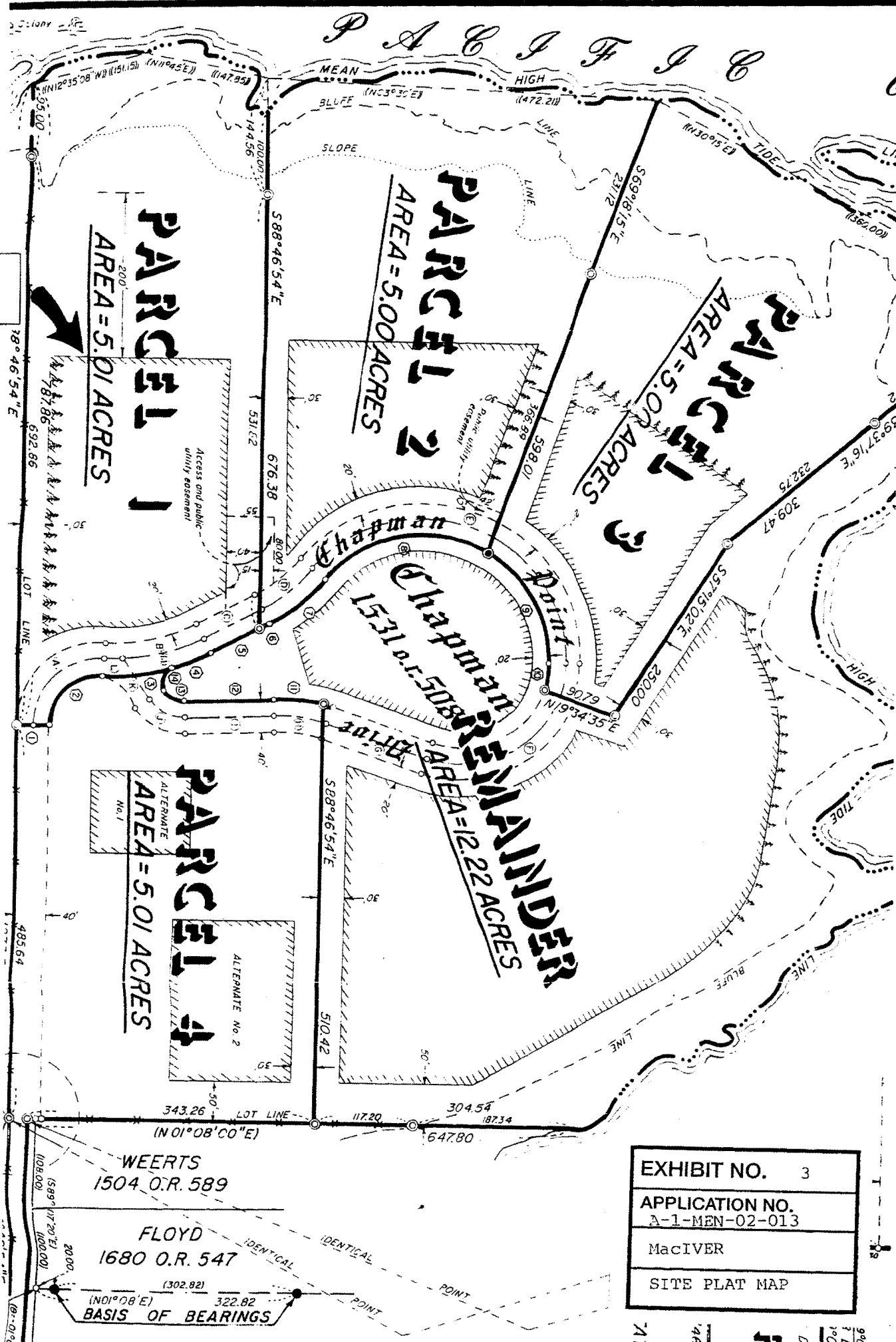
**PROJECT
SITE** →

EXHIBIT NO. 2
APPLICATION NO. A-1-MEN-02-013
MacIVER
VICINITY MAP



P A C I F I C

PROJECT SITE



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AREA = 5.01 ACRES

PARCEL 2
AREA = 5.00 ACRES

PARCEL 3
AREA = 5.01 ACRES

PARCEL 4
ALTERNATE No. 1
AREA = 5.01 ACRES

REMAINDER
AREA = 12.22 ACRES

EXHIBIT NO. 3
APPLICATION NO. A-1-MEN-02-013
MacIVER
SITE PLAT MAP

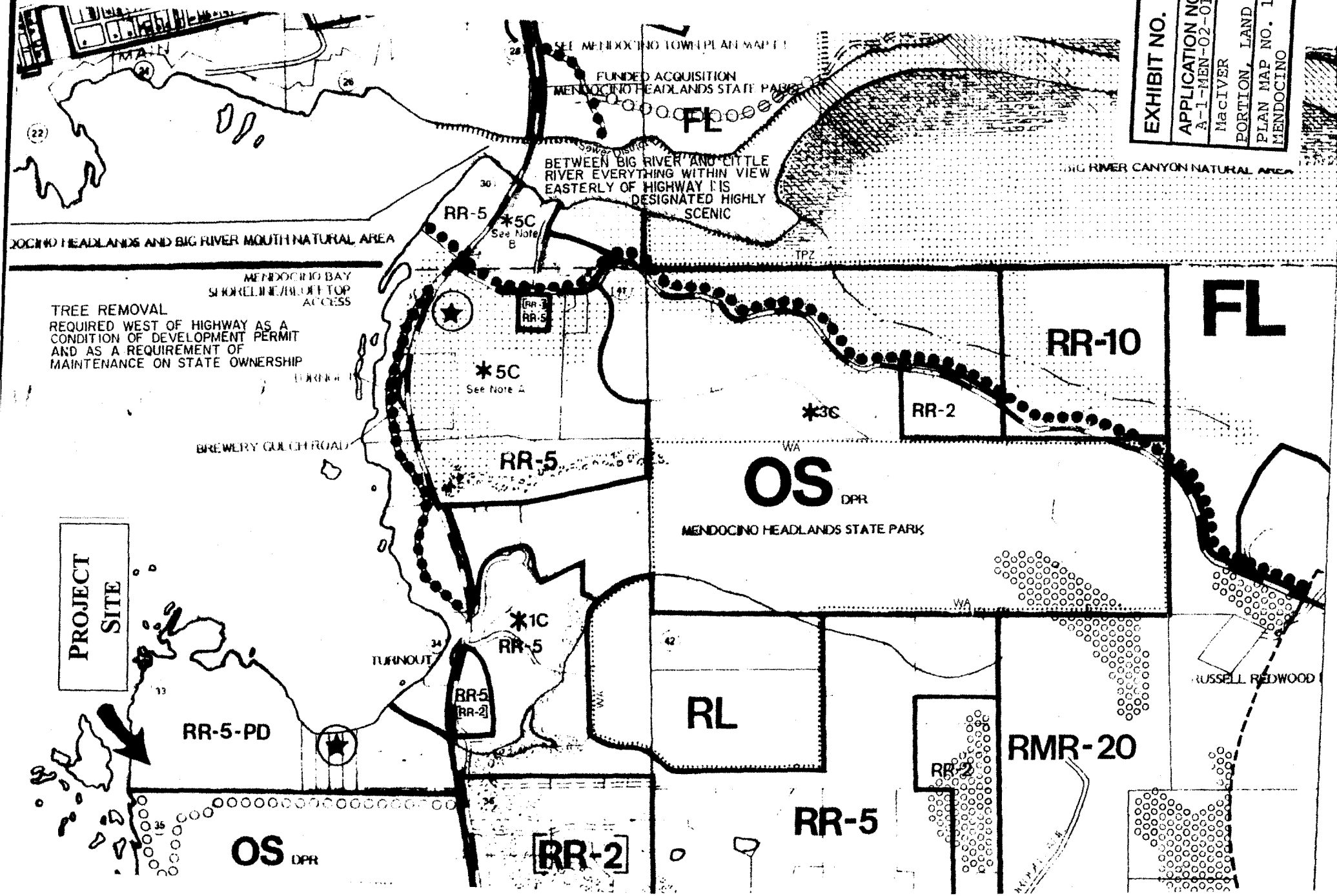
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EXHIBIT NO.	4
APPLICATION NO.	A-1-MEN-02-013
MacIVER	
PORTION, LAND USE	
PLAN MAP NO. 17 -	MENDOCINO





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45450

CHAPMAN RD.

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SITE PLAN

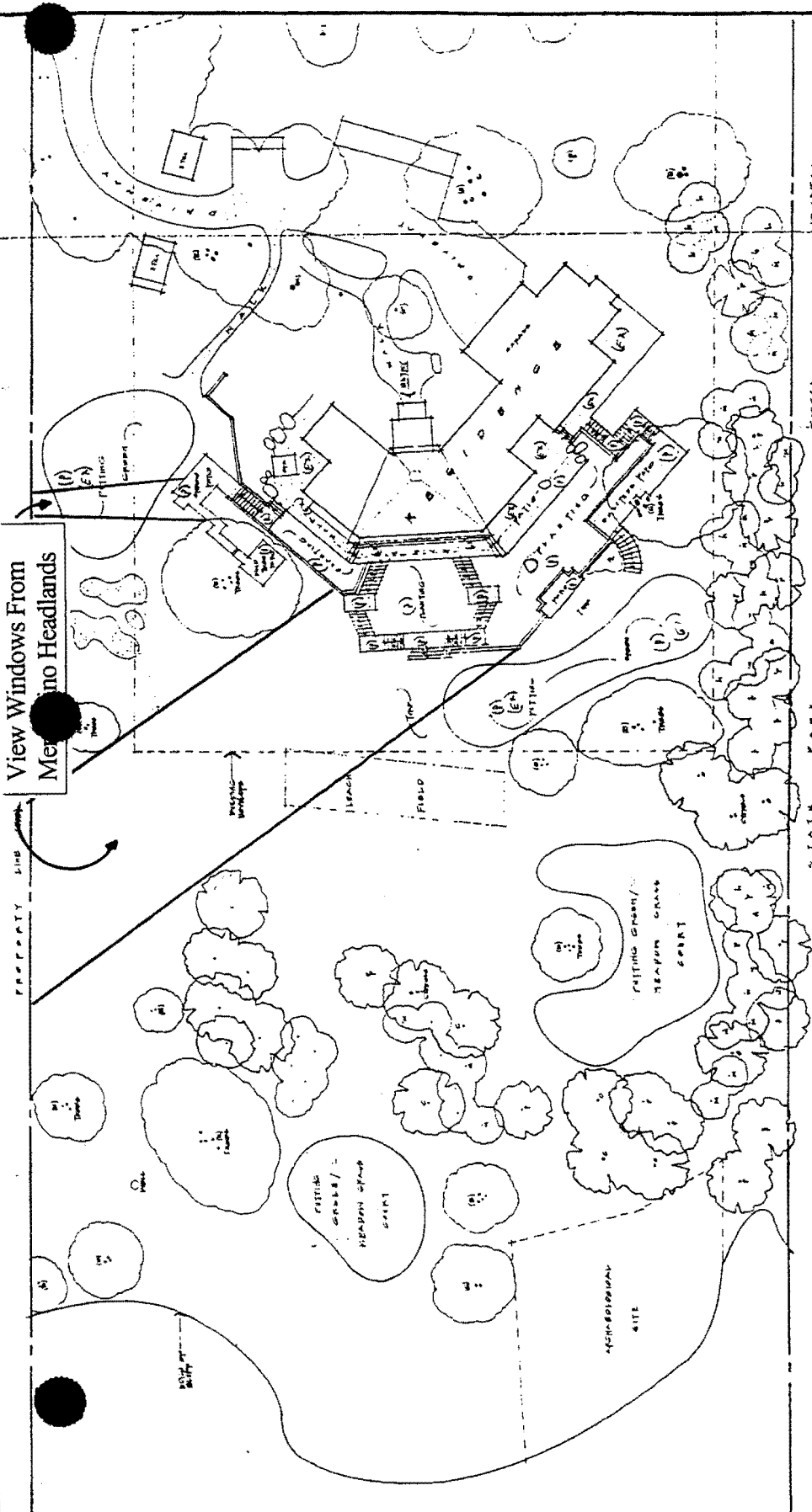
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R.K.L. 10/14
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D.A.
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OF

EXHIBIT NO.	5
APPLICATION NO.	A-1-MEN-02-013
SITE PLANS FOR GROUNDS, PATIO, PUTTING GREENS, & RESTORATION IMPROVE- MENTS (1 of 10)	

View Windows From Mendocino Headlands



PLANTS:
IN THE VICINITY OF PLANTS

TREES:
MAGNOLIA (E)
G. SYCAMORE
M. PINE
P. PLUS

VEGETATION:
RESTORATION HEADLANDS
PATIO
PUTTING GREEN
SHRUBS
GRASS

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1. SITE PLAN
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8. RESTORATION HEADLANDS PLAN
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SITE PLAN

PROPOSED:
RESTORATION HEADLANDS
PATIO
PUTTING GREEN
SHRUBS
GRASS

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1. RESTORATION HEADLANDS
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EXHIBIT NO.	5
APPLICATION NO.	A-1-MEN-02-013
SITE PLANS FOR GROUNDS, PATIO, PUTTING GREENS, & RESTORATION IMPROVE- MENTS (1 of 10)	



**INTEGRATED
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BUILDING DESIGN
CONSULTATION

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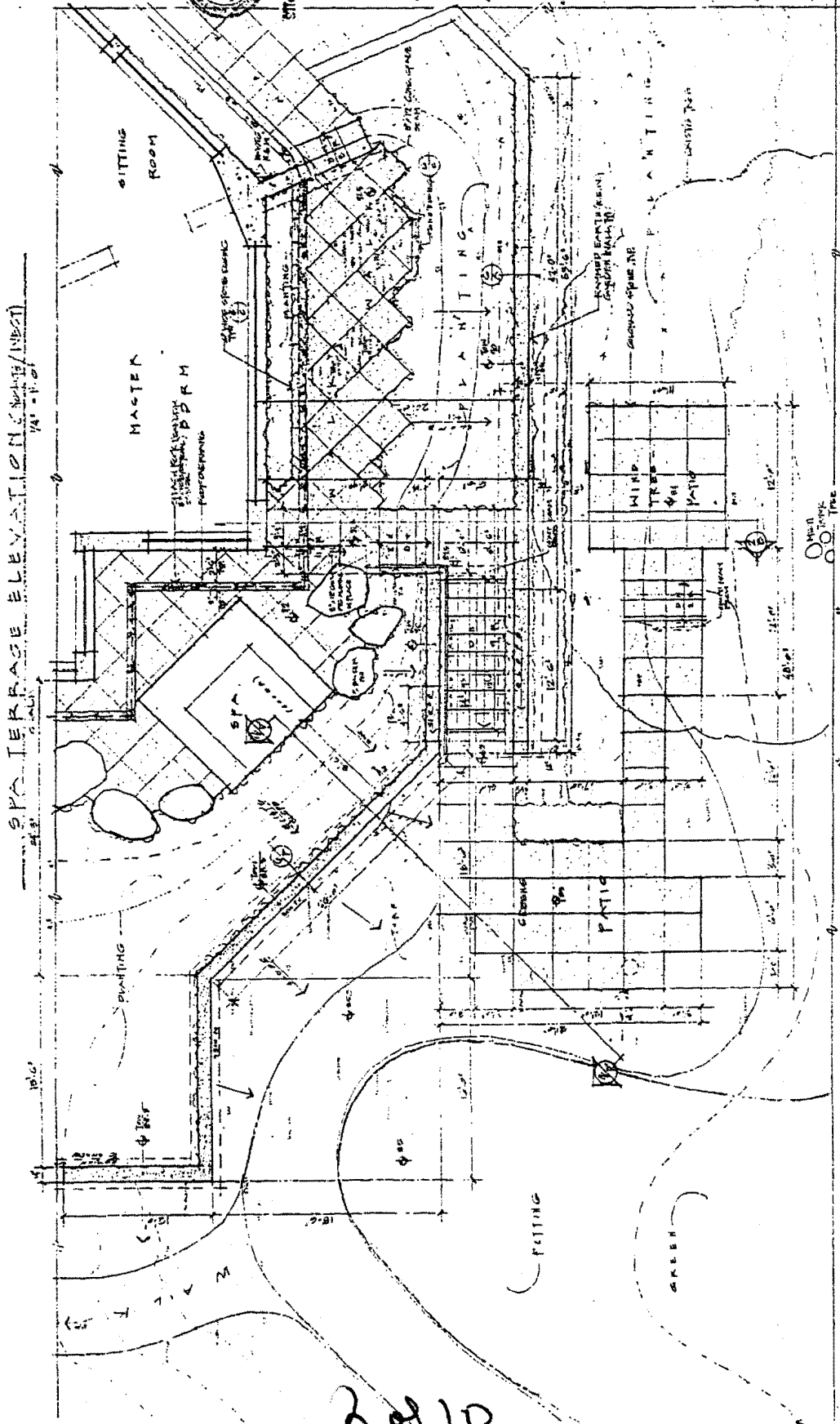
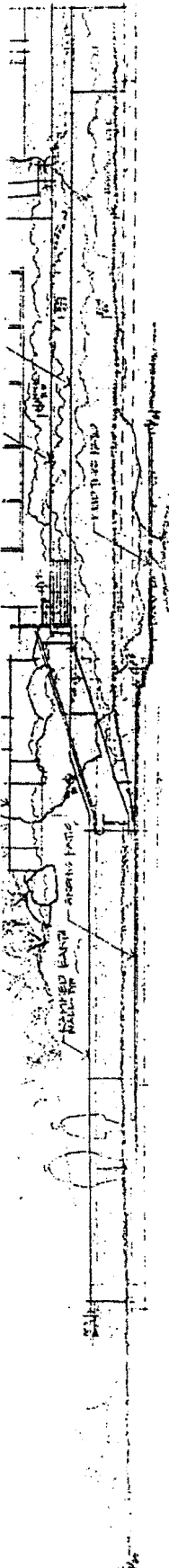
**BILL SANDER
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SPA TERRACE PLAN



INTEGRATED DESIGNS

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BILL GARDNER
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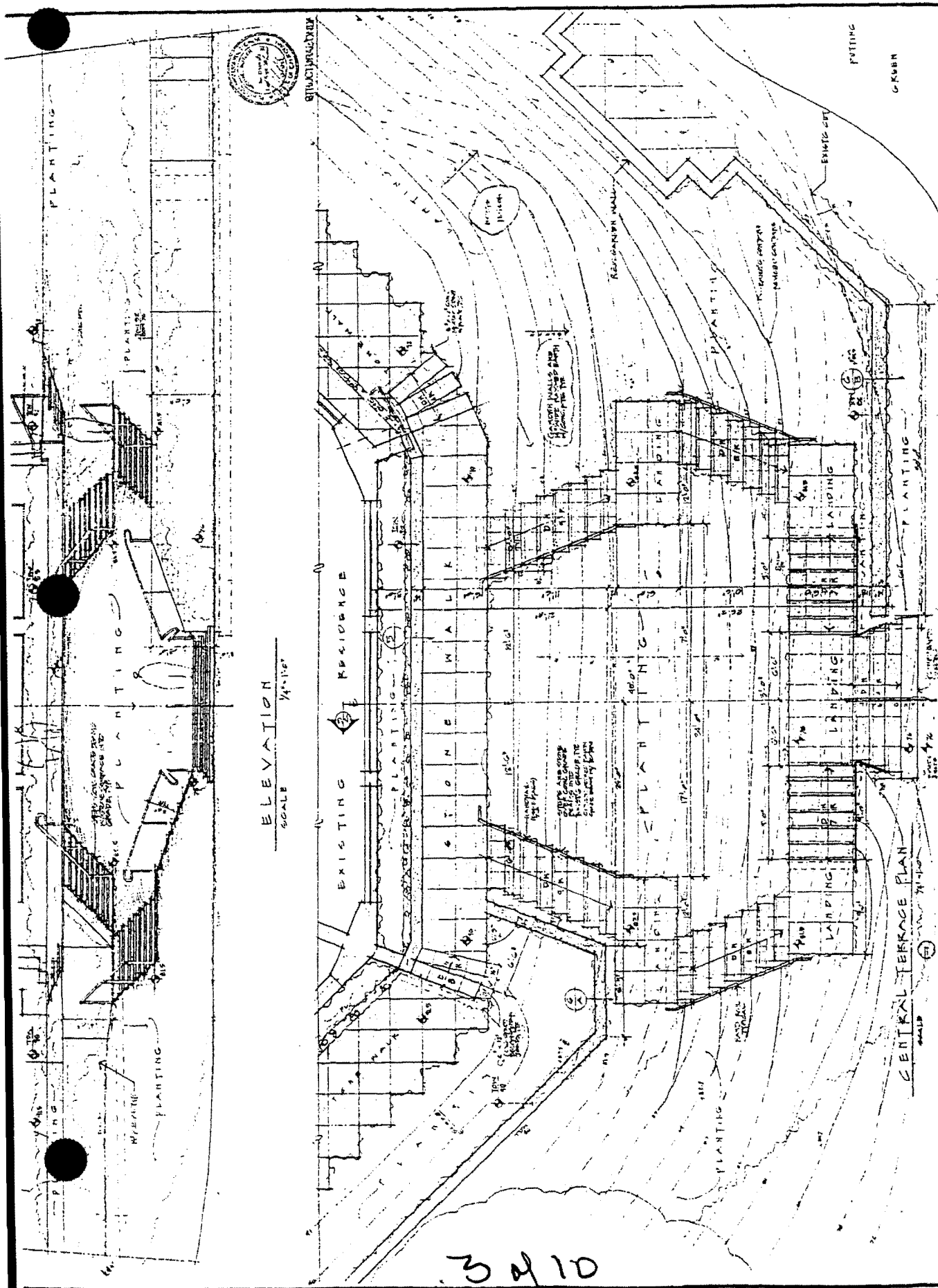
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TERRACE
PLAN
ELEVATION
PROVISION PLAN

TITLE

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1	11/10/10	PRELIMINARY
2	11/10/10	REVISED
3	11/10/10	REVISED
4	11/10/10	REVISED
5	11/10/10	REVISED
6	11/10/10	REVISED
7	11/10/10	REVISED
8	11/10/10	REVISED
9	11/10/10	REVISED
10	11/10/10	REVISED

REVISIONS

DATE 11/10/10
DRAWN BY KKL
SHEET 4 OF 13



3410



INTEGRATED DESIGNS

GARDEN DESIGN
LAWN DESIGN
CONSTRUCTION

31101 MIDLAND AVE
ALHAMBRA CA 91810
(916) 937-1333 FAX
(916) 937-2440 FAX

BILL & SANDY
MACIVER

CLEAR

SOLITUDE
PATIO

ELEVATION

PLAN

CONSTRUCTION PLAN

TITLE

12.14	REV	1/14/08
12.14	REV	1/14/08
12.14	REV	1/14/08
12.14	REV	1/14/08
12.14	REV	1/14/08

DATE BY: OASGARTO

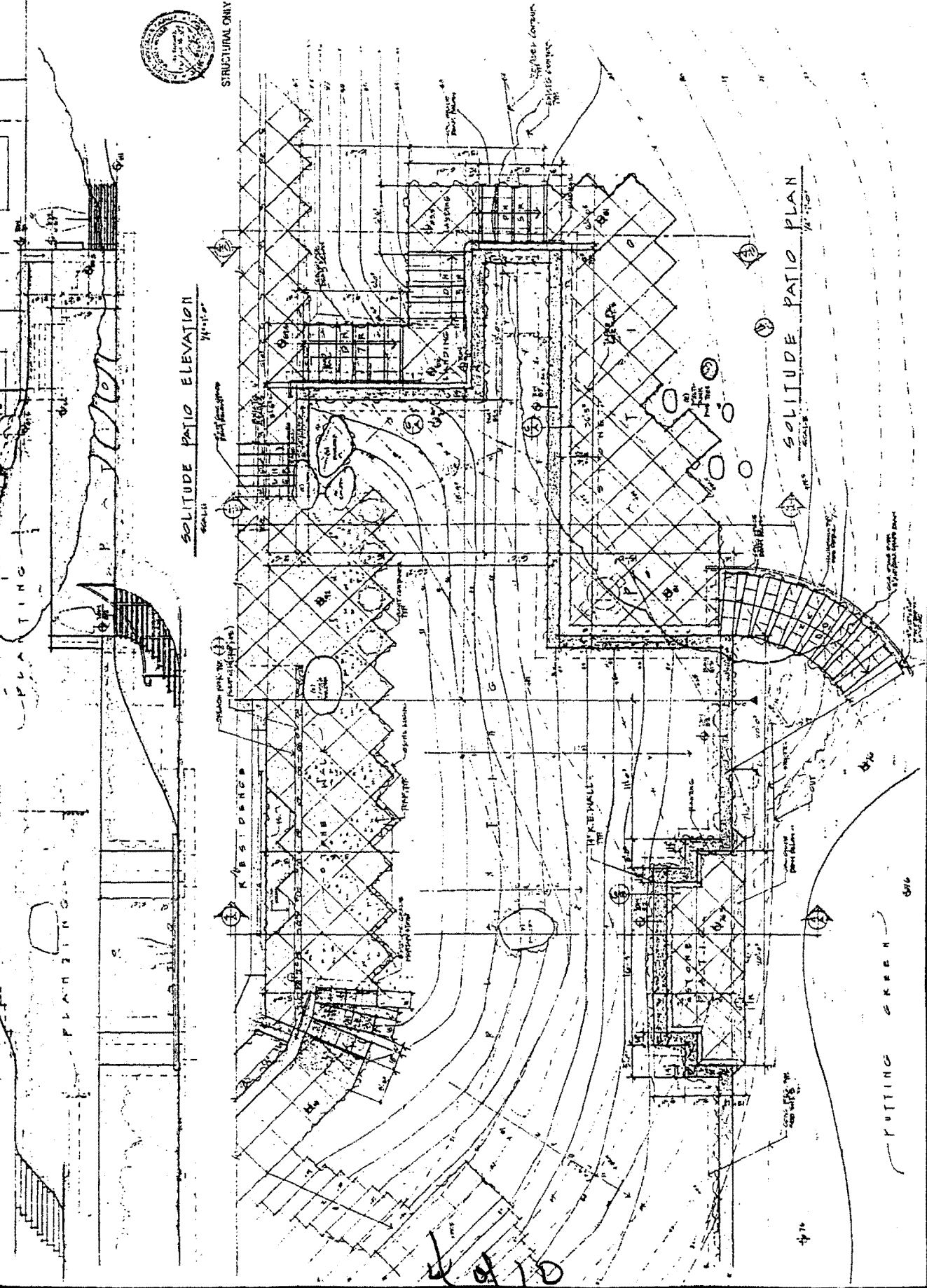
REVISIONS

RKL 10.5.08

DATE

5 13

SHEET OF



STRUCTURAL ONLY

SOLITUDE PATIO ELEVATION
SCALE: 1/8" = 1'-0"

SOLITUDE PATIO PLAN
SCALE: 1/8" = 1'-0"

PUTTING GREEN



**INTEGRATED
DESIGNS**

CAREY DESIGN
GROUP
CONSULTANTS

31101 MISSION AVENUE
ALHAMBRA, CA 91810
(626) 917-1233 FAX
(626) 917-2488 FAX

BILL SANDRZ
MAS IVER

CLAUT

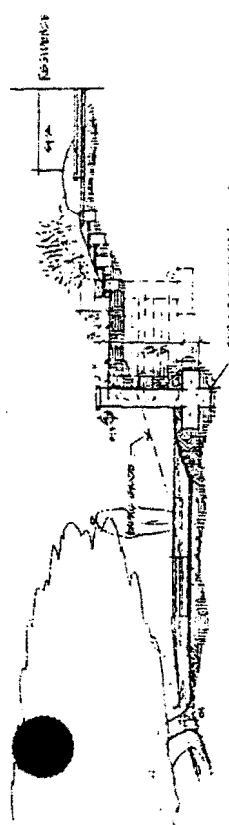
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TITLE

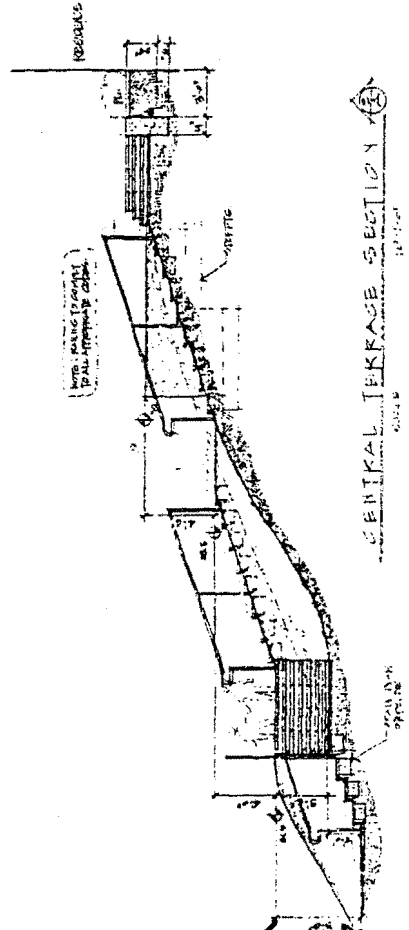
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1	10/15	CL	ISSUED FOR PERMITS
2	10/15	CL	ISSUED FOR PERMITS
3	10/15	CL	ISSUED FOR PERMITS
4	10/15	CL	ISSUED FOR PERMITS
5	10/15	CL	ISSUED FOR PERMITS
6	10/15	CL	ISSUED FOR PERMITS
7	10/15	CL	ISSUED FOR PERMITS

REVISIONS
DATE BY DESCRIPTION

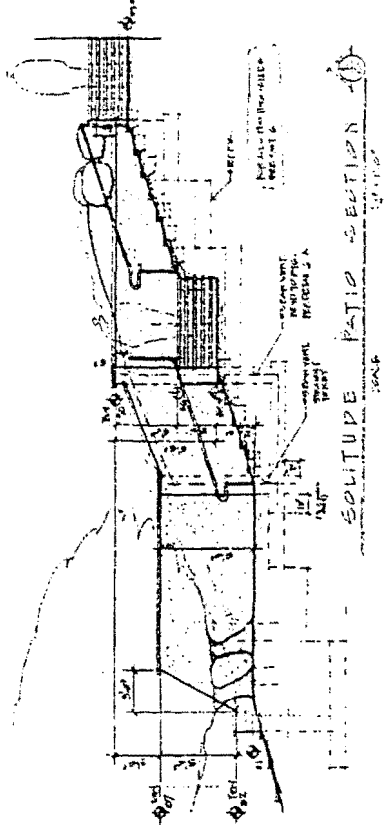
DATE 10/15/00
DRAWN BY
SHEETS 7 13 OF



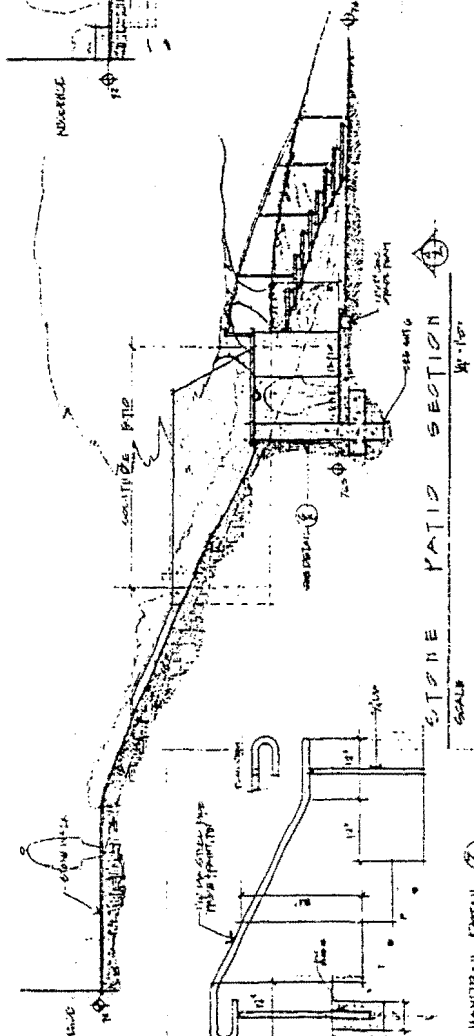
SECTION (HAND TREE PATIO)
SCALE 1/4" = 1'-0"



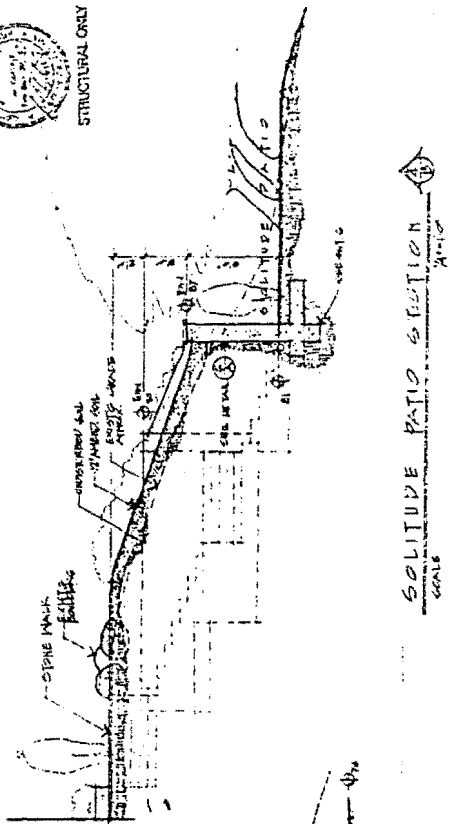
CENTRAL TERRACE SECTION
SCALE 1/4" = 1'-0"



SOLITUDE PATIO SECTION
SCALE 1/4" = 1'-0"



STONE PATIO SECTION
SCALE 1/4" = 1'-0"



SOLITUDE PATIO SECTION
SCALE 1/4" = 1'-0"



STRUCTURAL ONLY

THE HANDRAIL DETAIL
SCALE 1/4" = 1'-0"
REVISED
10/15/00
CAREY DESIGN GROUP

5 98 10



INTEGRATED DESIGNS

GARDEN DESIGN
BUILDING DESIGN
CONSULTATION

31181 MIDWAY BOULE
ALBANY, CA 95410
(925) 837-1233 OFFICE
(925) 837-7480 FAX

BILL GANDHI
MAG IYER

CURT

CENTRAL
TERRACE
PLAN

IRRIGATION

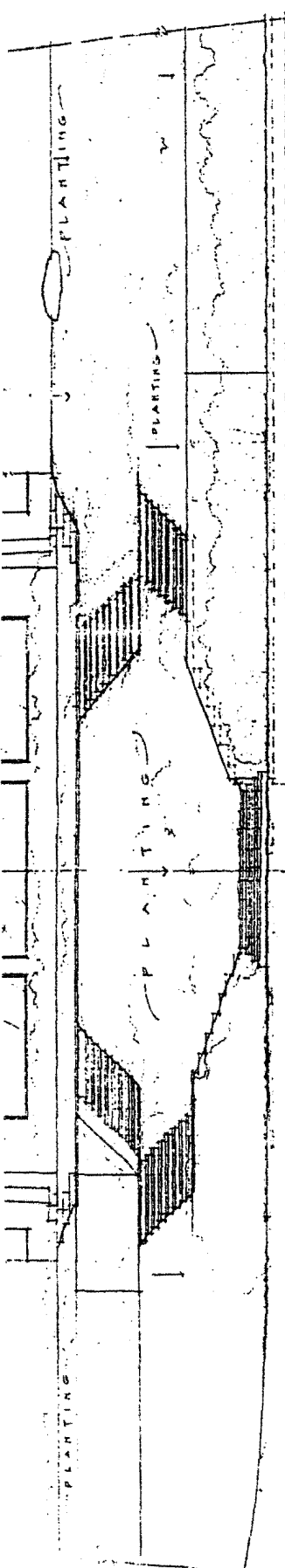
ELECTRICAL

TITLE

NO.	DATE	BY	DESCRIBED
1127	11-7		

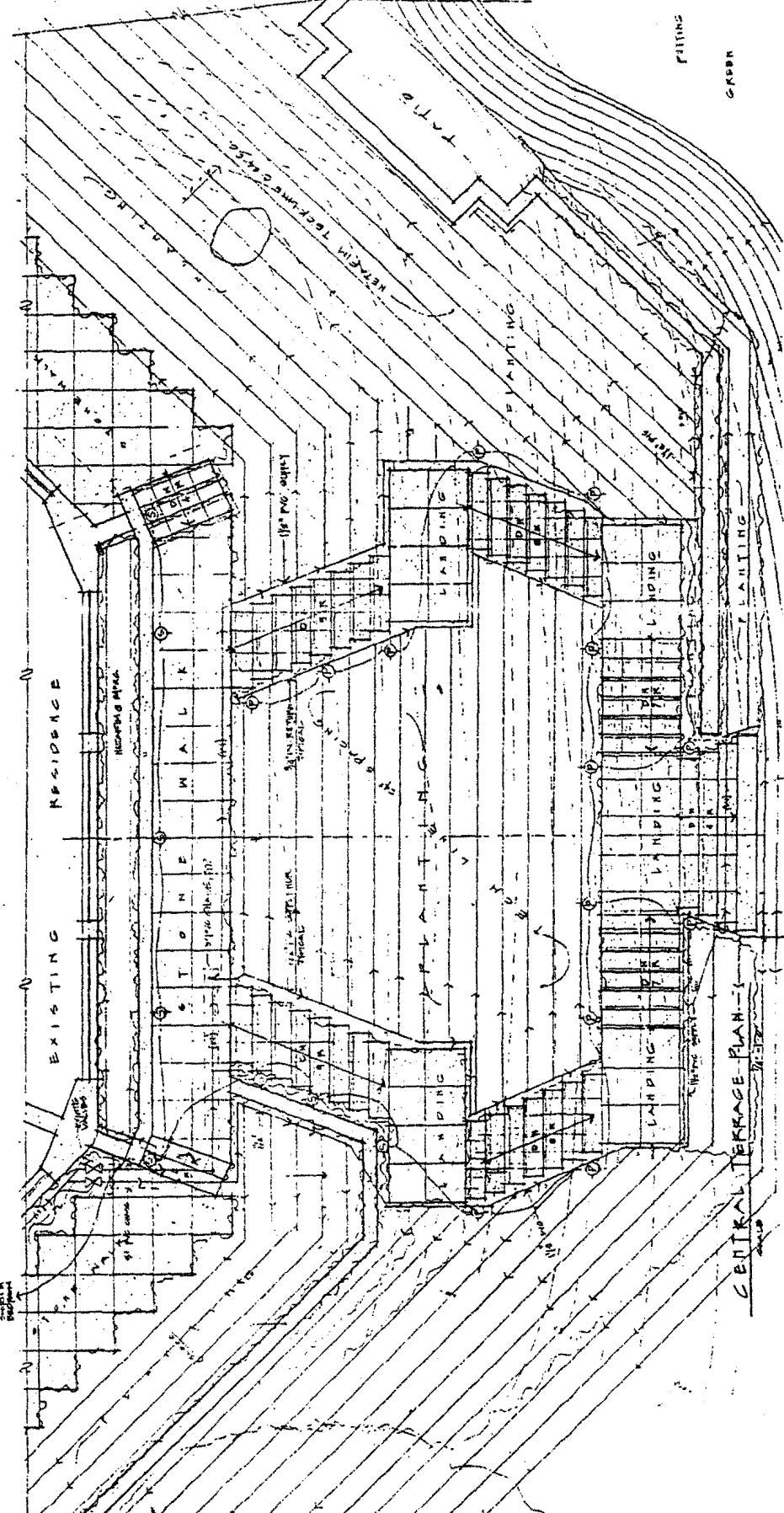
REVISED

DATE 11-7
DRAWN BY R.K.L.
SHEET 9 OF 13



NOTE: SEE SHT. 8 FOR IRRIGATION
ELECTRICAL SPECS.

ELEVATION
SCALE 1/8" = 1'-0"



CENTRAL TERRACE - PLAN - 1
SCALE 1/8" = 1'-0"

6910



INTEGRATED DESIGNS

GARDEN DESIGN
BUILDING DESIGN
CONSULTATION

3110 WOODLAND
ALHAMBRA, CA 91810
CITY 627-3733 OFFICE
CITY 627-3480 FAX

BILL & SANDRA
MACIVER

CLIENT

SOLITUDE
PATIO
ELECTRICAL
IRRIGATION
PLAN

TITLE



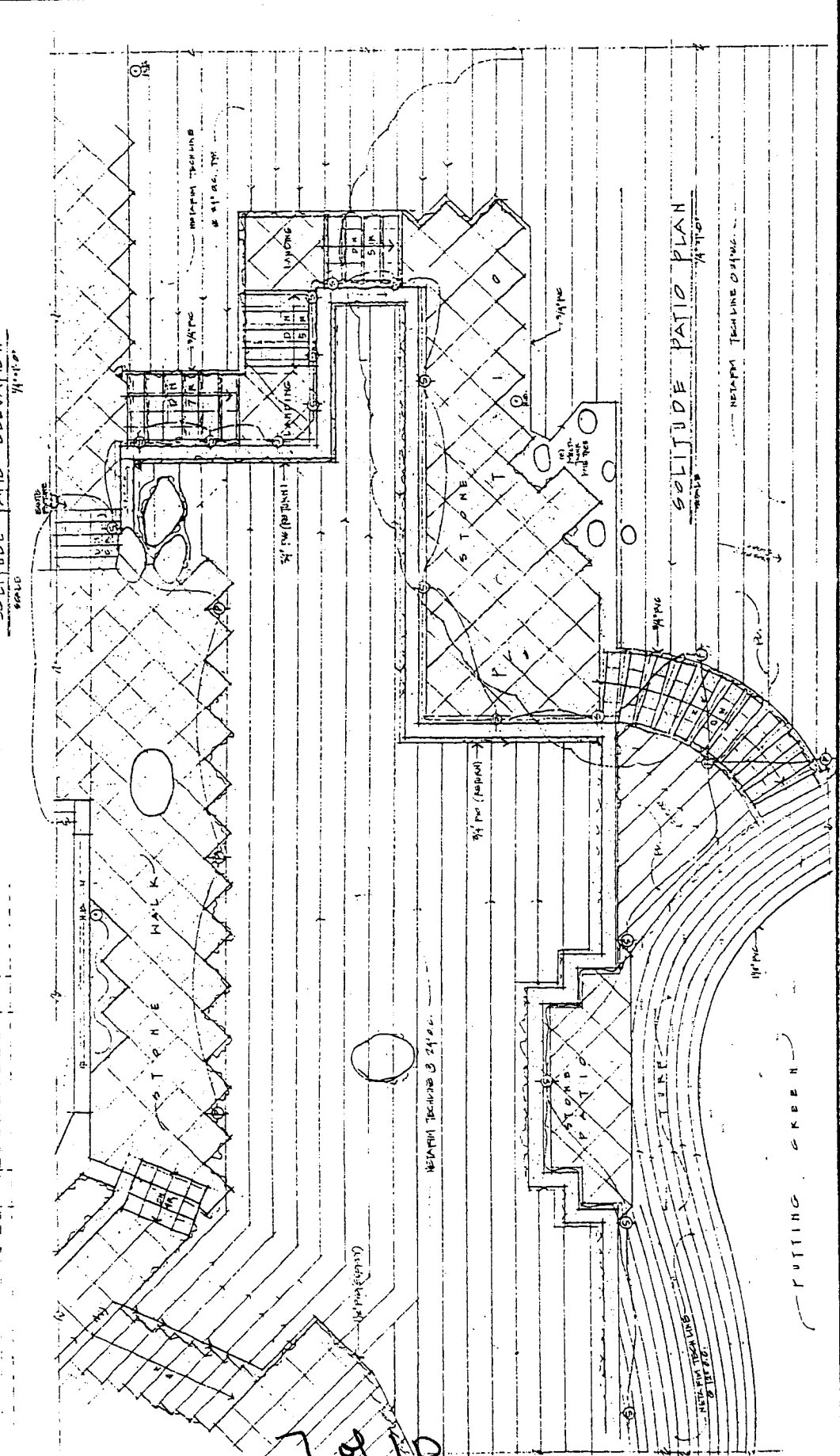
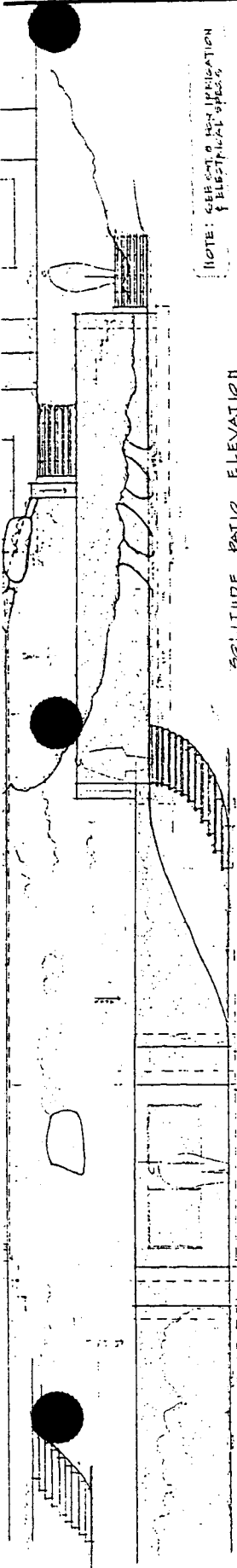
11/17/11
DATE BY
11/11/11
DATE BY
REVISION

RKL
DRAWN BY
10/3/09
DATE

10
SHEET
13
OF

NOTE: SEE SLOPE SPECIFICATION
& ELECTRICAL SPECS

SOLITUDE PATIO ELEVATION
SCALE 1/4"=1'-0"



SOLITUDE PATIO PLAN
SCALE 1/4"=1'-0"

NEARBY TECHLINE DRAWING

PUTTING GREEN

7970



INTEGRA
DESIGNS

GARDEN DESIGN
BUILDING DESIGN
CONSULTATION

31181 WHOLE HOGE
ALIBON, CA 94110
(925) 937-1325 OFFICE
(925) 937-2480 FAX

BILLIGAN
MAGIVER

CLIENT

SPA

TERRACE
PLANTING
PLAN

TITLE

DATE

11-10-12

BY

REV

DATE

BY

REV

DATE

BY

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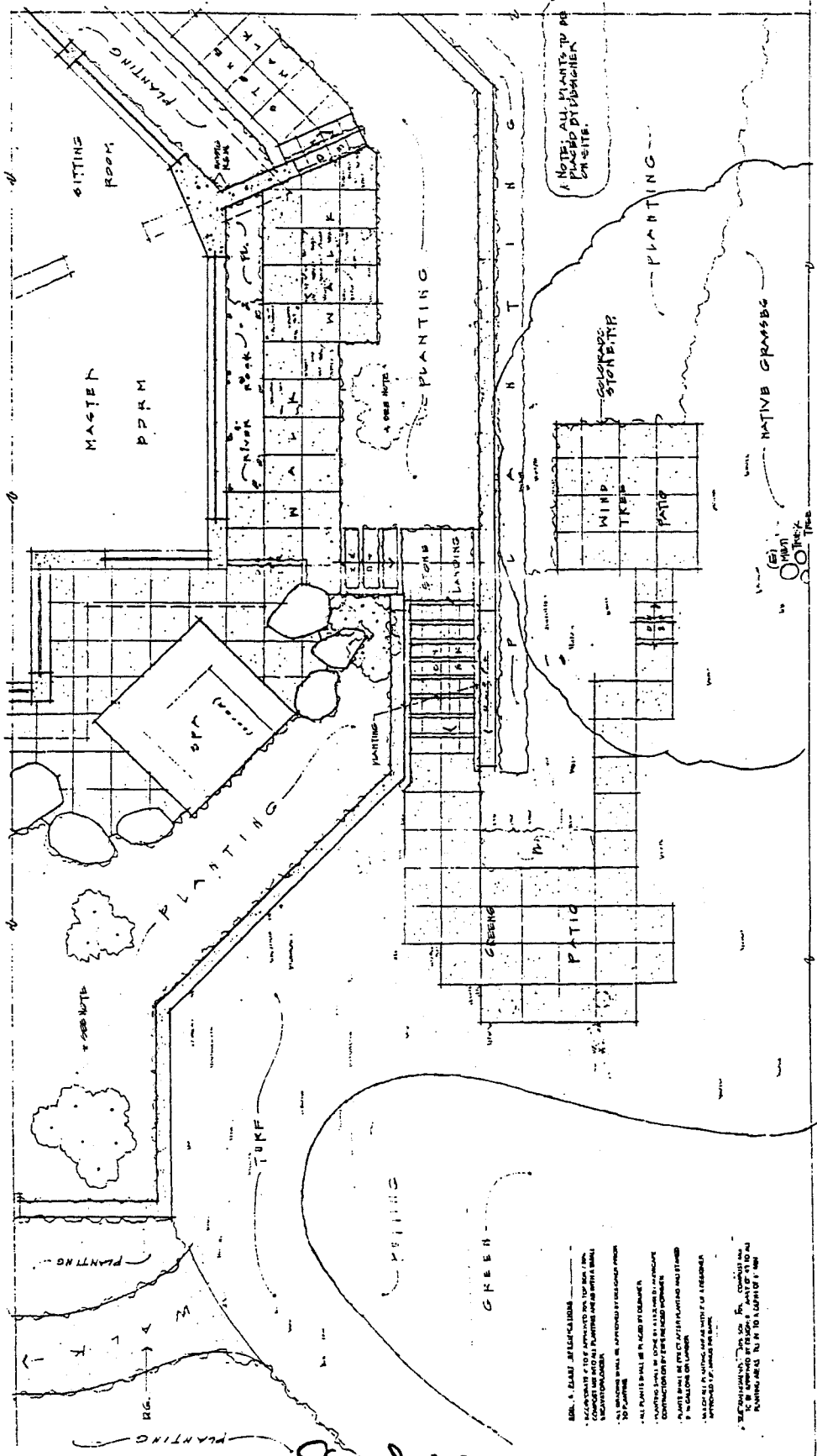
BY

REV

DATE

BY

SPA TERRACE ELEVATION (WEST / NORTH)



- 1. ALL PLANTS SHALL BE PLANTED PER SPECIFICATIONS.
- 2. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 3. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 4. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 5. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 6. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 7. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 8. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 9. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.
- 10. PLANTINGS SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.

SPA TERRACE PLAN
SCALE 1/4" = 1'-0"

PLANT LIST

- 1. *Platanus* - 1"
- 2. *Quercus* - 1"
- 3. *Juniperus* - 1"
- 4. *Arbutus* - 1"
- 5. *Philadelphus* - 1"
- 6. *Hydrangea* - 1"
- 7. *Camellia* - 1"
- 8. *Wisteria* - 1"
- 9. *Passiflora* - 1"
- 10. *Ipomoea* - 1"
- 11. *Conium* - 1"
- 12. *Delphinium* - 1"
- 13. *Verbena* - 1"
- 14. *Salvia* - 1"
- 15. *Lavandula* - 1"
- 16. *Origanum* - 1"
- 17. *Thymus* - 1"
- 18. *Chamaecrista* - 1"
- 19. *Coreopsis* - 1"
- 20. *Aster* - 1"
- 21. *Helianthus* - 1"
- 22. *Rudbeckia* - 1"
- 23. *Black-eyed Susan* - 1"
- 24. *Goldenrod* - 1"
- 25. *Yarrow* - 1"
- 26. *Chicory* - 1"
- 27. *Plantain* - 1"
- 28. *Dandelion* - 1"
- 29. *Clover* - 1"
- 30. *Trifolium* - 1"
- 31. *Lotus* - 1"
- 32. *Alfalfa* - 1"
- 33. *Timothy* - 1"
- 34. *Brome* - 1"
- 35. *Fescue* - 1"
- 36. *Ryegrass* - 1"
- 37. *St. Augustine* - 1"
- 38. *Bermuda* - 1"
- 39. *Centipede* - 1"
- 40. *Carolina* - 1"
- 41. *Floratam* - 1"
- 42. *St. Augustine* - 1"
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- 194. *Centipede* - 1"
- 195. *Carolina* - 1"
- 196. *Floratam* - 1"
- 197. *St. Augustine* - 1"
- 198. *Bermuda* - 1"
- 199. *Centipede* - 1"
- 200. *Carolina* - 1"

8/2/10



**INTEGRATED
DESIGNS**

GARDEN DESIGN
BUILDING DESIGN
CONSULTATION

31101 MIDWAY RIDGE
ALHAMBRA, CA 91810
7673 837-1233 OFFICE
7673 837-2400 FAX

**BILL SANDER
MAG IVER**

CLIENT

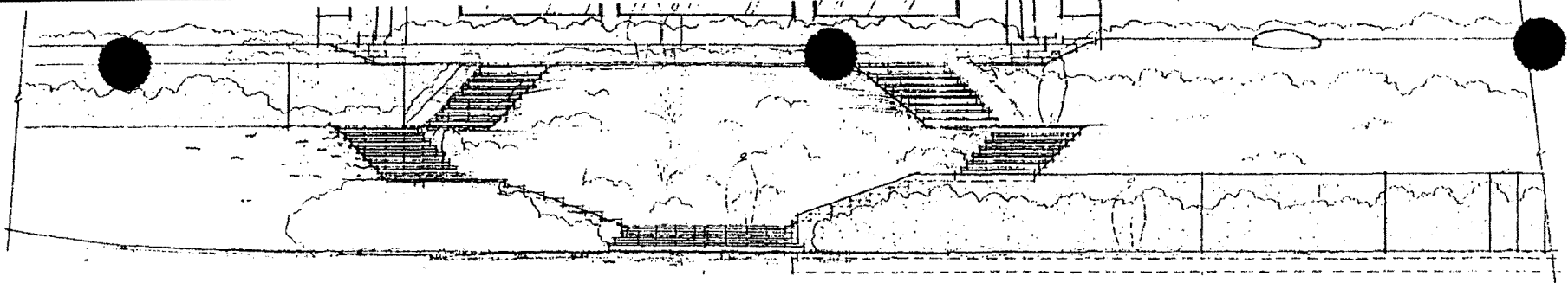
**CENTRAL
TERRACE
PLANTING
PLAN**

TITLE

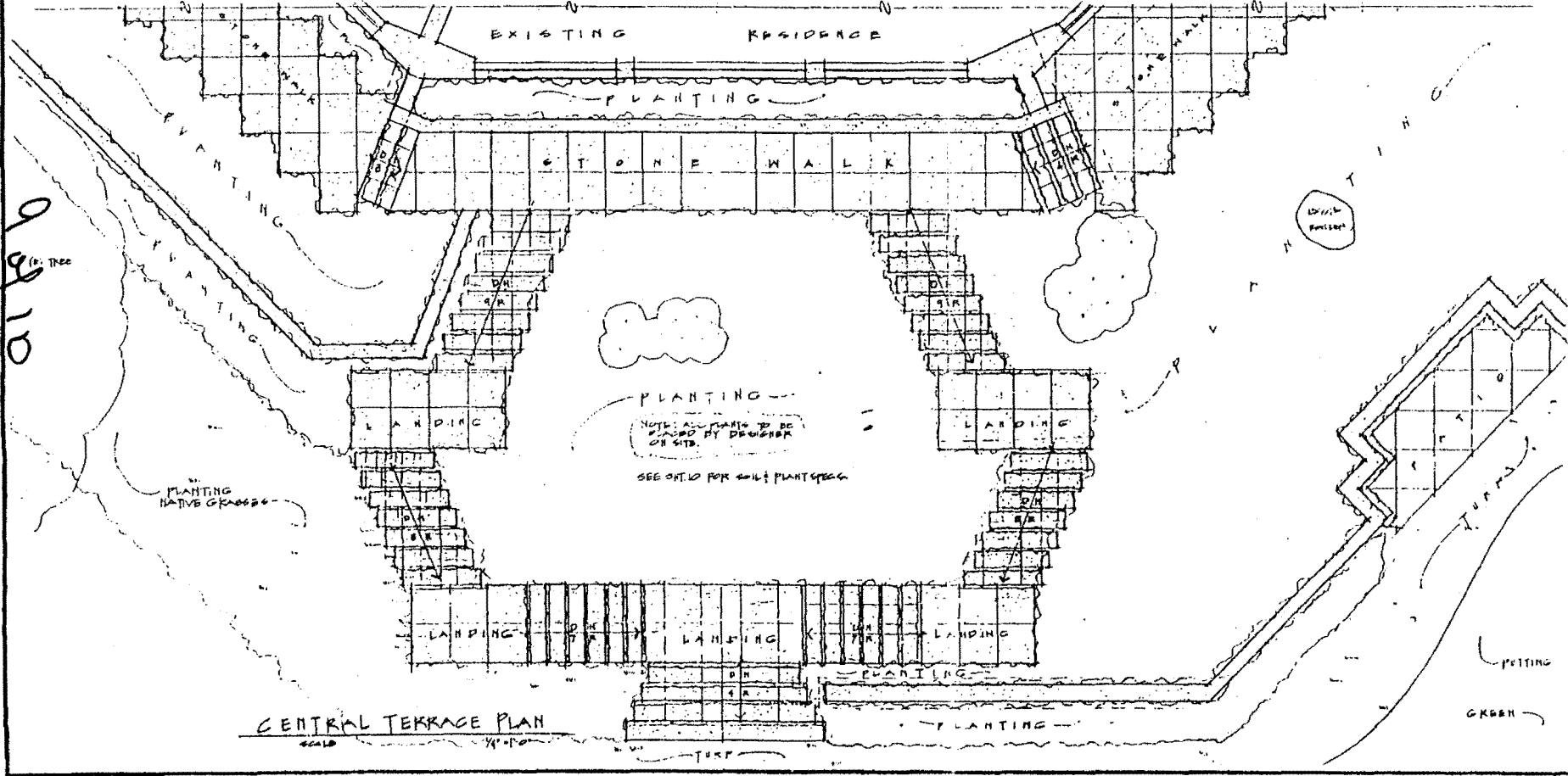
NO.	DATE	DESCRIPTION

DATE BY DESCRIPTION
DRAWN BY DATE

12 13
SHEET OF



ELEVATION
SCALE 1/4" = 1'-0"



CENTRAL TERRACE PLAN
SCALE 1/4" = 1'-0"

9/2/10
10:30 AM

LETTING
GREEN



**INTEGRATED
DESIGNS**

GARDEN DESIGN
LAWN DESIGN
CONSULTATION

11181 MIDCOTE AVE
ALPHEA, CA 94110
(925) 931-1311 OFFICE
(925) 931-1488 FAX

CLIENT
BILLY SANDS
MAGIEVEH

PROJECT
SOLITUDE
PATIO

PLANTING

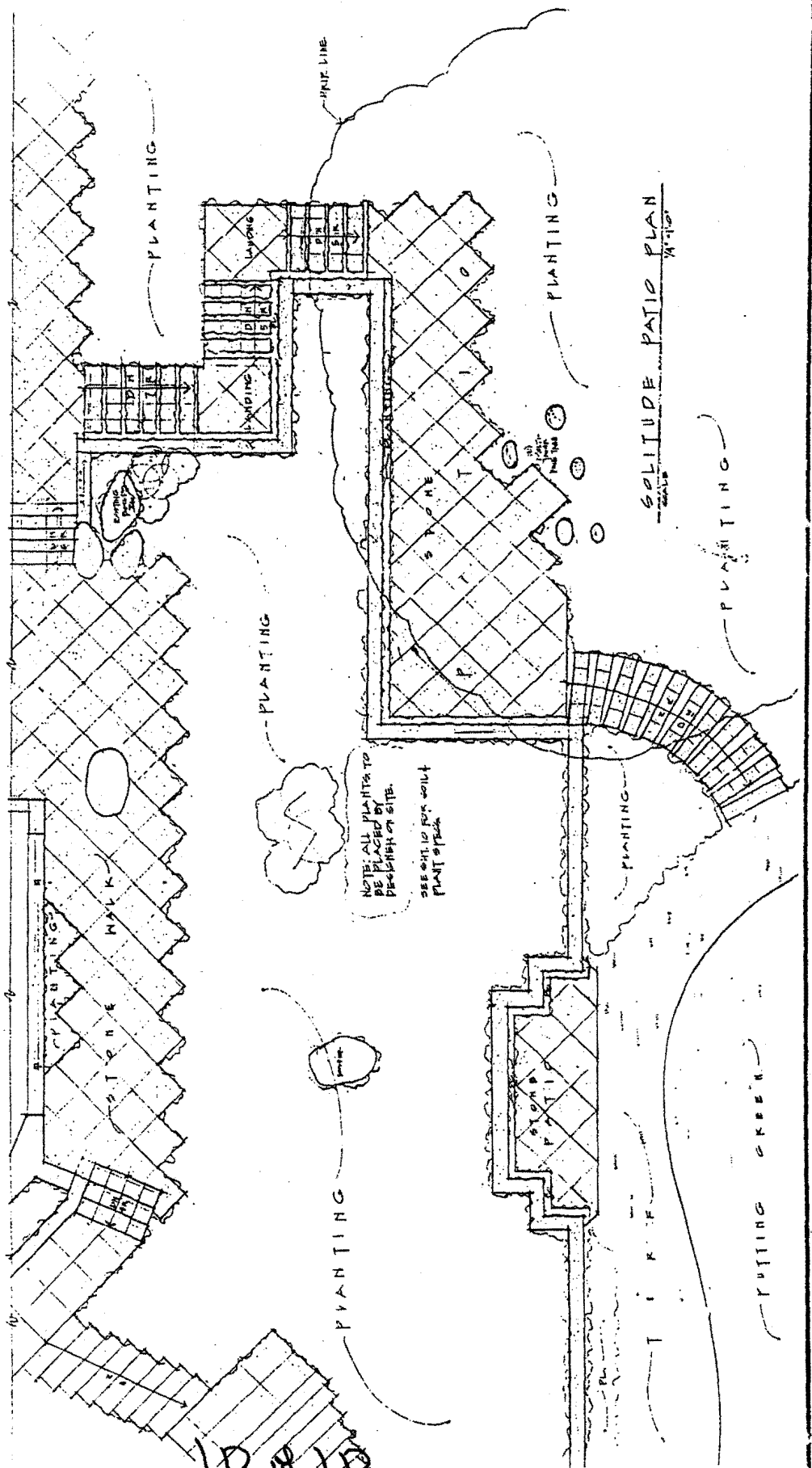
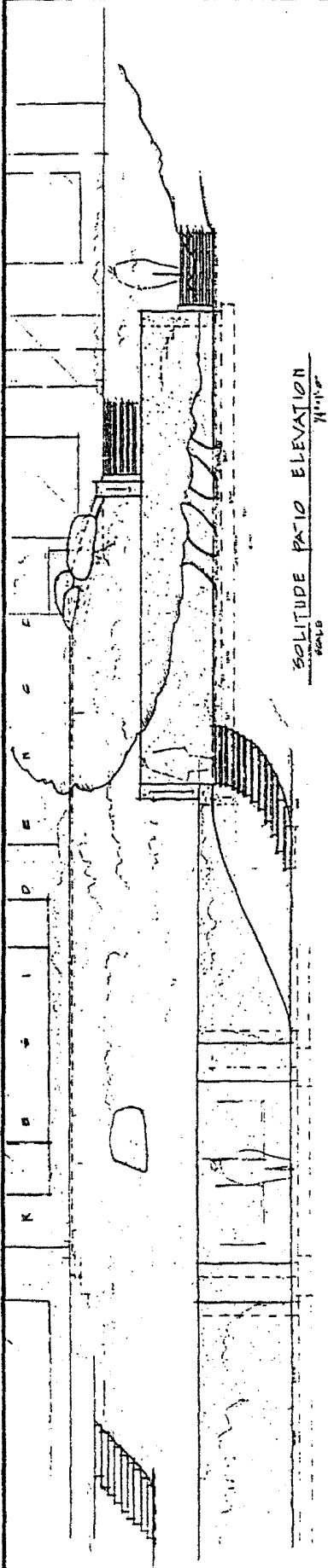
PLAN

TITLE

DATE BY DESCRIPTION
REVISIONS

RKL 10.3.00
DRAWN BY DATE

13 13
SHEET OF



NOTE: ALL PLANTS TO
BE PLACED BY
DESIGNER ON SITE.
SEE SHT. 10 FOR SOIL
PLANT SPEC.



RAYMOND HALL
DIRECTOR

TELEPHONE
(707) 964-5379

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

MAILING ADDRESS:
790 SO. FRANKLIN
FORT BRAGG, CA 95437

February 4, 2002

NOTICE OF FINAL ACTION

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

CASE#: CDP #109-00
OWNER: William & Sandra MacIver
AGENT: Tad Sanders
REQUEST: Remove approximately 95 cubic yards of dirt and fill approximately 37 cubic yards; construct approximately 725 lineal feet of rammed earth retaining walls varying in height from 1 to 6.5 feet; install two artificial turf putting greens totaling 5,400 square feet; installation of "Netefim" underground irrigation systems in all planting beds in front of and behind the proposed rammed earth walls. Restoration of disturbed areas outside the building envelope.

LOCATION: W side of Chapman Road, on a blufftop parcel, approximately 1/2 mile W of its intersection with Highway One approximately 1 1/2 miles S of the town of Mendocino at 45350 Chapman Road (APN 119-330-23).

PROJECT COORDINATOR: Doug Zanini

HEARING DATE: January 24, 2002

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION: Approved with Conditions.

See staff report for the findings and conditions in support of this decision.

The project was not appealed at the local level.

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

EXHIBIT NO. 6
APPLICATION NO. A-1-MEN-02-013
MacIVER
NOTICE OF FINAL ACTION

RECEIVED
FEB 07 2002
CALIFORNIA
COASTAL COMMISSION

February 20, 2002

Mr. Robert Merrill
California Coastal Commission
North Coast Office
PO Box 4908
Eureka, CA., 95502-4908

RECEIVED

FEB 22 2002

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Merrill: RE: CDP 109-00 (MacIver)

Enclosed is my appeal of the above CDP on the basis of the views from the Mendocino Headlands State Park to the north being greatly impacted by the previous project (house) and most likely by the proposed project (berms and walls).

I am enclosing a letter from Mr. MacIver (dated August 26, 1996) which states the house would not be seen from Mendocino or the Headlands. I am also enclosing a picture taken from the Headlands which contradicts that statement.

In order to prevent further visual contamination I request the north side of the current house and all future development on that side be screened from view from the Mendocino Headlands State Park to the north. This will correct the misinformation given by Mr. MacIver in 1996 and will prevent any future attempts to construct projects visible to the public from the Headlands.

Thank you.

Sincerely yours,

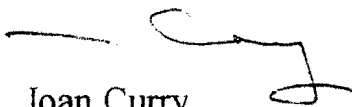

Joan Curry
PO Box 457
Mendocino, CA 95460

EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-02-013
MacIVER	
APPEAL FILED FEB.	
22, 2002 (CURRY)	
(1 of 12)	

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE MAILING ADDRESS:
710 E STREET • SUITE 200 P. O. BOX 4908
EUREKA, CA 95501-1865 EUREKA, CA 95502-4908
VOICE (707) 445-7833
FAX (707) 445-7877



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED

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

FEB 22 2002

CALIFORNIA COASTAL COMMISSION

SECTION I. Appellant(s)

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

John Curry
PO Box 457
Mendocino, Ca 95460 707 937-1649
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Mendocino County Planning & Building Services

2. Brief description of development being appealed: grade fill 725' retaining wall, 400 sq. ft. parking garage, on issue of visibility from village of Mendocino, Headlands State Park & Coastal Trails.

3. Development's location (street address, assessor's parcel no., cross-street, etc.): 40350 Chapman Road (APN 119-370-23) bluff top visible to south view (Dunsmuir State Park) & north - Mendocino Headlands State Park

- 4. Description of decision being appealed
a. Approval: no special conditions:
b. Approval with special conditions: [checked]
c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-02-013

DATE FILED: 2/22/02

DISTRICT: North Coast

2 of 12

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

Visual Resource Policies

Coastal Act 30251 + 30253 (S) (Special Community)
Local Coastal Program 3.5 et seq. LUP 3.5-3.5
Coastal Zoning Code 20.504 et seq especially
20.504.020 20.504.010

SDA 85-96 + MACTIER letter (Aug 26, 1996). Said building would not
be visible. Indeed it is highly visible from Mendocino Headlands State Park
- coastal trees (photo included) pattern across road may be also. Request
landscaping on north side of property to protect coastal views.

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

SECTION V. Certification

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

[Signature]
Signature of Appellant(s) or
Authorized Agent

Date February 20, 2002

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date _____



4 of 12

WILLIAM & SANDRA MacIVER

44870 Gordon Lane
Post Office Box 1649
Mendocino, California 95460

26 August, 1996

RECEIVED
SEP 11 1996
PLANNING & BUILDING SERV.
FORT BRAGG, CA

Supervisor Charles Peterson
MENDOCINO COUNTY
301 South State Street
Ukiah, California

Subject: Fort Bragg County Planning Office Complaint

Dear Supervisor Peterson:

My wife, Sandra, and I have been residents on the Mendocino Coast for eight years. We divide our time between home here in Mendocino and work-home at our business (Matanzas Creek Winery) near Santa Rosa.

I'm sure we all agree on three points regarding the County Planning Department's responsibilities to the public: *The public must be treated fairly. County staff must be competent. Land use regulations must be applied according to the law.* I submit that the record proves not one of these principles guided the Fort Bragg office in our case.

I apologize for the length of this letter. I know only too well how busy you are and that you must deal with many problems every day. I have edited this complaint as much as possible, but I don't feel I can present my case in fewer words. I hope you will bear with me and the length of this letter.

We recently sold our house in Mendocino town and purchased a parcel on Chapman Point, where we will build our permanent residence. Considering our experience with the Fort Bragg Planning Department office during the Coastal Permit application and approval process, we are not surprised to learn that the 1996 County Grand Jury recommends continuing and expanding their investigation of the Fort Bragg Planning Department office, the Mendocino Historical Review Board (MHRB) and the relationship between these two agencies.

Before submitting our plans to the Fort Bragg Planning office for a Coastal Permit, we heard many stories about capricious, biased and arbitrary decisions by Senior Planner Berrigan and his staff. Even though this information came from reliable sources and honest citizens, we felt there was no reason to be concerned. We were sure there would be no valid reason to place a condition on the proposal with which we would not concur because we developed our plans in rigid compliance with the Local Coastal Plan (LCP). Our own environmental and visual concerns about development on our parcel led us to restrict our views and screen our structure from public

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view to a much greater extent than the LCP required. In fact, we left 40% of our building envelope on the table. We gave up our view of Mendocino town.

We quickly complied with all instructions received from the Fort Bragg Planning office prior to our Coastal Permit Hearing. We accepted all general and all special conditions in the Staff Report except one. **That condition was illegal and unenforceable.**

It is most important to us that we are perceived as good neighbors, not only by our neighbors in the town of Mendocino but among all who support established coastal and historical planning regulations. We were aware that the previous owner's (Otis Spunkmeyer, Inc.) application for a Coastal Permit met with great public opposition. Eighteen citizens had registered protests both in person and in letters at the Spunkmeyer Coastal Permit hearing on 18 November 1993.

Out of respect for the citizens who commented on the Spunkmeyer project, we notified them of our plans in a letter (Exhibit # 1) on 31 January 1996-- five months before our Coastal Permit hearing. We also sent a copy of the letter to the editor of the Mendocino Beacon. This letter outlined our plans, provided site and design information and an invitation to visit the site with us. Several residents called for information after receiving our letter. After meeting with us, visiting the site and reviewing our plans, some wrote letters supporting our proposals. **There were no negative responses to our letter.**

After receiving our Coastal Permit Application in February 1996, the Fort Bragg Planning office notified us on 27 February that our application was on "hold" pending receipt of certain information. Our architects supplied that information on 11 March 1996. These letters are Exhibits # 2 and 3 respectively.

After receiving and complying with the 27 February instructions, we sent a letter (Exhibit # 4) to our neighbors on Chapman Point and others who were interested in our project.

Since our parcel adjoined the State Park to the south and was visible from the Mendocino Headlands, we met and coordinated our plans with State Parks (Exhibit # 5). A basic agreement with State Parks to mitigate State Parks' visual concerns about our project is contained in Exhibit # 6. **State Parks stated our plans were sensitive to the natural surroundings.**

We contacted the Coastal Commission Planner in San Francisco to make sure our plans were in concert with coastal development regulations. **The Coastal Planner found no problems with our plans.** The Planner complimented us for our forthrightness and concern for developing our property according to the dictates of the Coastal Plan.

Despite disclosures to the public about our plans, studied compliance with the LCP, and clearances from the Coastal Commission and State Parks, the Fort Bragg Planning office's Staff Report contained a condition that negated our carefully designed and coordinated project: The Staff Report's Special Condition # 1 (Exhibit # 19) stated we had to "*submit to the Coastal Permit Administrator for review and approval, revised plans which depict the proposed development to be in character with the size of the surrounding development by being no larger*

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than the existing development on Chapman Point" before a Coastal Development Permit (CDP) would be issued.

(The convoluted reasoning for this condition is hard to follow. For sake of continuity here, suffice it to say that the Staff Report established a "surrounding" area that included all structures in the Big River area along Highway 1. **This area contained three structures larger than ours.** Then the area was drawn tighter to include only Chapman Point houses where no houses larger than our proposed house existed. The largest house on Chapman Point became, what I call herein the "standard" house.)

This condition was completely without justification. We believe it may have been contrived to deny us our rights as property owners. If it is not malfeasance, that condition and the remaining evidence in the public record surely proves mismanagement, poor supervision and unsatisfactory staff performance. Our written statement (Exhibit # 7) and quotations from the public record are cited below as evidence.

The legality of Special Condition # 1 was challenged by our architect, Robert Schlosser, during our CDP hearing:

This condition "...would require us to reduce the size of our residence by over 25%. In order to reduce it by over 25% we would have to completely redesign the entire residence. Condition # 1 calls for us to bring that revised residence back to the Coastal Permit Administrator for administrative review outside the public hearing process. That type of arrangement, with a brand new project no one has ever seen before, would be reviewed administratively without public hearing. ... (T)hat violates the principle of due process of law. Number one, it would abridge the right of the owners because they would be locked into a situation where they would have to submit their plans to a bureaucrat who's neither appointed nor elected who'd be making a decision on whether they could build their house and would have no right to appeal because it was outside the public review process. Number two, it would abridge the rights of the public who would be denied the right to comment on a new project. Number three, State Parks has approved the design. If it is redesigned State Parks would have no right to comment on a brand new structure."

Mr. Schlosser continued: *"A precedent has been set in the last two public hearings that we've (Leventhal & Schlosser, Architects) brought projects before the Coastal Permit Administrator. The Coastal Permit Administrator told the Fort Bragg office in both of these instances that this particular type of condition cannot be enforced. Today we are faced with the same Staff Report situations as those two previous cases."*

Mr. Hall endorsed Mr. Schlosser's statement. The following statement by Mr. Hall is quoted from the public record of the hearing:

"Mr. Schlosser says it's illegal to condition something to be reduced in size and had to be dealt with by an administrative body outside of a public hearing. I think it does border on that and I think it at least violates the public trust that people expect to have a right to comment upon

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an application and if we were to merely say...well they only have a 3300 square foot structure without putting some pretty strict parameters on the standards for that, I think it does violate the intent of the Coastal Act and the purpose for having a public hearing. Again, paraphrasing (Mr. Schlosser) very accurately on some other things (hearings) where I said it leaves me as a decision maker either in the position of approving or denying an application and being blunt about it and not trying to condition it based on some fuzzy standards or lack of standards other than it be 3,350 square feet or whatever."

Mr. Hall cited two other recent cases that the Fort Bragg Planning office had brought before him with similar, unacceptable conditions.

Supervisor Peterson, the foregoing constitutes a serious indictment of the Fort Bragg Planning office. It is inconceivable to me that mere incompetence can account for designing a condition so devoid of merit. I hope you will take time to review the Staff Report's tortured reasoning and draw your own conclusion for the imposition of Special Condition # 1. Regardless of intent, that condition served no purpose other than to destroy hundreds of hours of professional architectural design work and require the expenditure of many more hours of our architects' time rebutting planning staff's work.

X Since we, ourselves, provided staff with evidence that no visual impact problems existed from the State Park nor the Headlands (see Exhibit # 6), the only logical visual impact concern was from the town of Mendocino. Coastal Administrator Hall went straight to that point with his first question to Planner Tony Navarro: *"I am curious, Tony,...about the amount of development that would be visible from the town Mendocino."* Mr. Hall went onto say he *"had heard 800 square feet of this structure would be visible from town. Do you think that's an accurate statement or do you have any guesstimates as to what portions of the structure would be visible"* from the town Mendocino?

Planner Navarro did not know the answer. nor did he have a "guesstimate," even though the Staff Report states that *"the western portion of the proposed development would be visible from Main Street Mendocino..."* and *"the subject building will be visible from the Town of Mendocino."* Surely, an accurate accounting of the visual impact of our structure would have been a vital piece of information since Special Condition # 1 was based on incompatibility with the Visual Element of the LCP. It was important enough for Mr. Hall to ask the question at the beginning of the hearing.

I don't know what the Fort Bragg Planning office staff saw, but I can attest to what we could see of our project from Main Street Mendocino. On a clear day, my wife and I could not see the marker at highest point of our proposed house from the second floor of The Visual Feast photography shop at Kasten and Main with 7 X 50 binoculars. Nor could we see the markers on "western portion" of our development with telescopes trained on the location from the telescope/binocular shop, Out of this World, at Kasten and Main.

Nevertheless, the Staff Report's unsupported assertions required our architects to hire a photographer and construct a montage that reflected the true visual impact of our structure on the

town of Mendocino. This scaled pictorial presentation overwhelmingly destroys the Fort Bragg Planning office's credibility in the entire matter of visual impact on the town of Mendocino. It provides a vivid picture of egregious disregard of the facts.

I strongly urge you to view our presentation of the visual impact of our project so you can draw your own conclusions from the same source as we have drawn ours. Mr. Schlosser sums up our views in the following testimony:

"this is the Visual Element of the LCP, not the lifestyle element nor the political/social control element (my emphasis). The only square footage that is relevant is the square footage that is visible. The County can't require reduction in size based on square footage that is not visible, based on policies contained in the Visual Element of the LCP."

Coastal Administrator Hall confirmed Mr. Schlosser's analysis with the following statement in the public record:

"I thought I'd made it pretty clear (to the Fort Bragg Planning Department Staff) at the meeting two months ago or so where I stood relative to the issue of having development being in character with the neighborhood. I don't think it's as simple as adding up square footage and dividing or looking to see what it is."

Mr. Schlosser went on and explained there are numerous factors *"that effect the visibility of our plan that should (have been) factored into any analysis of 3-5.1 and 3-5.3 of the LCP visual impact element."* These factors are:

Plan orientation: No place on earth can all of our structure be seen at one time. Our structure has a low profile siting. Most of it is tucked behind trees and behind a knoll out of the view of the town of Mendocino. The "standard" house is in full view of Headlands State Park and the town of Mendocino.

Height off the Ground: Our house has a low profile--lower, in fact, than the legal height. The "standard" structure exceeds the LCP's legal height limit. Our house is lower than the legal height. Our structure is three elevations lower than the house the Staff Report sets as the size standard.

Material: Our building material is Rammed Earth which we are using to make our structure "subordinate to the character of the landscape" as directed by the LCP.

Topography: We grounded our house and stepped it down into the site. The "standard" structure and other acceptable structures are set above the ground.

Natural Vegetative Cover/Screening: Natural screening and siting leaves only about 250 square feet of our 5,438 square foot structure visible from the bench on the Headlands at the end of Heeser Street. The entire facing of the "standard" house can be seen from Main Street,

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Mendocino and any other location with a view of Little River bay. Several houses in the same view, including the "standard" structure had no vegetative cover.

None of the above planning factors were taken into account in the Staff Report.

We submit that the Fort Bragg Planning office's failure to consider appropriate planning factors demonstrates gross incompetence or, as I've suggested, worse. Mr. Hall agrees with Mr. Schlosser analysis. The following is Mr. Hall's response:

"I think Mr. Schlosser did an excellent job of identifying the factors and I hope they can be incorporated into future Staff Reports recognizing that it does add a burden to the staff to do that. But I don't think it was the intent of the plan nor the ordinance to be so simple as to say that no project in the area or the average or it would have simply said that. I think it is more complex than that and I do appreciate the statements by Mr. Schlosser which identifies the factors that he believes should be incorporated into that. I believe they make great sense."

"Again, dealing with the character of an area is more complex than identifying square footage. It deals with plan orientation, distance from where you're viewing it and where the structure is, the height of the structure, the roof lines that are visible, the siting of the structure, the materials of the structure, the topography that you're dealing with, natural vegetative cover, sight lines and the size of the structure."

"All in all, I think the design of the structure, the way there is no one portion of it that the entire structure is visible from any other location (is compatible)...Clearly there are other structures more visible (since the Coastal Plan has been adopted.)"

In closing, Mr. Hall said, *"I applaud the applicants for their design of the structure and to an extent I do hope this is a precedent that other people are as sensitive to the site as they (the MacIvers) have been and the factors they have considered."*

Mr. Hall approved our application, pending compliance with outstanding conditions and deleting Special Condition # 1. (Exhibit # 8.)

Nevertheless, our problems with Planner Berrigan and the Fort Bragg Planning office were not over.

On 26 July our architects, in a letter (Exhibit # 9) to Coastal Permit Administrator Hall to satisfy all remaining conditions so the permit could be approved. One condition required input from the States Parks' Landscape Architect.

State Parks, provided Mr. Hall with the additional information their letter of 19 July (Exhibit # 10). Our architects coordinated with State Parks and developed guidelines for our agreement with State Parks (Exhibit # 11.)

The agreement between us and State Parks did not satisfy Senior Planner Berrigan. On 5 August he sent a letter (signed as *Coastal Permit Administrator*) to our architects asking for our specific arrangements with State Parks. (Exhibit #12). State Parks was not copied the letter. Frankly, the request was so vague I could not understand what Planner Berrigan demanded. After a brief angry telephone call from me to Planner Berrigan, I faxed to him the information (Exhibit # 13) which he clarified for me during my telephone discussion with him. I sent a fax (Exhibit # 14) of my complaint about Planner Berrigan's performance to Mr. Hall the same day.

We truly believe that Planner Berrigan attempted to invent new roadblocks in order to stop us from commencing construction on our project.

On 8 August Senior Planner Berrigan notified me (Exhibit # 15) he was referring our application to another planner and accused me of threatening him. My response is Exhibit # 16.

On 14 August I received a letter from Supervising Planner Frank Lynch. (Exhibit # 17) **This letter fully explained the Planning Department's request and accepted the "submitted materials as providing acceptable compliance..."** Planner Lynch accepted the letters of agreement which were not good enough for Planner Berrigan.

Supervisor Peterson, I would like to shift now to another facet of this matter. In all there were four letters opposing our project (Exhibit # 18). Three of these letters were from residents to whom we provided information about our project in January (Exhibit # 1). Two of these letters were from local "watch dog" groups and two were from members of the MHRB. Frankly, none of these letters showed any respect for nor knowledge of the facts. They offered no comments relevant to our project. None of these residents were courteous enough to have accepted our January invitation to review our project with us. None substantiated their attack with factual information. **They all relied on the seriously flawed Staff Report.**

I would particularly like to draw your attention to two of these letters because they are from appointed County MHRB officials (Kathleen Cameron and Joan Curry). Neither of these letters indicate any independent review of our project. They merely mimic Staff Report errors. I suggest that applicants have a right to expect accuracy and objectivity from County officials, whether or not they are acting in an official capacity. In this case Ms. Cameron and Ms. Curry were given the opportunity to review our plans, visit the site and discuss any problems directly with us months before the public hearing. Instead they intervened at the last moment, opposed our project without personal investigation and relied on a Staff Report condition that was soundly discredited by the Coastal Permit Administrator.

According to the 1996 Grand Jury Final Report, the Fort Bragg Planning office acts as Secretary to the MHRB and provides support services to the MHRB. I do not offer these letters as proof of collaboration between Planner Berrigan's office and the MHRB in this case. However, the timing and content of these letters give rise to such speculation. Moreover, even though these public officials did not write under the auspices of the MHRB, the poor quality of their response reflects on the County Administration. I believe the position taken by these MHRB officials on our

project are illustrative of actions by the MHRB that have given rise to the Grand Jury investigation.

Based on our experience during this process, we agree with the Grand Jury's recommendation to continue and expand their investigation into the Fort Bragg Planning office and the MHRB. As our District Supervisor, I request you require County Administration to take action to correct the problems highlighted in my complaint. It is wrong for taxpayers, especially those who have submitted a first class application and cooperated with County staff in every way, to be treated as we have been. The problems in the Fort Bragg Planning office must be corrected before more citizens are subjected to unprofessional, incompetent public employees who seem to have their own agenda rather than upholding the regulations and providing competent public service.

Supervisor Peterson, the Fort Bragg Planning office's mishandling of our project is a prime example of why the Coastal Plan is under hostile public and partisan political attack. The Coastal Commission is being loaded with Commissioners who want no Coastal Plan at all, let alone one that actually serves the public's rightful interests in protecting the coast from unsightly and environmentally unsound development. We believe the cause of coastal conservation and good land use planning is suffering under the administration of the Fort Bragg Planning office. I hope you will work to restore the public's faith in the staff and activities of this important agency. We look forward to working with you on this matter and in the future.

Respectfully,


William B. MacIver

cc Mendocino Grand Jury
Raymond Hall, Director Department of Planning
✓ Mendocino Historical Review Board

Enclosures

12/12

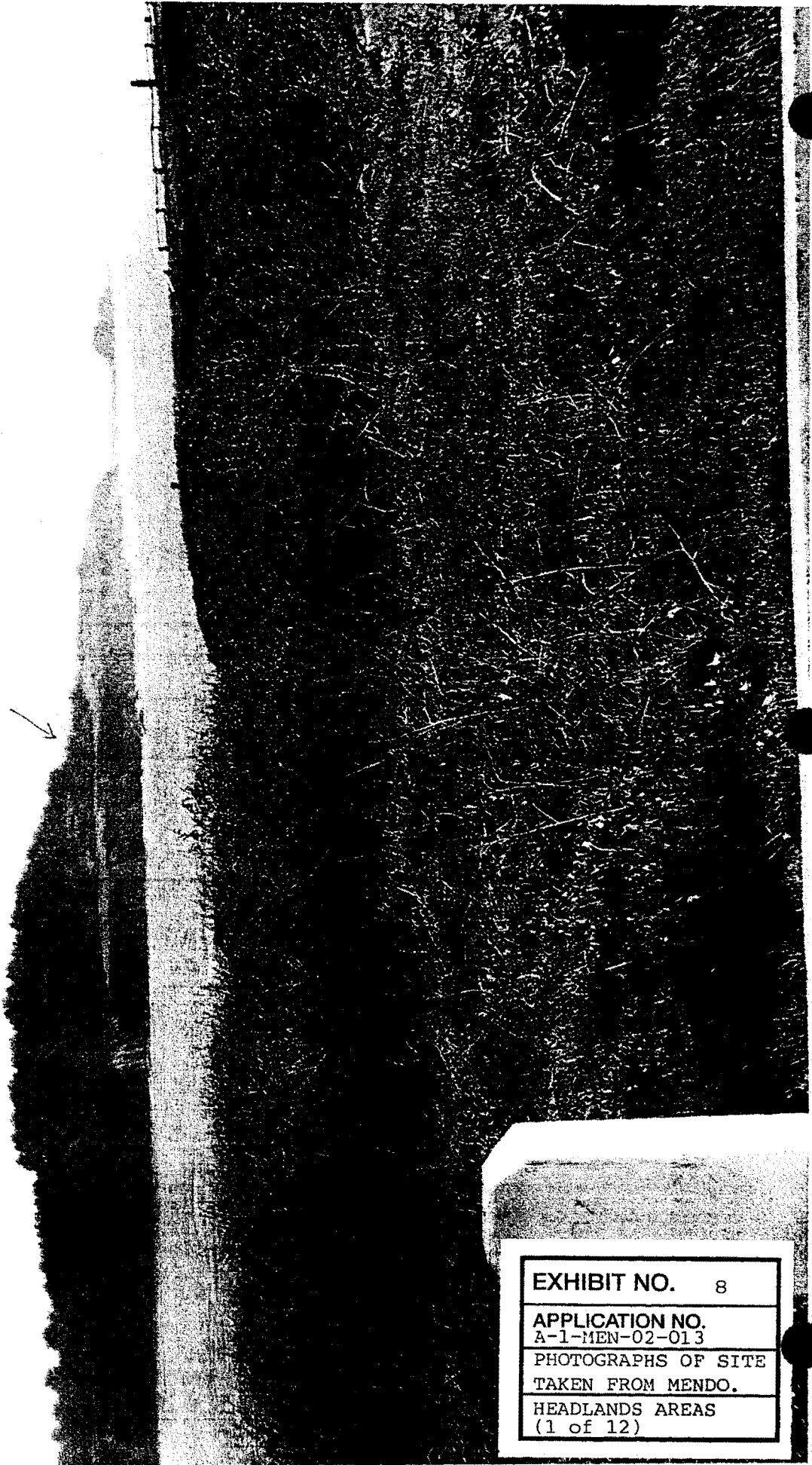
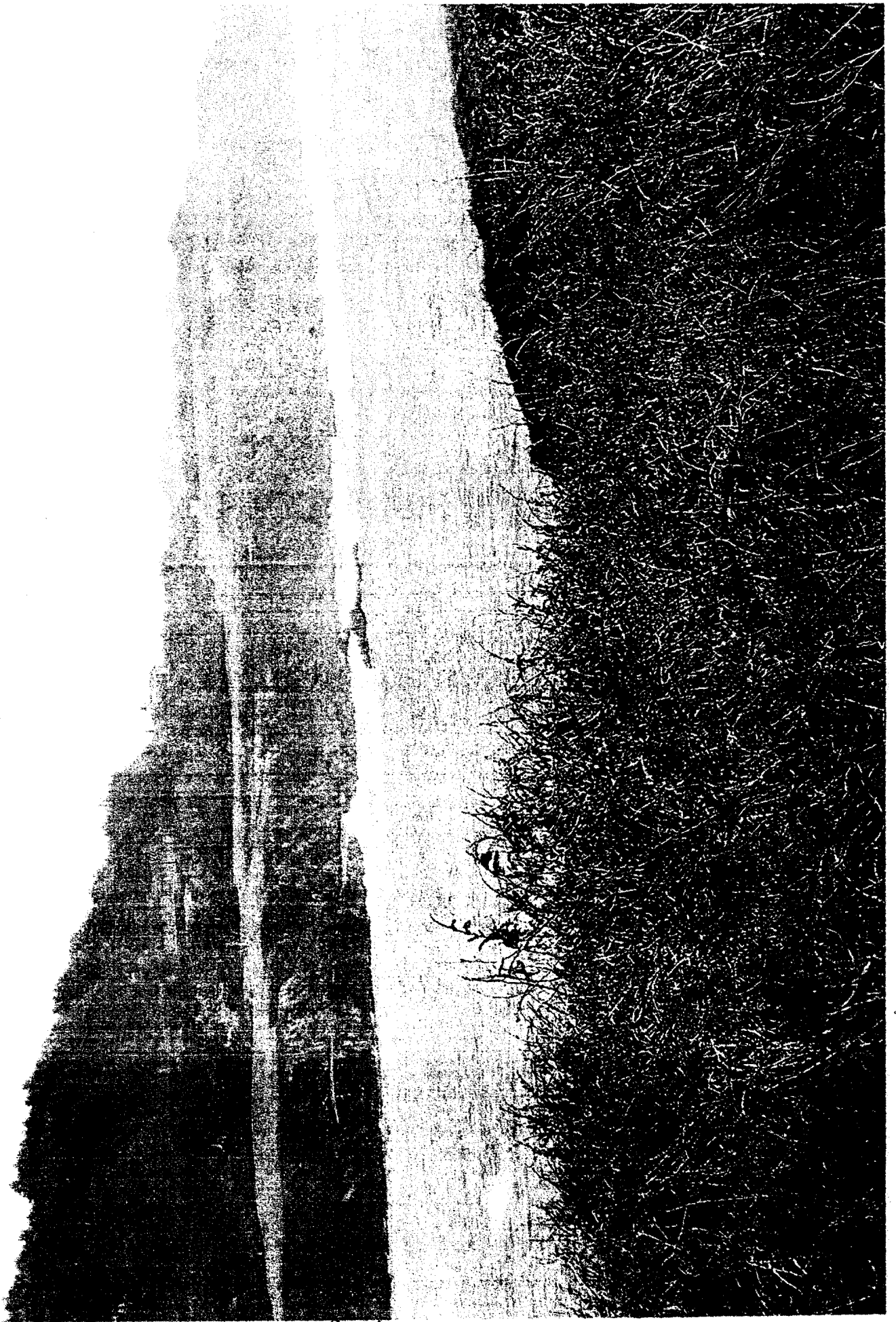


EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-02-013
PHOTOGRAPHS OF SITE	
TAKEN FROM MENDO.	
HEADLANDS AREAS	
(1 of 12)	

from view at west end of Main St. no plants



2 of 12

View from at east end of Main St



3 of 12

View from rd west end of Main St

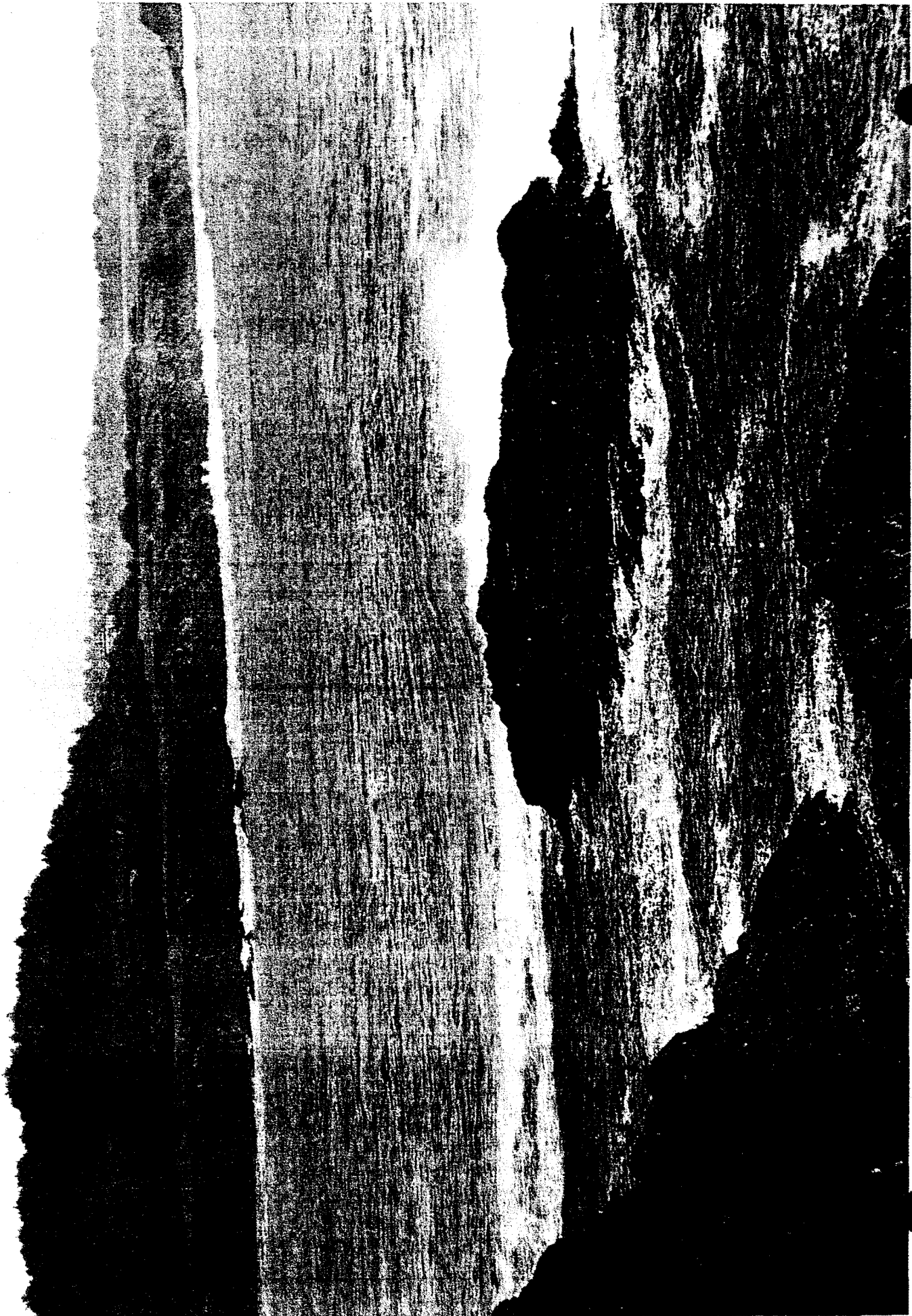
10x telephoto



no elephant

4/12

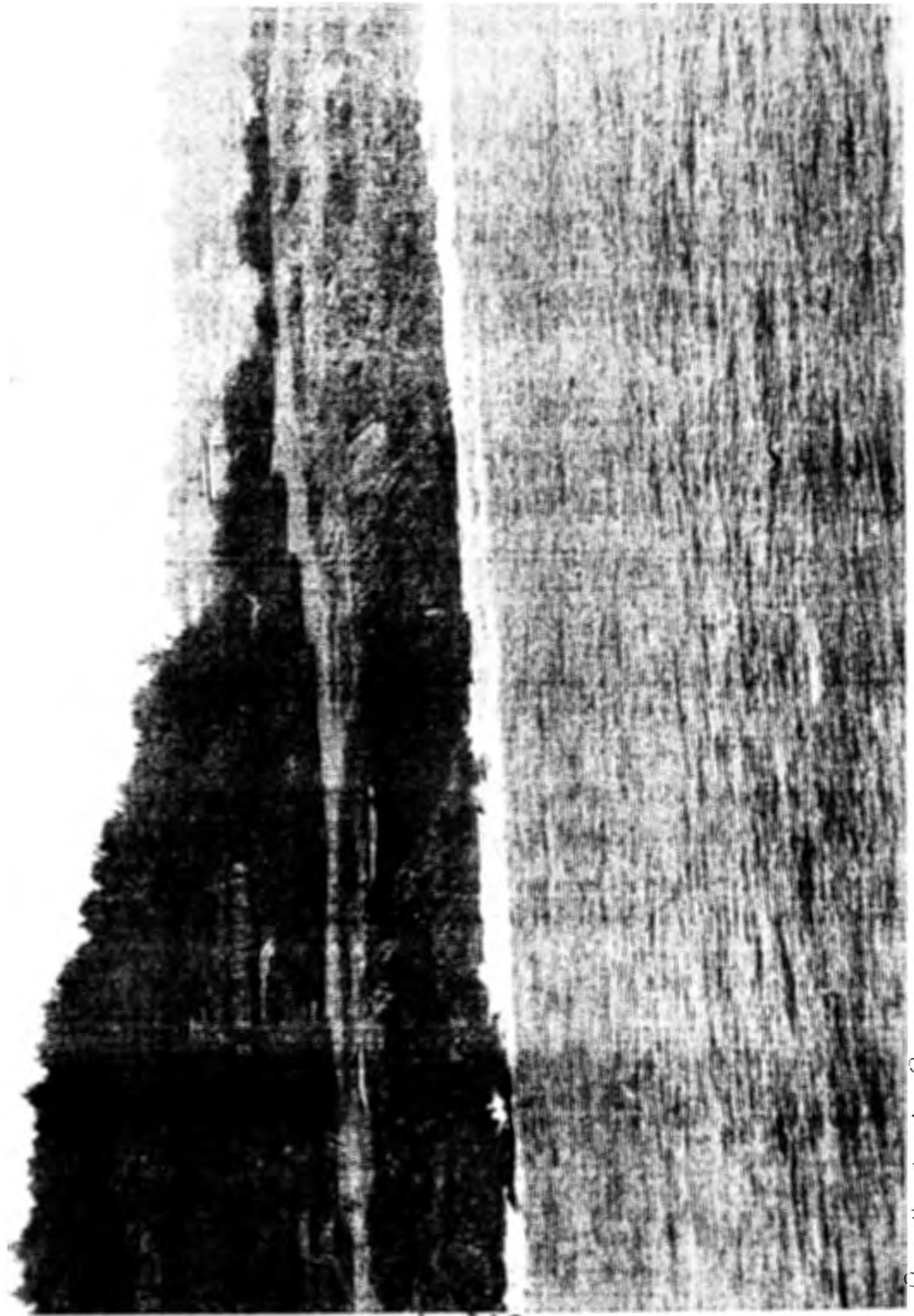
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from Heedlands - Blaklow's

Sx telephoto



6912

San Headlands, San Francisco



70112

Headlands further west



8 of 12

View from the bank of the river

See the photo



4472

10x 14cm

Geo. Heuback, L. 2. 1901, 1001

• road behind trees
 lower edge of house hidden by
 "subtle" pattern behind h.
 • road with wall & plantings

plantings



10.12

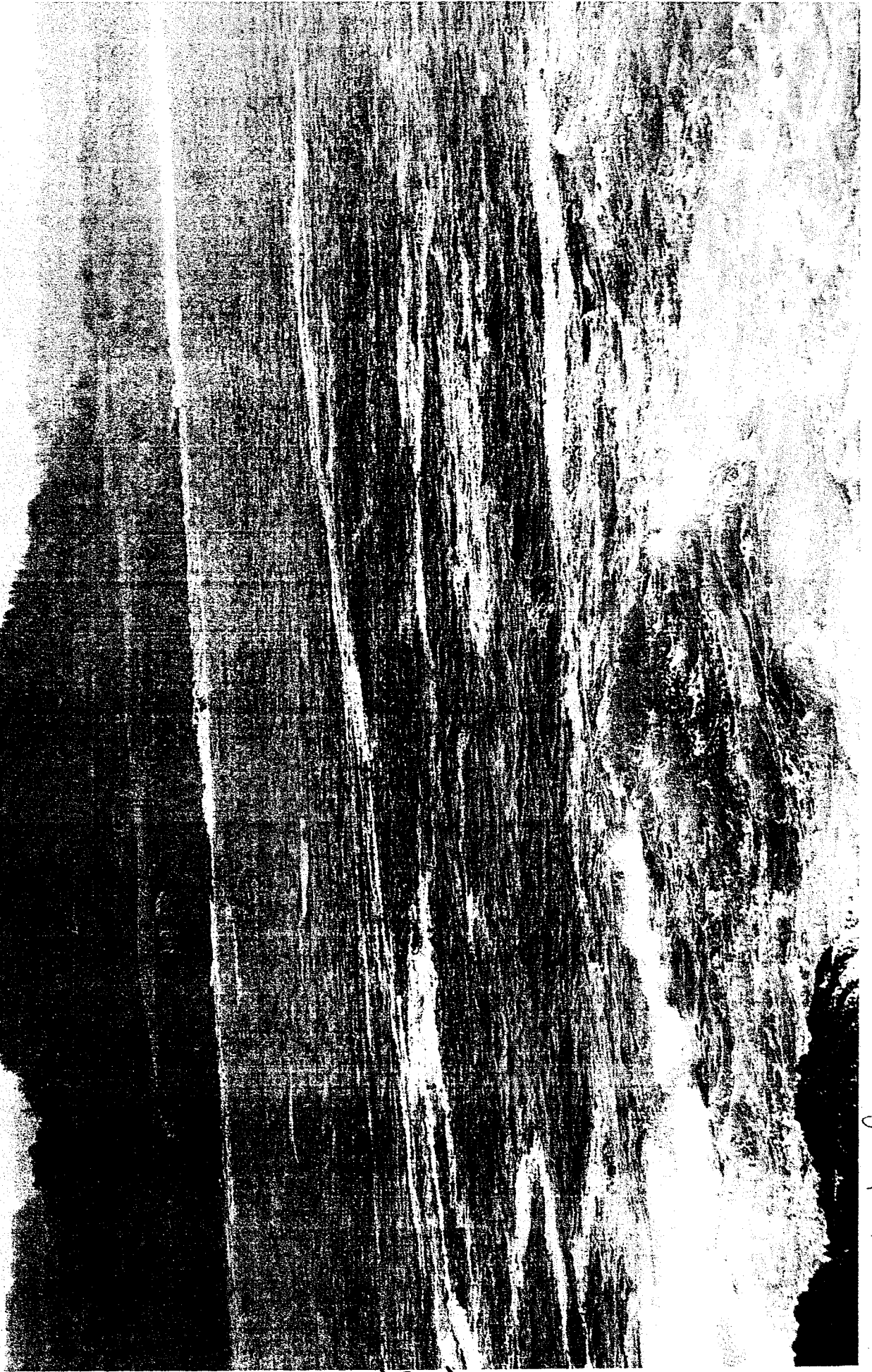
10x telephoto
 from the woods farthest west



11-2-12

from the woods for the first time

no telephoto



12412

from Headlands furthest west

S. Fletcher



February 27, 2002

Mr. Robert Merrill
California Coastal Commission
North Coast Office
P.O. Box 4908
Eureka, CA 95502-4908

RE: CDP 109-00 (MacIver), Joan Curry Appeal, 20 February

Dear Mr. Merrill:

Ms. Curry is in error. The statement she attributes to me does not exist. Her complaint about the visual impact of our house on the Headlands is irrelevant.

The visual impact of our proposed landscape project will be barely discernable to the naked eye from the Headlands due to earth tone construction, vegetation, size and location.

Our next-door neighbor, State Park, supports our proposal. County Planning approved our proposal with appropriate conditions. We look forward to your approval as well.

Sincerely,


William B. McIver

EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-02-013
MacIVER	
CORRESPONDENCE	