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Staff:	Robert S. Merrill
Staff Report:	September 19, 2003
Hearing Date:	October 8, 2003
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 1-03-049

APPLICANTS: **Michael & Audrey Bode**
Mid County Ranch
Doug & Elaine Hasha
Bryan & Nancy Hawes
Rollin & Ann Richmond
William and Lee Bragg
Raymond and Arlie Newby

PROJECT LOCATION: At the southern end of Walker Point Road, in the Indianola area between Eureka and Arcata, Humboldt County; APNs 402-171-11, 12, 13, 14, 15, 16, 17, 18.

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PROJECT DESCRIPTION:

Divide a 77-acre parcel into 13 lots ranging in size from 2.53 to 29 acres.

Lot Areas:

Lot 1	2.53 acres
Lot 2	2.54 acres
Lot 3	2.54 acres
Lot 4	2.54 acres
Lot 5	2.53 acres
Lot 6	2.54 acres
Lot 7	15.3 acres
Lot 8	2.53 acres
Lot 9	2.53 acres
Lot 10	2.53 acres
Lot 11	3.7 acres
Lot 12	3.7 acres
Lot 13	3.7 acres
Remainder	29 acres

Plan Designations:

Upland Area of Site. Rural Residential, 2.5-acre minimum parcel size (RR(2.5)).

Lowland Area of Site. Rural Residential, 10-acre minimum parcel size (RR(10)) over lowland areas of site.

Zoning:

Upland Area of Site. Rural Residential Agriculture with 2.5-acre minimum parcel size and combining zones which require Design Review, and indicate possible Flood Hazard Areas, Coastal Wetland Area, and Archaeological Resource Areas (RR-2.5/D,F, W,A).

Lowland Area of Site. Rural Residential Agriculture with 10-acre minimum parcel size and combining zones which require Design Review, and indicate possible Flood Hazard Areas, Coastal Wetland Area, and Archaeological Resource Areas (RR-2.5/D,F, W,A).

LOCAL APPROVALS RECEIVED:

Humboldt County Tentative Map Nos. FMS-06-97 and FMS 12-912, Coastal Development Permit Nos.

CDP-50-912 and CDP-58-97, and Special Permit
Nos. SP-49-912 and SP-50-97.

OTHER APPROVALS REQUIRED: None Required

SUBSTANTIVE FILE

Coastal Development Permit No. 1-99-031;
Humboldt County Local Coastal Program.

DOCUMENTS:

STAFF NOTES:

1. Jurisdiction and Standard of Review.

The proposed project site is located off of Walker Point Road, about a half mile east of Humboldt Bay. The project site is bisected by the boundary of the Commission's retained jurisdiction and the coastal development permit jurisdiction of Humboldt County. Humboldt County has already granted coastal development permits for the portion of the development within the County's permit jurisdiction. The portion of the site within the Commission's jurisdiction is within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

2. Expired Earlier Permit.

The permit application seeks re-authorization of a land division that the Commission originally approved over two and a half years ago. The Commission granted Coastal Development Permit No. 1-99-031 on January 12, 2001 to Mid County Ranch for the same development that is proposed in the current application. Standard Condition No. 2 of Coastal Development Permit No. 1-99-031 stated that the permit would expire two years from the date on which the Commission voted on the application if development had not commenced. Special Condition No. 1 of the permit imposed requirements that had to be satisfied prior to issuance of the permit and before development could legally commence under the permit. The special condition required that a coastal development permit or a permit amendment be obtained for all future improvements to single-family homes developed at any time on any of the parcels created by the subdivision including improvements that would otherwise be exempt from coastal permit requirements pursuant to Section 30610(a) of the Coastal Act. The condition further required that deed restrictions acceptable to the Executive Director reflecting this requirement be recorded for all of the property involved in the subdivision prior to issuance of the coastal development permit. This condition was imposed to ensure that all future additions and improvements to new homes in the subdivision would be reviewed by the Commission to ensure that such future improvements would not be sited or designed in a manner that would result in adverse impacts to environmentally sensitive habitat, archaeological

resources, and the productivity of adjacent agricultural lands. Although the applicant had completed most of the paper work necessary to satisfy Special Condition No. 1 by January 12, 2003, the condition was not fully satisfied by that date. Therefore, pursuant to Standard Condition No. 2, Coastal Development Permit No. 1-99-031 expired on January 13, 2003. Thus, the permit could not be issued and the approved development could not legally commence by the two year anniversary of Commission approval of the project. The applicants have submitted Coastal Development Permit Application No. 1-03-049 to reauthorize the previously approved subdivision.

3. Differences Between Staff Recommendation and Coastal Development Permit No. 1-99-031

The staff recommended conditions and findings contained herein for the current application are very similar to the conditions and findings adopted by the Commission in Coastal Development Permit No. 1-99-031. The staff continues to recommend that the Commission find that the development is consistent with the Chapter 3 policies of the Coastal Act as conditioned to require that a coastal development permit or a permit amendment be obtained for all future improvements to single-family homes developed at any time on any of the parcels created by the subdivision and that deed restrictions acceptable to the Executive Director reflecting this requirement be recorded for all of the property involved in the subdivision prior to issuance of the coastal development permit. The principal difference between the staff recommendation for the current application and the adopted conditions and findings of Coastal Development Permit No. 1-99-031 are changes to the deed restriction condition to reference the current permit rather than the expired permit and to conform to the Commission's new streamlined procedures for recording a single generic deed restriction (Special Condition No. 7) to impose all of the special conditions of a permit as restrictions on the use of the property. Accordingly, the recommended findings also differ slightly from the findings of Permit No. 1-99-031 in that they reflect the differences in the deed restriction conditions.

4. Applicants' Objection to Future Development Deed Restriction Conditions

In comparison with the old procedure for recording deed restrictions, the new procedures are less onerous on the applicant in that (1) prior liens that may have been recorded against a property no longer must be subordinated in the deed restriction required by the Commission, (2) a single generic deed restriction imposing all of the terms and conditions of the permit as conditions, covenants, and restrictions is required instead of, in some cases multiple deed restrictions, each addressing a separate condition of the permit, and (3) staff review of the deed restriction submitted to satisfy permit conditions is generally faster as the review requires fewer steps and can be done by the District office rather than by the centralized system used in the past where all deed restrictions for all permits approved statewide had to be reviewed by one unit in the Commission's headquarters office.

Despite these advantages, the applicants object to the staff recommended conditions that require the recordation and submittal of new deed restrictions. They note that all of the deed restrictions that had been required under Permit No. 1-99-031 have been prepared and all but one have been recorded, and therefore believe that preparing and recording new deed restrictions is burdensome and unnecessary, even utilizing the Commission's more streamlined new procedures. The applicants suggest that the Commission should instead condition the new permit to simply require that the deed restriction requirements of Permit No. 1-99-031 be followed and that all deed restrictions recorded pursuant to Special Condition No. 1 of Permit No. 1-99-031 be required to remain in place.

Staff recognizes that the staff recommended conditions would require additional condition compliance steps for the applicants, but believes the preparation and recordation of new deed restrictions is necessary and unavoidable. Without recordation of new deed restrictions, title reports for the property would not inform future buyers that Coastal Development Permit No. 1-03-049 affects the property at all. The deed restrictions prepared pursuant to Permit No. 1-99-031 are specific to that permit. Those deed restrictions indicate that the deed restriction is required to satisfy the terms and conditions of Permit No. 1-99-031. As that permit has expired, there is no remaining authority or requirement for those particular deed restrictions to remain effective. Therefore, the property owners could request that the deed restrictions be extinguished and the Executive Director would be obligated to honor that request. In fact, the staff recommends that the property owners request that the old deed restrictions be extinguished and that they in fact be extinguished as the permit that required them in the first place is no longer in effect. Staff also notes that even if the Commission did follow the applicants' suggestion to condition the permit to require the old deed restrictions to remain in place, that condition itself would have to be recorded to notify future owners of its restriction.

Therefore, staff recommends that the Commission attach Special Condition Nos. 1 and 2 as set forth in Section II of the staff recommendation. New deed restrictions that indicate that the deed restrictions are required to satisfy the terms and conditions of the new permit, Permit No. 1-03-049, need to be recorded so that future property owners will be notified and understand that even though Permit No. 1-99-031 has expired, Permit 1-03-049 is the basis for the deed restriction requirement.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve with conditions the proposed division of a 77-acre parcel into 13 lots ranging in size from 2.53 to 29 acres. The subject property is located on Walker Point, a low ridge located between Eureka and Arcata approximately one-half mile east of Highway 101 and Humboldt Bay. The subject property is bisected by the boundary between the Commission's coastal development permit jurisdiction and the coastal development permit jurisdiction of Humboldt County. The boundary line

generally follows the base of the thumb-shaped southern portion of Walker Point. The lowland areas of the property surrounding the Point are shown on maps provided by the State Lands Commission as potentially subject to the public trust and therefore within the Commission's retained permit jurisdiction.

The Mid-County Ranch residential subdivision was the subject of an LCP amendment certified by the Commission in 1988. Humboldt County LCP Amendment No. 1-88 (major) amended the Land Use Plan designation and Zoning for the subject property from Agricultural Exclusive to Rural Residential. The amendment established the 2.5-acre minimum parcel sizes applicable to most of the property and the 10-acre minimum parcel size applicable to a 15-acre lowland area between the end of Walker Point and Myrtle Avenue. In certifying the LCP amendment, the Commission acknowledged that the amendment would allow for the conversion from agricultural use to residential use. The adopted findings state:

“Although the LCP amendment is not in itself a proposal for residential development, the amendment would clearly facilitate such development. The analysis which follows therefore reviews conversion from agricultural use to residential use for its impacts on coastal resources.”

Thus, when the Commission certified LCP Amendment No. 1-88, the Commission anticipated that a specific land division proposal such as the subdivision proposed in Coastal Development Permit Application No. 1-99-031 would be forthcoming and accommodated by the LCP amendment. In addition, the Commission found that a subdivision meeting the density and other requirements of the LCP as amended would be consistent with the Coastal Act.

In certifying the LCP Amendment, the Commission approved the conversion of the site from agricultural use to residential use. To be consistent with Section 30241 and 30242 of the Coastal Act, the proposed development must also minimize conflicts between the urban land uses proposed and the agricultural uses on adjoining lands by maintaining a suitable buffer between these uses. Suitable building sites have been identified for all of the parcels to be created by the proposed subdivision near the top of Walker Point, outside of the Commission's coastal development permit jurisdiction and well away from the adjoining agricultural lands. However, future development of accessory structures or other improvements to the single family residences to be built within the Commission's jurisdiction on newly created parcels, such as storage sheds, yard improvements, pathways, or grading for landscaping improvements, could potentially affect the productivity of the adjoining agricultural lands. Many of these kinds of development activities are normally exempt from the need to obtain a coastal development permit under Section 30610(a) of the Coastal Act. To ensure that any future development on the subject property that is not proposed under the current application would not adversely affect the productivity of the adjoining agricultural lands consistent with Sections 30241 and 30242 of the Coastal Act, staff recommends that the Commission attach special

conditions requiring recordation of deed restrictions stating that any future development on the subject property within the Commission's jurisdiction would require a coastal development permit. This requirement would enable the Commission to review such development and ensure that the development would be located and designed in a manner that would not adversely affect the productivity of the adjoining agricultural lands.

The proposed special conditions are also needed to ensure that future development resulting from the subdivision that might otherwise be exempt from the need for a coastal development permit can be reviewed to protect environmentally sensitive habitat and archaeological resources that exist on the site. Virtually all of the lowland area at the base of Walker Point within the Commission's jurisdiction consists of grazed wetlands, salt marsh, brackish marsh, and riparian wetlands. In addition, archaeological surveys conducted on the subject property indicate that archaeological resources are present in these same wetland areas.

In conjunction with the County's approval of a tentative map for Phase I of the Mid County Ranch subdivision in 1992, the applicants as owners recorded an irrevocable offer to dedicate an easement for public access from the terminus of Walker Point Road to the toe of Walker Point and around the western perimeter of the property adjacent to the Fay Slough Wildlife Area. Although the proposed subdivision would increase residential density in the area by adding a total of 11 additional home sites, any additional demand for public access created by the subdivision would be accommodated by the already recorded offer of dedication of public access. Therefore, staff recommends that the Commission find that the project as proposed without any additional public access is consistent with public access policies of the Coastal Act.

The subject property is located outside of the urban boundary of Eureka, and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50% or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels. During its review of Humboldt County LCP Amendment No. 1-88, the Commission determined that the amendment was consistent with the rural land division criteria. The development history in the area over the fifteen years since the Commission certified the LCP amendment has not affected the conformance of the 2.5-acre minimum parcel size established for the subject property with the rural land division criteria of the Coastal Act. Other than the division of the subject property itself approved by the County, there have been no significant land divisions or parcel mergers approved either by the County or the Coastal Commission within the ¼-mile radius area around the subject property that the Commission examined in its review of the LCP amendment's conformance with the rural land division criteria. Thus, the average, mode and median size of surrounding parcels are unlikely to have changed appreciably. Additional homes have been approved and constructed over the last 12 years within the ¼-mile area, and thus the percentage of parcels that have been developed has risen from the 84% development percentage that the Commission determined existed for the area when the Commission certified the LCP amendment.

Therefore, staff recommends that the Commission find that the proposed subdivision is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

The residential parcels to be created by the proposed subdivision would be served by on-site septic systems and water wells. The applicant has submitted evidence with the application that parcels have adequate soils and groundwater to accommodate the proposed development. In addition, the County determined that existing roads would adequately serve the proposed subdivision and the development would not have a significant impact on traffic. Therefore, staff recommends that the Commission find that the proposed subdivision would be located in an existing developed area able to accommodate it consistent with the requirements of Section 30250 of the Coastal Act.

As conditioned, staff has determined that the proposed development would be consistent with the Chapter 3 policies of the Coastal Act and recommends approval with conditions. The appropriate motions and resolutions to adopt the staff recommendation follow.

I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-03-049 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of the majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Future Development Restrictions

This permit is only for the development described in coastal development permit No. 1-03-049. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the area governed by Coastal Development Permit No. 1-99-031. Accordingly, within the area governed by Coastal Development Permit No. 1-03-049, any future improvements to single family homes developed at any time on any of the parcels created by the subdivision authorized by Coastal Development Permit No. 1-03-049 including but not limited to fences, storage structures, landscaping, accessory structures, and repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 1-03-049 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

2. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

3. Condition Compliance

- A. WITHIN 180 DAYS OF COMMISSION ACTION ON COASTAL DEVELOPMENT PERMIT APPLICATION NO. 1-03-049, or within such additional time as the Executive Director may grant for good cause, the applicant**

shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

A. Site Description.

The subject property consists of approximately 77 acres of land located near the unincorporated area of Indianola between Eureka and Arcata, near the end of Fay Slough off of Walker Point Road and west of Myrtle Avenue (see Exhibits 1-6). The property has been known in the past as Mid-City or Mid-County Ranch.

Approximately half of the roughly L-shaped property covers most of the southern portion of a thumb-shaped low ridge that has a maximum elevation of approximately 100 feet above sea level. The ridge is known locally as Walker Point. The property also includes lowland areas to the west, south, and southeast of the Walker Point that extend down to sea level. The largest lowland area consists of an approximately 15-acre piece of land adjacent to Myrtle Avenue.

The upland area of the subject property is covered at the northern end by coastal coniferous forest and on the southern end by grassland. A narrow band of remnant riparian woodlands and seasonal and brackish marshes lie along the southern, western, and eastern edges of the base of the ridge. Adjacent lowland areas are former tidelands that were diked off from Humboldt Bay and tributary sloughs at the beginning of the 20th century. Due to the dikes, high winter rainfall, and impervious clay soils, the lowlands function as seasonal freshwater wetlands.

The property is designated in the certified Humboldt Bay Area Plan and zoned as Rural Residential, which primarily is a designation and zoning for single-family residential use but which allows for various kinds of low intensity agricultural activities. Most of the property is subject to a 2.5-acre minimum parcel size, although the 15-acre lowland area adjoining Myrtle Avenue is subject to a 10-acre minimum parcel size. The property is also covered by various combining zones which require Design Review, and indicate possible Flood Hazard Areas, Coastal Wetland Areas, and Archaeological Resource Areas.

Walker Point Road provides the only road access to the subject property except for Myrtle Avenue, which serves an existing dwelling at the southeast corner of the property. The northern half of Walker Point Road is within the City limits of the City of Eureka

and is maintained by the City. The southern end near the project site is outside of the city limits and maintained by the County.

A water supply pipeline crosses the southeast corner of the property within a right-of-way owned by the City of Eureka. The pipeline supplies untreated water to the Eureka municipal water system.

Surrounding property is devoted to a mix of different land uses. Along Walker Point Road to the northeast of the subject property is a residential community comprised of several dozen parcels most of which are developed with residences. Other rural residential parcels lie to the east of the site. To the west of the subject property is the Fay Slough Wildlife area, owned and managed by the Department of Fish & Game. Areas south of the subject property are agricultural parcels mainly used for grazing.

The property is bisected by the boundary between the Commission's coastal development permit jurisdiction and the coastal development permit jurisdiction of Humboldt County. The boundary line generally traces the base of the thumb-like shape of the southern portion of Walker Point. The upland areas of Walker Point are within the County's jurisdiction and the lowland areas surrounding the Point are shown on maps provided by the State Lands Commission as potentially subject to the public trust and therefore within the Commission's retained permit jurisdiction.

B. Project Description.

The proposed project consists of the subdivision of the 77-acre property into a total of 13 lots ranging in size from 2.53 to 29 acres. The parcels to be created can be grouped into five distinct groups with similar characteristics.

Lots 1-6 comprise the first group and include the portions of the subject property west of the developed portion of Walker Point Road. These proposed parcels are generally 190-foot-wide by 590-foot-long and 2.53 acres in size. These upland parcels would occupy a portion of the hilltop of Walker Point, although the parcels slope steeply down to the lowlands at their western ends. The local approvals for the subdivision identify building sites for each of these parcels on the hilltop. Single-family residences have already been developed on most of these parcels.

The second group consists just of proposed Lot 7. This proposed parcel is 15.3 acres in size and occupies the lowland area west of Myrtle Avenue and east of Walker Point. The parcel is developed with a pre-Coastal Act single-family house on an existing fill pad and is still used for agricultural grazing.

Lots 8-10 comprise the third group and include three lots that would be created west of a proposed extension of Walker Point Road. These parcels would be similar in characteristics to the first group, being approximately 2.53 acres in size, consisting of

upland parcels occupying a portion of the hilltop of Walker Point that slope steeply downward to the lowlands at their western ends, and having County designated building sites on the hilltop.

Proposed lots 11-13 comprise the fourth group and include three lots that would be created east of the proposed extension of Walker Point Road. These three parcels would be approximately 3.7 acres in size and extend from the hilltop at Walker Point Road to lowlands at their eastern ends. These proposed parcels also have County-designated building sites in the hilltop areas.

The last group consists just of a 29-acre remainder parcel south of the third and fourth groups of proposed parcels and west of the 15-acre parcel. This parcel may be proposed for further subdivision in the future, but no such division is proposed under the current permit application. The parcel would include the southern end of Walker Point and extend down to lowlands to the west, south, and east.

The subdivision is a phased project. Phase I of the proposed subdivision consists of the creation of the first two groups of lots, Lots 1-6 and Lot 7 and their separation from the rest of the subject property. Phase II consists of the creation of the third and fourth groups of lots, Lots 8-10 and Lots 11-13, and their separation from the 29-acre remainder parcel.

Phase I of the proposed subdivision has already occurred without benefit of a coastal development permit from the Commission. Phase I had been approved by the County, which granted a tentative map approval, special permit, and coastal development permit. However, when the local approvals were processed, neither the applicant nor the County acknowledged that portions of the site extend into the jurisdiction of the Coastal Commission. Not until a boundary determination was performed for Phase II of the project did it become apparent that parts of Phase I of the subdivision are within the Commission's permit jurisdiction. Most of the Phase I lots west of Walker Point Road have been developed with single-family residences. The house has existed for many years off of Myrtle Avenue on the 15-acre lowland portion of the property southeast of Walker Point.

B. Previous LCP Amendment.

The Mid-County Ranch residential subdivision was the subject of an LCP amendment certified by the Commission in 1988. Humboldt County LCP Amendment No. 1-88 (major) amended the Land Use Plan designation and Zoning for the subject property from Agricultural Exclusive to Rural Residential. The amendment established the 2.5-acre minimum parcel sizes applicable to most of the property and the 10-acre minimum parcel size applicable to the 15-acre lowland area between the end of Walker Point and Myrtle Avenue. As proposed, the Land Use Plan amendment also added provisions to the LUP requiring that any subsequent subdivision of the property be conditioned to require:

- a. A 100-foot wide wetland/resource area buffer;
- b. An offer of dedication of a public accessway to the base of Walker Point;
and
- c. Access road improvements to Walker Point and Indianola Cut-off Roads.

The Implementation Plan amendment also added the combining zones to the property regarding archaeological resources, coastal wetlands, flood hazards, and design review.

In certifying the LCP amendment, the Commission acknowledged that the amendment would allow for the conversion from agricultural use to residential use. An excerpt from the revised findings adopted for certification of the LUP amendment states the following:

“Although the LCP amendment is not in itself a proposal for residential development, the amendment would clearly facilitate such development. The analysis which follows therefore reviews conversion from agricultural use to residential use for its impacts on coastal resources.”

The revised findings for certification of the LUP amendment include findings regarding the specific topics of agricultural land use, land divisions outside of existing developed areas, urban services, biological resources, scenic quality, archaeological resources, and public access. A copy of the adopted findings is attached as Exhibit 7 of this report. With regard to conversion from agricultural use to residential use, the Commission found that the subject property does not contain prime agricultural soils, would meet the conversion requirements of Section 30241 and 30242 of the Coastal Act, and would avoid conflicts between agricultural and urban land uses. With regard to land divisions outside of existing developed areas, the Commission found that the proposed LUP amendment is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act. With regard to urban services, the Commission found that with the proposed parcel density of one dwelling unit per 2.5 acres, future residential development could likely be served by on-site septic systems and on-site wells. With regard to biological resources, the Commission found that the County's proposed 100-foot buffer to be established from the upper extent of all wetland and riparian areas on the property would protect the quality and biological productivity of coastal waters and other environmentally sensitive habitat consistent with Sections 30231 and 30240(a) of the Coastal Act. With regard to scenic qualities, the Commission found that with the provisions of the proposed amendment to establish a design review combining zone and the resulting requirement that any development of the property would be subject to design review, the LUP amendment would adequately protect the scenic and visual quality of the area consistent with Section 30251 of the Coastal Act. With regard to the protection of archaeological resources, the Commission found that as the known archaeological resources of the site are within areas the LUP amendment proposed as wetland/riparian buffer areas, the proposed amendment would ensure that the archaeological resources would be protected and thus the amendment is consistent with

Section 30244 of the Coastal Act which requires mitigation of impacts on archaeological resources. With regard to public access, the Commission noted that the LUP amendment as submitted included a provision requiring that subdivision of the property be subject to a public access easement extending from the terminus of Walker Point Road to the toe of Walker Point and around the western perimeter of the property adjacent to the lands now owned and managed as a wildlife area by Fish & Game. With this provision, the Commission concluded the proposed LUP amendment was consistent with the public access policies of the Coastal Act.

In its findings certifying the accompanying change to the Implementation Plan portion of the LCP, the Commission found that the Residential Agriculture zoning for the subject property would be consistent with and adequate to carry out the Rural Residential LUP designation. The Commission also found that the proposed minimum parcel size requirements would be consistent with the density provisions of the LUP, as amended.

Thus, when the Commission certified LCP Amendment No. 1-88, the Commission anticipated that a specific land division proposal such as the subdivision proposed in Coastal Development Permit Application No. 1-03-049 would be forthcoming and accommodated by the LCP amendment. In addition, the Commission found that a subdivision meeting the density and other requirements of the LCP as amended would be consistent with the Coastal Act.

D. Land Divisions Outside Existing Developed Areas.

Section 30250(a) provides as follows:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The subject property is located outside of the urban boundary of Eureka, and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50% or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels.

During its review of Humboldt County LCP Amendment No. 1-88, the Commission considered whether the minimum parcel size allowed under the LCP amendment (2.5 acres) would be consistent with the rural land division criteria of Section 30250(a) of the Coastal Act. The Commission determined that the amendment was consistent with the criteria based on the following analysis contained in the findings for certification of the LUP amendment:

"Taking the second test first, the Commission has normally taken "surrounding parcels" to include those within a quarter-mile radius. Consistent with the decision of a state court of appeal (Billings v. CCC (1980) 103 Cal.App.3rd 729), this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, no such feature exists within the quarter-mile radius.

Some 95 parcels lie within one-quarter mile of the subject property. Four of these parcels are designed by the LCP for Agricultural Exclusive (AE) use, while nearly all the remainder are designated Rural Residential or Rural Exurban. Of the residential parcels, over half are less than one acre in size, and the largest is 12.5 acres. The arithmetic mean of these parcels is 1.67 acres, and the mode (the value which occurs most frequently) is .6 acres.

The four AE parcels measure approximately 30, 61, 70, and 110 acres. Including these four parcels in the analysis, the arithmetic mean rises to 4.4 acres, while the mode remains at .6 acres. Excluding the 110-acre parcel, which is now owned by the Wildlife Conservation Board and therefore cannot be developed, the arithmetic mean becomes 3.3 acres.

The court in Billings concluded that the Commission should identify the "typical" or "representative" parcel size. Where the presence of several large parcels would skew the average, the mode provides a better picture of the typical parcel size in the area. In this instance, due to the presence of several large agricultural parcels, the arithmetic mean of surrounding parcels is larger than the minimum parcel size (2.5 acres) allowable under the LCP amendment. However, the mode of surrounding parcels is smaller than 2.5 acres, and therefore the Commission finds that the LUP amendment is consistent with this part of Section 30250(a).

The other test established for land divisions outside existing developed areas refers to the development status of usable parcels in the area. In this case, some 84% of the residential parcels within the quarter-mile radius are developed (77 out of 91 parcels). In other instances, the Commission has sometimes looked to an area broader than a quarter-mile radius to apply this test, for instance where the market area for similar properties is larger than the quarter-mile radius. In this case, although the market area is arguable greater than the radius, the high build out of the parcels in the immediate vicinity convinces the Commission that it is

unnecessary to look further afield. The proposed LCP amendment is consistent with the rural land division criteria of Section 30250(a)."

On the basis of the above analysis, the Commission certified the LCP amendment and the 2.5-acre minimum parcel size for the subject property as being consistent with the rural land division criteria of Section 30250(a) of the Coastal Act. Humboldt County has since approved coastal development permits for the portions of the proposed subdivision within the County's coastal development permit jurisdiction, determining that the subdivision conforms with this minimum parcel size standard as all of the lots to be created are 2.53 acres or greater in size. The development history in the area over the twelve years since the Commission certified the LCP amendment has not affected the conformance of the 2.5-acre minimum parcel size established for the subject property with the rural land division criteria of the Coastal Act. Other than the division of the subject property itself approved by the County, there have been no significant land divisions or parcel mergers approved either by the County or the Coastal Commission within the ¼-mile radius area around the subject property that the Commission examined in its review of the LCP amendment's conformance with the rural land division criteria. Thus, the average, mode and median size of surrounding parcels have not changed appreciably. Additional homes have been approved and constructed over the last 12 years within the ¼-mile area, and thus the percentage of parcels that have been developed has risen from the 84% development percentage that the Commission determined existed for the area when the Commission certified the LCP amendment. Therefore, the Commission finds that the proposed subdivision is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

E. New Development.

Coastal Act Section 30250 (a) states in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30250(a) of the Coastal Act states that new development shall be located in or near existing developed areas able to accommodate it and where it will not have significant adverse effects on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

As discussed in the previous finding, the proposed subdivision is located within an area that has been planned and zoned to accommodate it. The proposed residential

subdivision is consistent with the rural residential use and zoning designations applied to the site and the parcel sizes proposed of all of the parcels to be created by the subdivision exceed the 2.5-acre minimum parcel size required by the zoning ordinance.

In certifying LCP Amendment 1-88, the Commission found that with the proposed parcel density of one dwelling unit per 2.5 acres, future residential development could likely be served by on-site septic systems and on-site wells. The applicant is proposing that the residential parcels to be created be served by on-site sewage disposal and water systems. Test wells and soils evaluations have been conducted to evaluate the suitability of the site for sewage septic systems and to evaluate the suitability of groundwater found at the site for residential use. These studies included evaluations performed by A.M. Baird Engineering and Vroman Engineering in the mid-1980s and more recent study performed by Water B. Sweet, Civil Engineers. The studies indicate that the soils are adequate to accommodate on-site septic systems and sufficient groundwater is available to serve the proposed residential uses of the site. In a letter dated October 20, 1999 to the Commission, the Humboldt County Department of Public Health, Division of Environmental Health states that the Department has reviewed Phase II of the subdivision. The letter states specifically that the applicant has submitted sewage disposal information and water quantity testing information for each parcel for the Department's review and the Department recommends approval.

With regard to road services, County concluded in its review of the subdivision that the added traffic generated by future residents of the subdivision would not create a significant impact on traffic and that necessary emergency access to and from the site would not be adversely affected. Within the County's coastal permit jurisdiction, the applicant proposes to extend Walker Point Road to serve the new parcels that would be created. The County has required that the road extension meet County standards.

As (1) the proposed subdivision will be located in an area planned and zoned for residential development at the density proposed by the applicant; (2) the applicant has submitted evidence that on-site sewage disposal systems and water wells will be adequate to serve the development; and (3) proposed road improvements will be built to County standards to maintain and provide adequate vehicular access to the site and the County has determined there will be no significant traffic impact resulting from the project, the Commission finds that the proposed development is consistent with Section 30250(a) of the Coastal Act to the extent that the development will be located in an existing developed area able to accommodate it.

F. Environmentally Sensitive Habitat Area.

Coastal Act Section 30240 states:

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

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

At least two biological surveys have been performed on the property in the past (see Exhibit 8). Newton and Associates (June 30, 1987) prepared a biological assessment for the entire Mid-County Ranch property (including Phases I and II and the current proposed "remainder" parcel). Theiss and Associates (1992) prepared an additional study for Lot 7 of Phase I, the 15.3-acre parcel that adjoins Myrtle Avenue. Within the Commission's coastal development permit jurisdiction, the reports identify riparian areas associated with Fay Slough, which traverses through lowland areas at the southern end of the property, a remnant salt marsh along the banks of Fay slough, a brackish marsh within Fay Slough, and grazed seasonal wetlands in the lowland areas. The salt marsh contains two rare plant species, the Humboldt Bay gumplant (Grindelia stricta ssp. blakei) and the Humboldt Bay owl's clover (Orthocarpus castillejoides var. humboldtiensis). The wetland/upland boundary occurs at approximately 10-foot elevation above Mean Sea Level, near the base of the hill that comprises Walker Point. All portions of the subject property below the 10-foot elevation constitute various kinds of wetlands except for an area filled prior to the Coastal Act off of Myrtle Avenue that supports the existing residence on proposed Lot 7. The biological consultants recommend that a 100-foot-wide resource buffer be established between the wetlands and the developable areas of the lots.

In its approval of the two tentative maps and the two coastal development permits it granted for the subdivision, the County required that a 100-foot wetland protection area be established around the wetlands at the site. The County required that the 100-foot wetland protection area (including the 100-foot buffer and wetlands themselves) be shown on Development Plans and be designated as "unbuildable." Other limitations restricting development in the areas between the wetland protection area and the 40-foot elevation above Mean Sea Level designed to limit impervious surfaces and promote the infiltration of runoff from the development also are to be noted on the Development Plans. The Development Plans were also required to include a notation stating that the restrictions in the Development Plans shall be binding on all future development of the parcels created by the subdivision and that a modification to the coastal development permit shall be required to alter these requirements. Other special conditions of the County approvals

required that the applicant record a "Notice of Development Plan and Geology Report" for all lots and that all grading and drainage plans for road and utility construction demonstrate conformance with the Development Plans.

Building sites have been identified for all of the parcels to be created by the proposed subdivision that were not already developed with a single-family residence prior to the subdivision being approved by the County. All of the identified building sites are near the top of Walker Point, outside of the Commission's coastal development permit jurisdiction and well away from the identified wetland, riparian, and rare plant habitat on the site. Therefore, the proposed subdivision would not result in the development of future homes on the parcels in or closely adjacent to environmentally sensitive habitat areas that would adversely affect the environmentally sensitive habitat contrary to Section 30240.

However, depending on their location, nature, and extent, the future development of accessory structures to the single family residences, such as fences, storage sheds, yard improvements, pathways, or grading for landscaping improvements, or other minor development activities normally associated with single family residences could potentially affect the environmentally sensitive habitat within the Commission's jurisdiction. Many of these kinds of improvements to single-family residences are normally exempt from the need to obtain coastal development permits pursuant to Section 30610(a) of the Coastal Act. Thus, the Commission would not normally review such development to ensure that impacts to sensitive habitat are avoided.

To avoid such impacts to coastal resources from the development of otherwise exempt improvements to single-family residences to existing structures, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of Regulations. Section 13250(b)(6) specifically authorizes the Commission to require a permit for improvements to single-family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements to the approved structure would require a development permit. As noted above, the future development of certain accessory structures to the single family residences developed in the approved subdivision could involve a risk of adverse impacts to the environmentally sensitive habitat adjacent to the site. Therefore, in accordance with provisions of Section 13250 (b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 1 which requires a coastal development permit or a permit amendment for all future improvements to single-family residences developed at anytime on the parcels created by the approved subdivision, including improvements that might otherwise be exempt from coastal permit requirements pursuant to Section 30610(a) of the Coastal Act. Special Condition No. 2 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the

requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements to the single-family residences without first obtaining a permit as required by this condition.

As conditioned, the Commission finds that the proposed development is consistent with Section 30240 of the Coastal Act as (1) no development would occur within any environmentally sensitive habitat area, (2) development on the property will be sited and designed to prevent impacts which would significantly degrade those areas and will be compatible with the continuance of the habitat, and (3) future development that might occur on the property within the Commission's jurisdiction will be reviewed by the Commission to ensure that such development also does not adversely affect the environmentally sensitive habitat areas on the property.

G. Agricultural Resources.

Coastal Act Section 30241 states:

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

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

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

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

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

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

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent

to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Coastal Act Section 30242 states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

The above sections of the Coastal Act set forth several policies relating to coastal agriculture including (a) limiting conversions of agricultural lands (b) maintaining prime agricultural lands in agricultural production, and (c) minimizing conflicts between agricultural and urban land uses.

Prior to the late 1980s, the subject property was part of a large ranch, devoted primarily to cattle grazing. At the beginning of 1987, the Ranch consisted of 425 acres of seasonal wetlands and uplands. Later in 1987, 350 acres of seasonal wetlands on the property were purchased by the Wildlife Conservation Board (WCB) for management by the Department of Fish and Game. Purchase of the property by the WCB, which buys only from willing sellers, was facilitated by a lot line adjustment requested by the property owner. That lot line adjustment resulted in three parcels: a wetland parcel measuring approximately 240 acres located within the City of Eureka, a second wetland parcel measuring 110 acres in Humboldt County's jurisdiction, and a primarily upland 75-acre parcel (Parcel #3) in the County's jurisdiction, which is the property proposed to be divided under the current coastal development permit application.

The lot line adjustment which facilitated purchase by the WCB of part of the original 425-acre parcel was not subject to coastal development permit review, since the Coastal Act specifically exempts from the definition of development those land divisions brought about in connection with the purchase of land by a public agency for public recreational use (PRC 30106).

Some cattle grazing still occurs on portions of the subject property, but the subject property is no longer part of an active ranch. Other lands to the south, southwest, and southeast of the property are used for agricultural grazing as well.

Limiting Conversion of Agricultural Lands

LCP Amendment No. 1-88 redesignated and rezoned the property from Agricultural Exclusive to Rural Residential. Although the Rural Residential land use designation and

zoning district allow for agricultural uses, the designation and zoning district are primarily a residential designation and zoning district. The minimum parcel sizes allowable in Rural Residential lands such as the 2.5-acre minimum parcel size applicable to the subject parcel are too small to sustain an ongoing agricultural operation.

Recognizing that the LCP Amendment No. 1-88 would change the land use plan designation and zoning in a manner that would no longer accommodate an on-going agricultural operation, the Commission analyzed the proposed LUP amendment for conformance with the agricultural conversion policies of Sections 30241 and 30242 of the Coastal Act and found that the proposed amendment was consistent with these provisions (see Exhibit 7). Thus, the Commission effectively approved the conversion of the subject property from agriculture to residential use when it certified LCP Amendment No. 1-88. Therefore, the Commission finds that the proposed subdivision is consistent with the agricultural conversion policies of Sections 30241 and 30242 in that the proposed subdivision proposed in Coastal Development Permit Application No. 1-03-049 does not involve a conversion of agricultural lands.

Maintaining Prime Agricultural Lands in Agricultural Production

The proposed residential subdivision could adversely affect the limited use that is currently made of the property for agricultural production. As noted above, Section 30241 of the Coastal Act requires that the maximum amount of prime agricultural lands be maintained in agricultural production. Information developed for the LCP Amendment indicates that the soils on the subject property are not considered to be prime agricultural soils as defined by Section 30113 of the Coastal Act and Section 51201 of the Government Code. The slopes of the low ridge on the subject property are classified by type as "Hookton 8," with a Storie index of 61. In this location, the principal limitation on agricultural use is the moderately steep slopes (8-16%) which create a risk of erosion.

"Prime agricultural land" is defined by the Coastal Act (Sec. 30113) and the Government Code (Sec. 51201) to include any one of several characteristics of crop-producing or grazing capability. The subject property fails to meet the thresholds established by the Government Code definition. That is, the property is not planted with crops or nut-bearing trees; the livestock carrying capacity of the upland 60 acres is indicated by the property owner to be .11 animal units/acre/year, which is well below the threshold of 1 animal unit/acre/year; the Storie index of the property, ranging from 61 to 72, falls below the threshold of 8-; and the capability classification of the Hookton 2 and 8 soils is likely to be III or lower, which is below the threshold of class II.

Therefore, the Commission finds that the proposed subdivision is consistent with the requirements of Section 30241 of the Coastal Act that the maximum amount of prime agricultural land be maintained in production as the site includes no prime agricultural land

Minimizing Conflicts Between Agricultural and Urban Land Uses

In its findings certifying LCP Amendment No. 1-88, the Commission found that the proposed residential subdivision will minimize conflicts between agricultural and urban land uses for several reasons. First, a stable boundary between the residential uses to be made of the subdivision and agricultural lands exists because the agricultural lands consists mainly of grazed seasonal wetlands that do not have the same development capability of the subject property. The subject property encompasses Walker Point, a hilly upland area without wetlands where development of residential uses would not conflict with wetland fill policies of the Coastal Act, certified LCP, and other applicable laws and land use policies. Second, the need for any future development on the subdivision site to maintain a wetland buffer to satisfy LCP and Coastal Act policies regarding the protection of environmentally sensitive habitat ensures that future residential development of the property will maintain a buffer from adjoining agricultural lands. The wetlands at the site completely separate the subject property from adjoining agricultural lands. Finally, the Commission found in its certification of LCP Amendment No. 1-88 that the relatively large 2.5-acre minimum parcel size for the creation of residential parcels and the evidence that on-site sewage disposal facilities can be adequately accommodated on such lands would ensure that residential use of the subject property would not adversely affect the health and productivity of the adjacent lands for agricultural use.

The Commission finds that for all of these same reasons, the residential subdivision now proposed for the subject property in Coastal Development Permit Application No. 1-99-031 would minimize conflicts between agricultural and urban lands uses if future residential development on the property actually does maintain a buffer from adjoining agricultural lands. As proposed, however, the project does not ensure that such a buffer would be maintained.

As noted in the finding addressing the protections of environmentally sensitive habitat areas, building sites have been identified for all of the parcels to be created by the proposed subdivision that were not already developed with a single family residence prior to the subdivision being approved by the County. All of the identified building sites are near the top of Walker Point, outside of the Commission's coastal development permit jurisdiction and well away from the adjoining agricultural lands. Therefore, the proposed subdivision would not result in the development of future homes on the parcels in or closely adjacent to agricultural lands where they would adversely affect the agricultural productivity of those lands.

However, depending on their location, nature, and extent, the future development of accessory structures to the single family residences, such as storage sheds, yard improvements, pathways, or grading for landscaping improvements, or other minor development activities normally associated with single family residences could

potentially affect the productivity of the adjoining agricultural lands. Many of these kinds of improvements to single-family residences are normally exempt from the need to obtain coastal development permits pursuant to Section 30610(a) of the Coastal Act. Thus, the Commission would not normally review such development to ensure that impacts to the productivity of adjoining agricultural lands are avoided.

To avoid such impacts to coastal resources from the development of otherwise exempt improvements to single-family residences to existing structures, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of Regulations. Section 13250(b)(6) specifically authorizes the Commission to require a permit for improvements to single-family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements to the approved structure would require a development permit. As noted above, the future development of certain accessory structures to the single family residences developed in the approved subdivision could involve a risk of adverse impacts to the productivity of adjoining agricultural lands. Therefore, in accordance with provisions of Section 13250 (b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 1 which requires a coastal development permit or a permit amendment for all future improvements to single-family residences developed at anytime on the parcels created by the approved subdivision, including improvements that might otherwise be exempt from coastal permit requirements pursuant to Section 30610(a) of the Coastal Act. This condition will allow all future improvements to the single-family residences developed in the approved subdivision to be reviewed by the Commission to ensure that such future improvements will not be sited or designed in a manner that would result in adverse impacts to the productivity of adjoining agricultural lands. Special Condition No. 2 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements to the single-family residences developed at anytime on the parcels created by the approved subdivision without first obtaining a permit as required by this condition.

As conditioned, the Commission finds that the project is consistent with the requirement of Section 30241 of the Coastal Act that conflicts be minimized between agricultural and urban land uses as proposed home sites are located well away from adjoining agricultural lands and the Commission will be able to review future residential development on the subject property to ensure that a suitable buffer and stable boundary is maintained between future residential use and the adjoining agricultural lands.

Conclusion

Therefore, the Commission finds that the proposed development, as conditioned is consistent with Sections 30241 and 30242 of the Coastal Act as (1) the development does not involve a conversion of agricultural lands and thus is consistent with the agricultural conversion provisions of these sections, (2) the maximum amount of prime agricultural land will be maintained in production as the site includes no prime agricultural land, and (3) conflicts will be minimized between agricultural and urban land uses as proposed home sites are located well away from adjoining agricultural lands and the Commission will be able to review future residential development on the subject property to ensure that a suitable buffer and stable boundary is maintained between future residential use and the adjoining agricultural lands.

8. Protection of Archaeological Resources

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

An archaeological study of the subject property was done in 1987-1998. The study indicated that archaeological resources have been found on the site within the areas recommended to be established as wetland/riparian buffer area by the biological surveys performed for the subject property.

As noted previously, building sites have been identified outside of the Commission's coastal development permit jurisdiction and well away from the identified environmentally sensitive habitat areas within the Commission's jurisdiction, and consequently well away from the identified archaeological resources. Therefore, the proposed subdivision would not result in the development of future homes where they would adversely affect the archaeological resources on the property.

However, depending on their location, nature, and extent, the future development of accessory structures to the single family residences, such as fences, storage sheds, yard improvements, pathways, or grading for landscaping improvements, or other minor development activities normally associated with single family residences could potentially have adverse effects on the archaeological resources on the site. As discussed previously, many of these kinds of development activities are normally exempt from the need to obtain a coastal development permit under Section 30610(a) of the Coastal Act.

To avoid such impacts to coastal resources from the development of otherwise exempt improvements to single-family residences to existing structures, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of Regulations. Section 13250(b)(6) specifically authorizes the Commission to require a permit for improvements to single-family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements to the approved structure would require a development permit. As noted above, the future development of certain accessory structures to the single family residences developed in the approved subdivision could involve a risk of adverse impacts to archaeological resources. Therefore, in accordance with provisions of Section 13250 (b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 1 which requires a coastal development permit or a permit amendment for all future improvements to single-family residences developed at anytime on the parcels created by the approved subdivision, including improvements that might otherwise be exempt from coastal permit requirements pursuant to Section 30610(a) of the Coastal Act. This condition will allow all future improvements to the single-family residences developed in the approved subdivision to be reviewed by the Commission to ensure that such future improvements will not be sited or designed in a manner that would result in adverse impacts to archaeological resources. Special Condition No. 2 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements to the single-family residences developed at anytime on the parcels created by the approved subdivision without first obtaining a permit as required by this condition.

As conditioned, the Commission finds that the project is consistent with Section 30244 of the Coastal Act as the subdivision will not cause future residential development of the subject property to be located where it could adversely affect archaeological resources.

5. Public Access.

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

Coastal Act Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall

be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212 states in applicable part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) Adequate access exists nearby, or,*
- (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway...*

Section 30210 of the Coastal Act requires maximum access and recreational opportunities to be provided for all the people consistent with the need to protect public rights, rights of private property owners and natural resource areas. Section 30211 of the Act requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby.

In applying Sections 30210, 30211, and 30212, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The site is located in an area traversed by a series of tidally influenced sloughs that have a hydrological connection to Humboldt Bay, but are not part of the Bay itself. To the west of the project site, within the Fay Slough Wildlife Area managed by the Department of Fish & Game, public access is available along dikes bordering Fay Slough and along other dikes within the wildlife area. The area around Fay Slough in the immediate vicinity of the project site is not currently open for public access use. However, in

conjunction with the County's approval of a tentative map for Phase I of the Mid County Ranch subdivision in 1992, the applicants recorded an irrevocable offer to dedicate an easement for public access from the terminus of Walker Point Road to the toe of Walker Point and around the western perimeter of the property adjacent to the Fay Slough Wildlife Area. The offer has not yet been accepted.

There are no trails or other public roads that provide shoreline access to Fay Slough within the vicinity of the project. Although the proposed subdivision would increase residential density in the area by adding a total of 11 additional home sites, any additional demand for public access created by the subdivision would be accommodated by the already recorded offer of dedication of public access.

Therefore, the Commission finds that the project as proposed without any new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212.

6. Violation: Unpermitted Development

Without benefit of a coastal development permit, development has been undertaken consisting of the recording of a final map for Phase I of the proposed subdivision.

Consideration of the application by the Commission has been based solely upon the policies of the Coastal Act. Action on this permit request does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

4. California Environmental Quality Act

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. As specifically discussed in these above findings which are hereby incorporated by reference, mitigation measures which will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any

significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

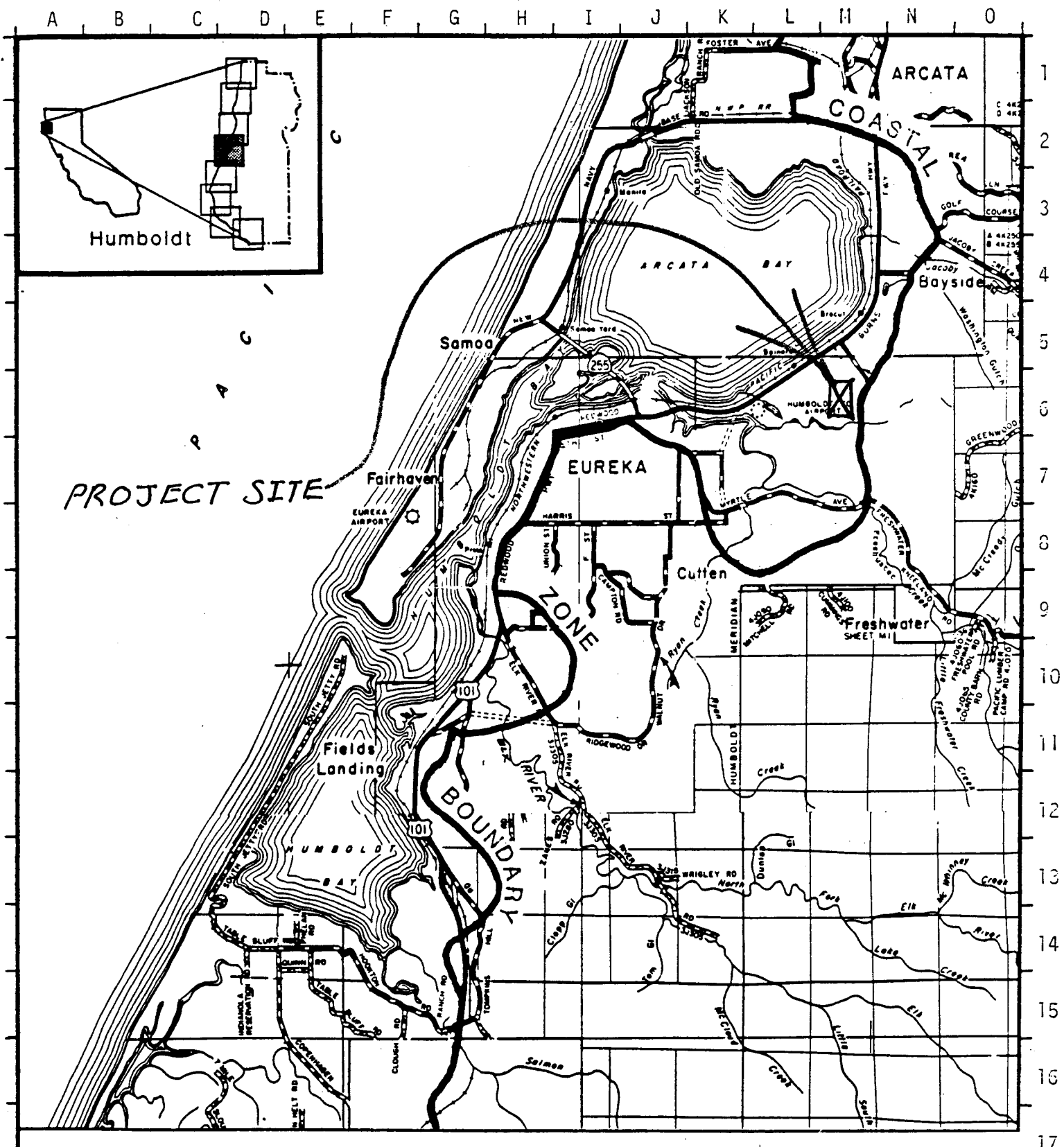
EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Permit Jurisdiction
4. Proposed Subdivision
5. LUP Designations
6. Zoning
7. Adopted Findings for Certification of LCP Amendment No. 1-88
8. Biological Surveys

ATTACHMENT A

Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



LOCATION MAP



County of Humboldt

EXHIBIT NO. 1

APPLICATION NO.

1-03-049

BODE ET AL.

REGIONAL LOCATION

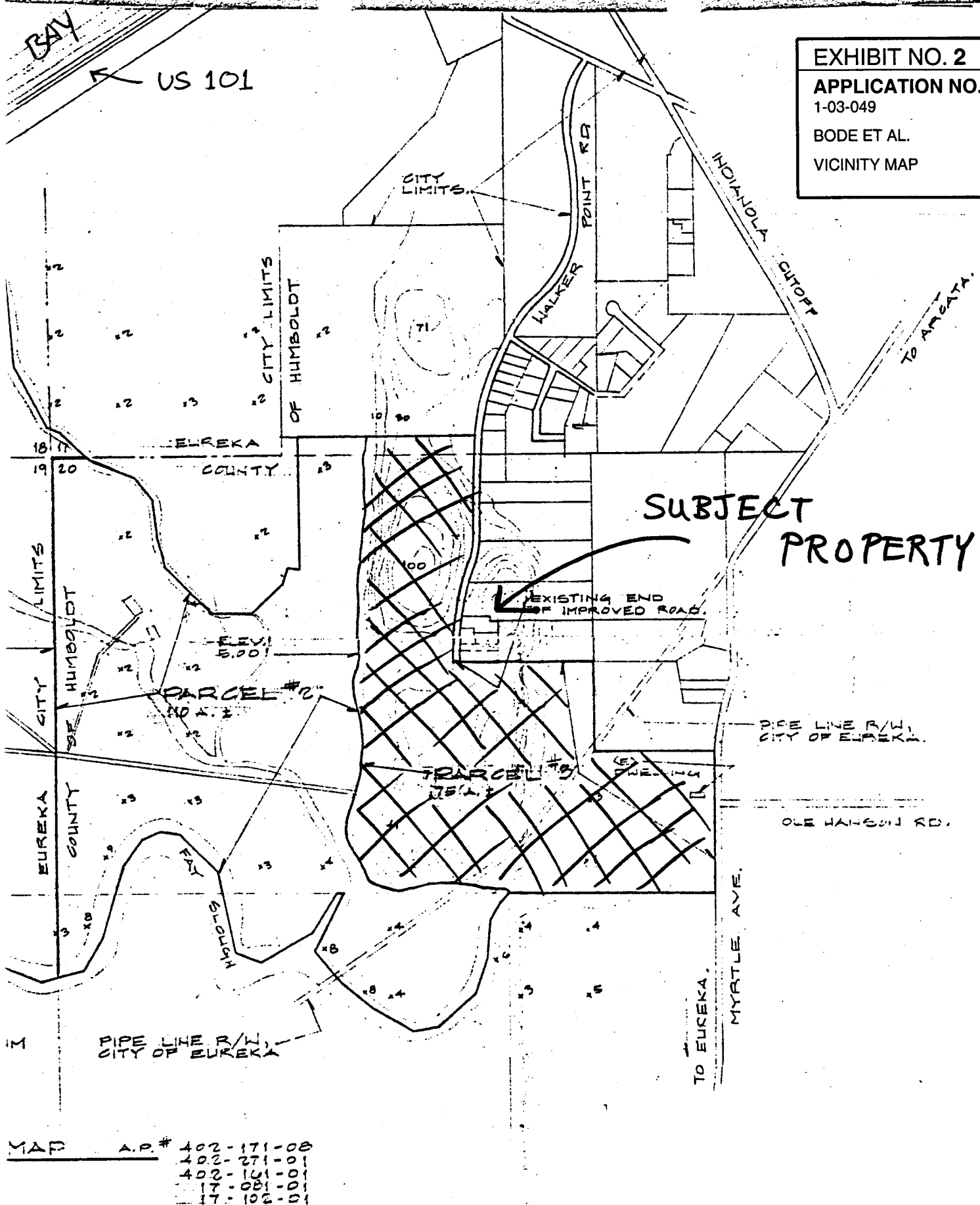
EXHIBIT NO. 2

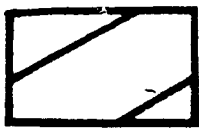
APPLICATION NO.

1-03-049

BODE ET AL.

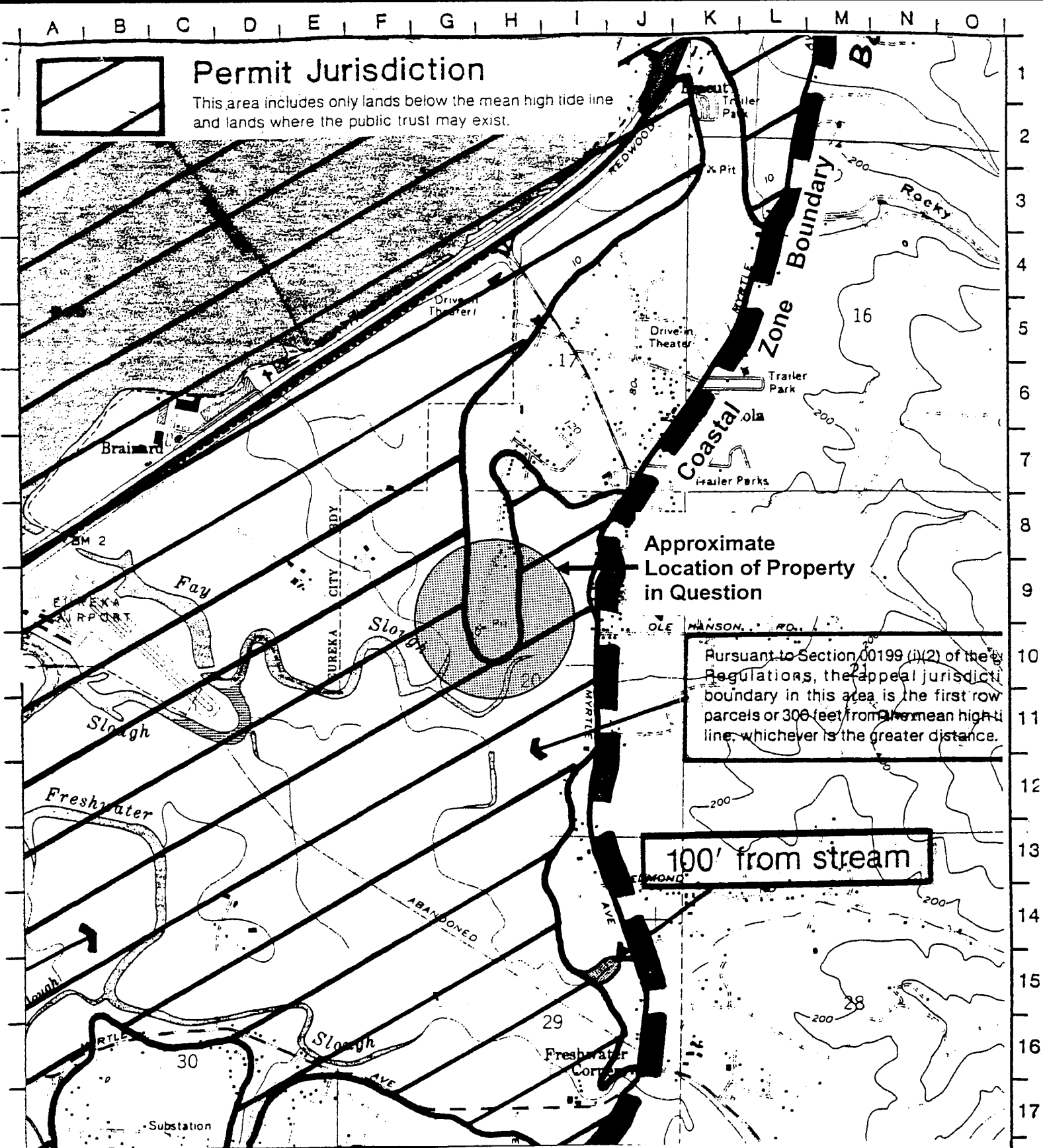
VICINITY MAP





Permit Jurisdiction

This area includes only lands below the mean high tide line and lands where the public trust may exist.



Approximate
Location of Property
in Question

Pursuant to Section 00199 (i)(2) of the Regulations, the appeal jurisdiction boundary in this area is the first row parcels or 300 feet from the mean high tide line, whichever is the greater distance.

100' from stream

General Location Map: Humboldt County
Portion of Post Certification Map 13
Arcata South Quadrangle

County of Humboldt

Exhibit 1: Boundary D

EXHIBIT NO. 3

APPLICATION NO.

1-03-049

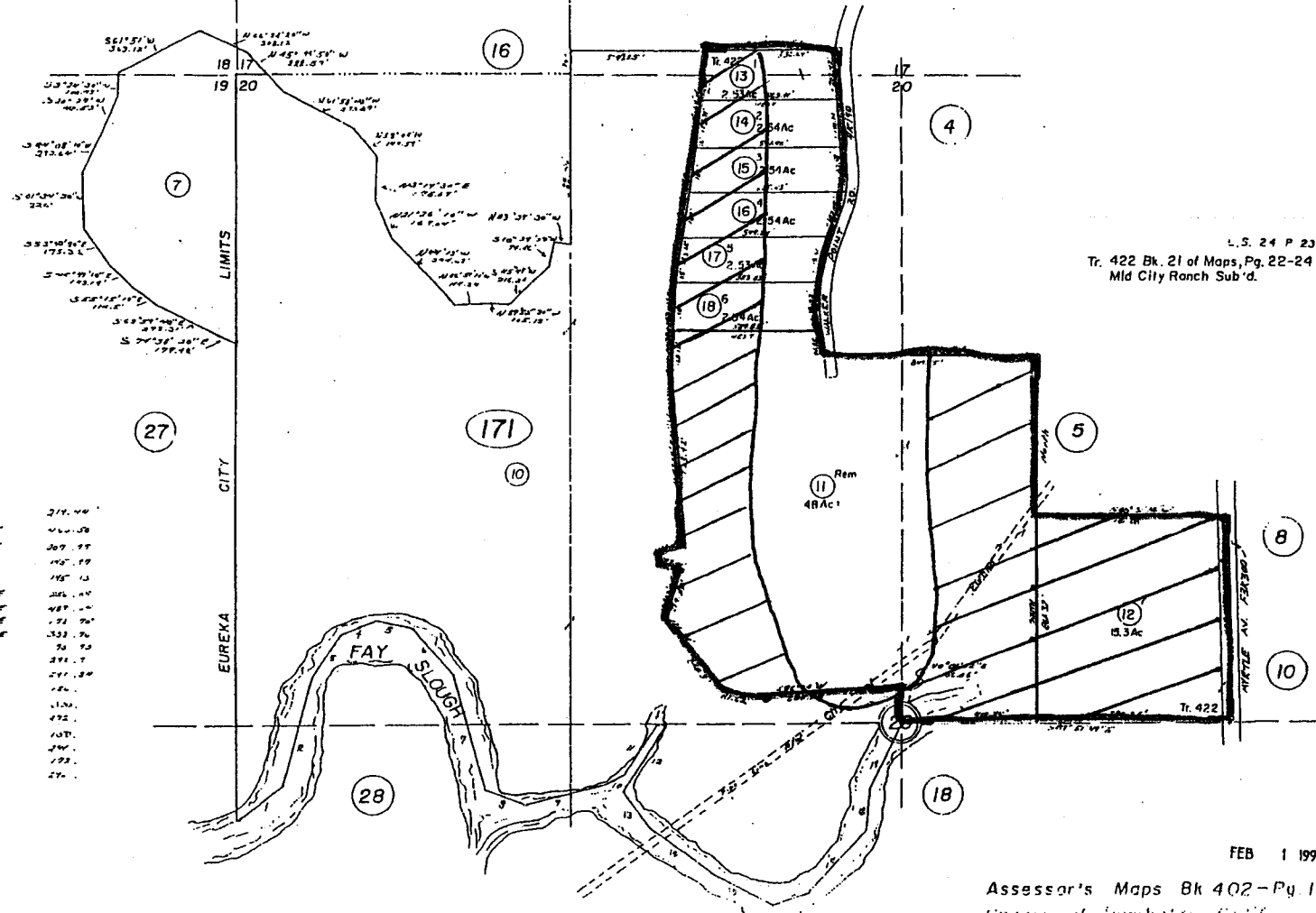
BODE ET AL.

PERMIT JURISDICTION
(1 of 2)

POR. OF SECS. 17, 18, 19 & 20, T5N, R1E

Tax Area Code

402-17



L.S. 24 P 23
Tr. 422 Bk. 21 of Maps, Pg. 22-24
Mld City Ranch Sub'd.

FEB 1 1995

Assessor's Maps Bk 402-Pg 17
County of Los Angeles, Calif.



Coastal Commission Jurisdiction

Exhibit 2: Boundary Determination #51-2000
Assessor's Parcel Map
402-17-11

EXHIBIT NO. 4

APPLICATION NO.

1-03-049

BODE ET AL.

PROPOSED SUBDIVISION

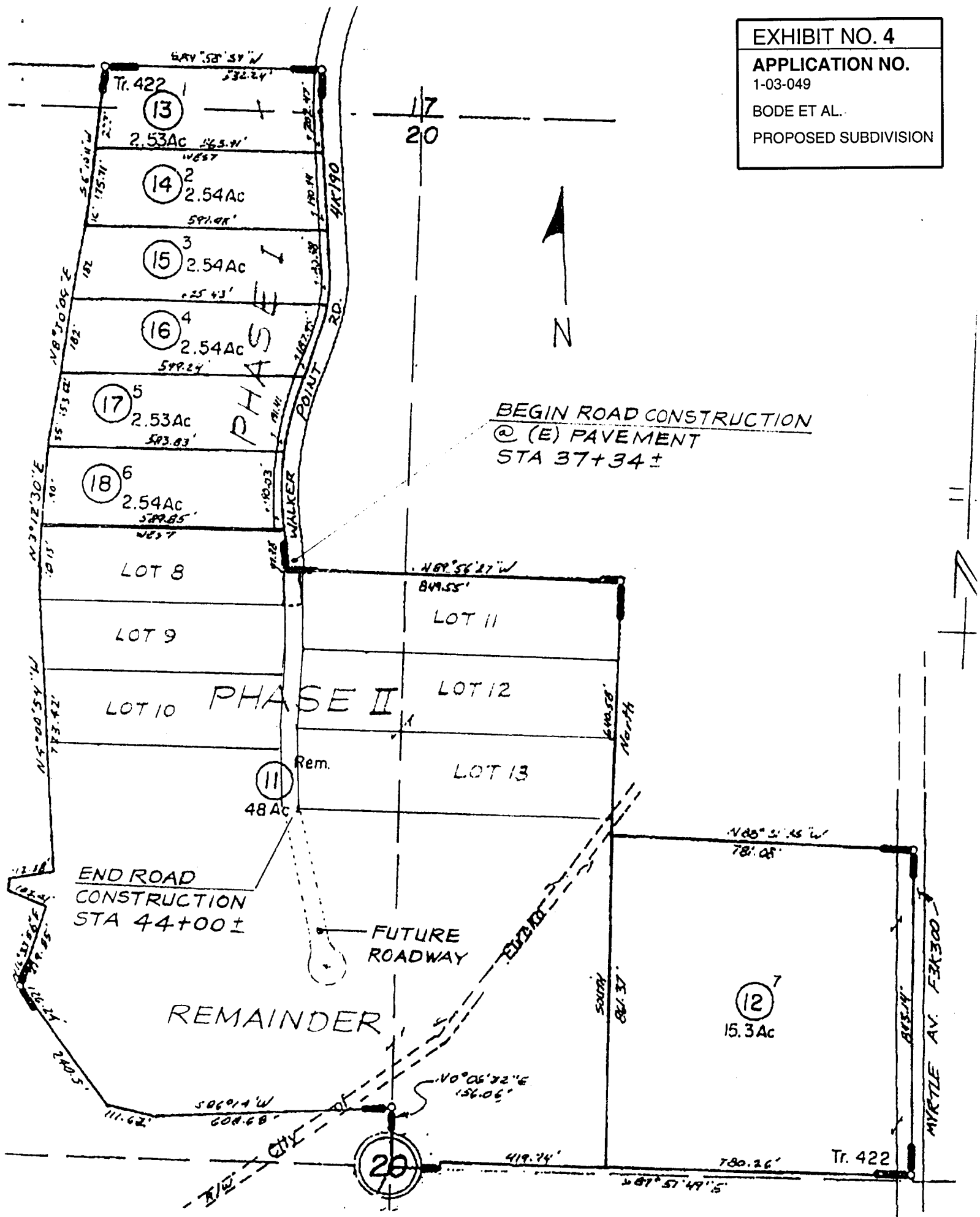


EXHIBIT NO. 5

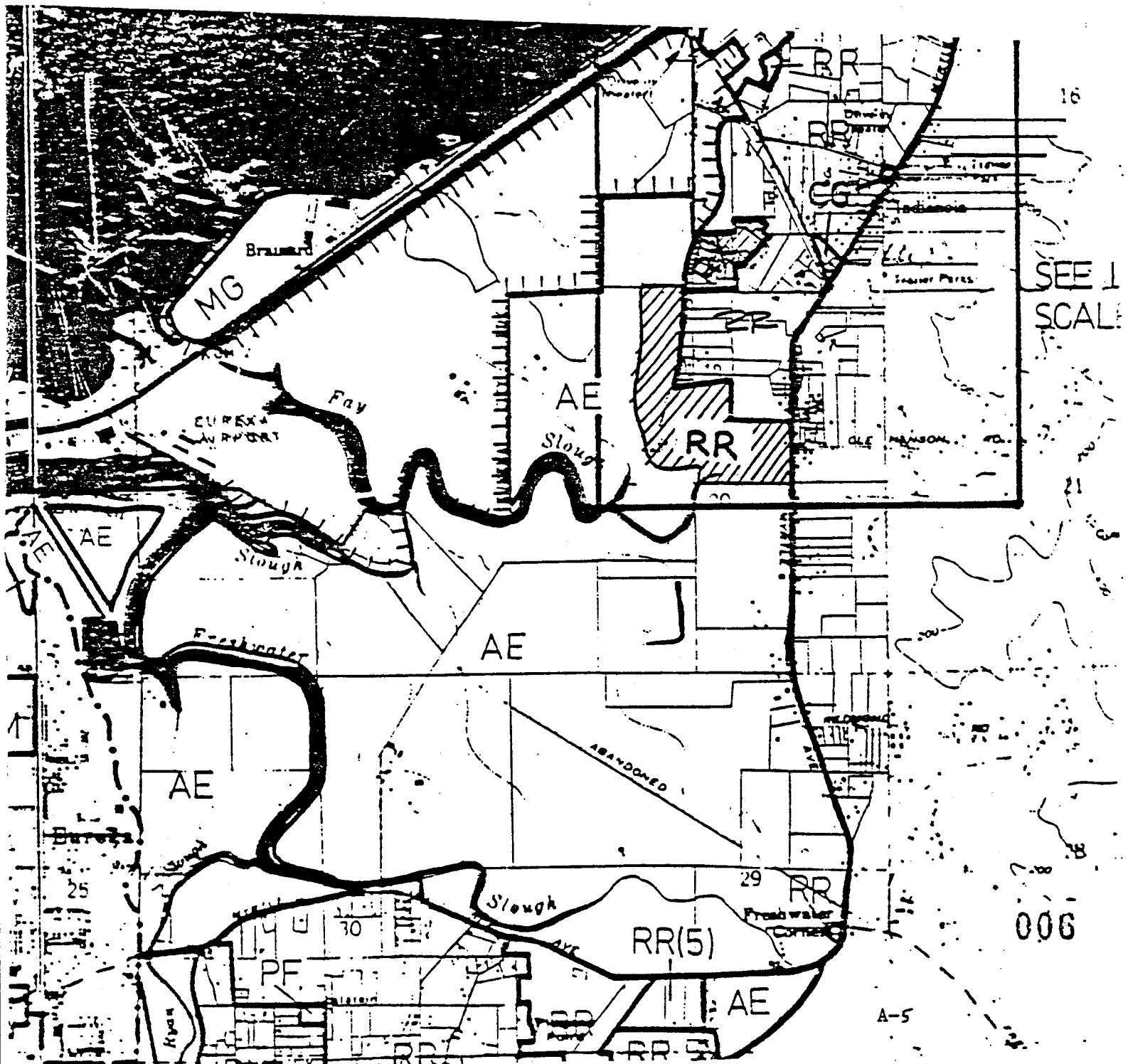
APPLICATION NO.

1-03-049

BODE ET AL.

LUP DESIGNATIONS

DESIGNATIONS



CITY OF EUREKA

EUREKA CITY LIMITS

AE
A,F,T

RA 2.5
D

RA-X
D

RA-2.5
D

AE-60
A,F,T

RA-X
T

RA-2.5
D,F,W,A

RA-10
D,F,W,A

NR
W

AE-60
A,F,T

ZONING

008

EXHIBIT NO. 6

APPLICATION NO.

1-03-049

BODE ET AL.

ZONING

A-7

WALKER POINT ROAD
ARCATA COASTAL ZONE BOUNDARY
OLD

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

631 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
(415) 543-8555



Amendment Request Filed: 3/29/88
90 Days: 6/27/88
Staff Report: May 24, 1988
Meeting of: June 7, 1988
Staff: SFS
Commission Action: Approved 6/7/88
Adoption of Findings: Adopted 7/14/88

TO: Commissioners and Interested Persons

FROM: Peter M. Douglas, Executive Director
B. Noah Tilghman, Assistant District Director
Steve Scholl, Lead Analyst

SUBJECT: REVISED FINDINGS
LCP Amendment #1-88, Mid-City Ranch, Humboldt County

COMMISSIONERS ON PREVAILING SIDE: Commissioners Calvo, Cervantes, Franco, Glickfeld, Gray, Malcolm, McInnis, McMurray, Wornum, Wright.

NOTE: On June 7, 1988, the Coastal Commission approved the request of Humboldt County to amend the certified Local Coastal Program to allow residential development (up to 20 additional single-family dwellings on 20 lots) on a 75-acre agricultural parcel, part of the property known as Mid-City Ranch. The following findings were adopted in support of that action.

Further Information.

For further information, contact Steve Scholl at (415) 543-8555.
Correspondence should be sent to the Coastal Commission at the above address.

EXHIBIT NO. 7**APPLICATION NO.**

1-03-049

BODE ET AL.

ADOPTED FINDINGS

LCP AMEND. 1-88

(1 of 15)

I. Background.

The property known as Mid-City Ranch is located southeast of Highway 101 and northeast of downtown Eureka (see Exhibit 1). The city limits of Eureka border the property on the north and west. The northern portion of Walker Point, as well as the Indianola area, are within the Eureka city limits.

At the beginning of 1987, the Ranch consisted of 425 acres of seasonal wetlands and uplands. Later in 1987, 350 acres of seasonal wetlands on the property were purchased by the Wildlife Conservation Board (WCB) for management by the Department of Fish and Game. Purchase of the property by the WCB, which buys only from willing sellers, was facilitated by a lot line adjustment requested by the property owner. That lot line adjustment resulted in three parcels: a wetland parcel measuring approximately 240 acres located within the City of Eureka, a second wetland parcel measuring 110 acres in Humboldt County's jurisdiction, and a 75-acre parcel (Parcel #3) in the County's jurisdiction, which is the subject of the present LCP amendment request (see Exhibit 2). Of the 75 acres, 15 acres are lowlands adjacent to Myrtle Avenue/Old Arcata Road with a single residence, septic system, and well dating back to the 1920's; the remainder of the 75 acres are undeveloped uplands reached by Walker Point Road.

The lot line adjustment which facilitated purchase by the WCB of part of the original 425-acre parcel was not subject to coastal development permit review, since the Coastal Act specifically exempts from the definition of development those land divisions brought about in connection with the purchase of land by a public agency for public recreational use (PRC 30106). However, the WCB's purchase of the 350 acres of seasonal wetlands was subject to a type of Coastal Commission review, since \$928,000 in Fish and Wildlife Habitat Enhancement Fund monies were used to acquire the property. The Fish and Wildlife Habitat Enhancement Fund Act of 1984, known as Proposition 19, provides that bond funds authorized by the act can be used within the coastal zone only in accordance with priorities established by the Coastal Commission. Hence, addition to the priority list of the 350 acres of Mid-City Ranch wetlands came before the Commission in January, 1987 and was approved at that time.

II. Local Government Approvals; Opportunities for Public Participation.

The property owner submitted an application to Humboldt County in February, 1987 for a general plan amendment and zone reclassification (hereinafter called the LCP amendment) to change the land use designation of the subject property from agricultural to residential. The property owner stated that the grounds for requesting the LCP amendment were a "changed circumstance," due to the sale of the bulk of the ranch to the WCB. The owner's agent stated to the county:

Because Parcel Three [the subject property] has now become legally separate from the grazed wetlands, a "changed circumstance" exists in the base information upon which the area was originally designated and zoned which warrants County consideration of a redesignation and rezoning consistent with comparable adjacent properties.

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The Board of Supervisors, which under certain circumstances exercises discretion whether or not to accept general plan amendments, accepted this application on May 5, 1987.

The County Planning Commission held public hearings on the amendment request on December 3, 1987 and January 7, 1988. The Board of Supervisors held a public hearing on February 16 and adopted a resolution of approval of the amendment on February 23, 1988.

While the County's review of the LCP amendment request was underway, the Secretary for Resources issued an opinion dated October 9, 1987 on the subject of LCP amendments and the California Environmental Quality Act. The opinion states that LCP amendments (as well as LCPs themselves) are subject to functional equivalency status for CEQA purposes. That status means that the Commission's review and analysis of an amendment proposal satisfies the requirements of CEQA, without the separate preparation of an EIR by the County. The Secretary's opinion does not release the County from the need to address the environmental issues raised by the amendment request, but merely from the need to prepare a CEQA document. Consequently, instead of an EIR, the County has submitted materials to the Coastal Commission which reflect the deliberations of the County Planning Commission and the Board of Supervisors, comments submitted by members of the public and other agencies and responses to those comments. The County indicates that the environmental review which it conducted included documentation normally prepared pursuant to CEQA for non-coastal zone plan amendments, in addition to the detailed environmental analysis necessary to comply with the requirements of the Coastal Act. This combined analysis was the foundation for the mitigation measures imposed by the County on this amendment request.

III. FINDINGS AND DECLARATIONS ON THE LAND USE PLAN AMENDMENT.

The Commission hereby finds and declares as follows:

A. Description of Proposed Amendment.

The proposed amendment would change the Land Use Plan component (including the Land Use Map) of the LCP as follows (see Section VI below for a description of the proposed Zoning amendment):

LUP Changes (see Exhibits 3, 4, and 5):

1. Change the current Land Use Plan designation of Agriculture Exclusive (AE-60 acre minimum) to Rural Residential (RR).
2. Amend Sec. 3.21 B 2(d) of the Humboldt Bay Area Plan to specify a maximum density of 20 single-family residential units on 20 lots, on the upland 60+ acre portion of the subject site, and to maintain the existing density of one unit on the lowland 15 acres.

3. Amend the Area Plan to condition any subsequent subdivision application to:
 - a. Provide a 100-foot wide wetland/resource area buffer,
 - b. Offer for dedication a public accessway to the base of Walker Point, and
 - c. Provide access road improvements to Walker Point and Indianola Cut-off Roads, affecting both the portions maintained by the City of Eureka and those maintained by the County.
4. Require preparation and approval by the County of an overall plan for tree removal within the coniferous forest, mapped and identified as an important wildlife habitat area by Newton & Associates in June 1987, as part of any subdivision of the 62-acre area. The plan shall be prepared under the direction of a qualified biologist and registered professional forester and shall address wildlife habitat protection, windbreak and windthrow issues.

Although the LCP amendment is not in itself a proposal for residential development, the amendment would clearly facilitate such development. The analysis which follows therefore reviews conversion from agricultural use to residential use for its impacts on coastal resources.

B. Environmental Setting.

The subject property is a 75-acre, L-shaped parcel (see Exhibit 2). Most of the parcel is upland, a remnant of an old marine terrace formation which rises about 100 feet above the surrounding lowlands. This upland is known locally as Walker Point. The 15 acres at the southeast corner of Walker Point is a small remnant salt marsh which adjoins other wetlands to the south fronting on Myrtle Avenue. On this 15-acre lowland is an existing dwelling, the only one now on the subject property. Under the proposed LCP amendment, the residential density of the 15-acre parcel would remain unchanged at one unit.

The roughly 60 acres of upland on the subject property is covered at the northern end by coastal coniferous forest and on the southern end by grassland. A narrow band of remnant riparian woodlands, low-lying grasslands, and seasonal and brackish marshes lie along the southern and western edges of the property where it abuts adjoining lowlands. The proposed LCP amendment would designated for possible residential development the 60 acres of upland.

A water supply pipe and right-of-way owned by the City of Eureka crosses the southeastern corner of the property. This line supplies untreated water to the Eureka municipal water system.

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On the west side of the subject property are approximately 350 acres of diked former tidelands which, together with the 75 acres under consideration here, formerly comprised Mid-City Ranch. Although the bulk of the lowlands have been diked and drained, salt water tidal sloughs still connect the lowlands with Humboldt Bay. Due to the dikes, high winter rainfall, and impervious clay soils, the lowlands function as seasonal freshwater wetlands.

Walker Point Road provides the only road access to the subject property (other than the existing dwelling at the southeast corner which is reached from Myrtle Avenue). The northern half of Walker Point Road is maintained by the City of Eureka, whereas the portion nearest to the subject property is maintained by Humboldt County.

Along Walker Point Road to the northeast of the subject property is a residential community comprised of several dozen parcels most of which are developed with residences. Homes on most of these lots use on-site water wells and sewage disposal systems, although some lots are less than one-quarter acre in size, which is well below current County standards for on-site service provision. Other parcels share a community septic system. Due to the high density of development in a relatively small area and the presence of clay soils which are poorly suited for septic systems, sewage disposal problems have been experienced in this area.

C. Agricultural Land Use.

Section 30241 of the Act provides as follows:

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

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

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

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

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

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

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

The above policy has twin goals: maintenance of prime agricultural land in agricultural production, and avoidance of agricultural/urban land use conflicts whether or not prime soils are involved. Both goals must be examined in terms of the proposed LCP amendment.

Soils on the subject property are classified primarily as Hookton Silt Loam for purposes of agricultural potential (Soils of Western Humboldt County, Department of Soils and Plant Nutrition, University of California, Davis, in cooperation with County of Humboldt, California. November, 1965). Ten to fifteen acres of relatively level land (slopes generally ranging from 0-3%) along the top of the low ridge are categorized more particularly as "Hookton 2." The U.S. Soil Conservation Service (SCS) has not yet undertaken a detailed soil survey of the subject property to determine its appropriate capability classification. In preliminary estimates, the SCS has suggested that possible limitations on use of the Hookton 2 soils could include the threat of erosion and/or poor soil depth, which would suggest that the property would be assigned capability class III or lower (out of eight classes). On another scale of agricultural potential, the Storie index, the Hookton 2 soils have been assigned a score of 72 (out of a possible 100) by the Soils of Western Humboldt County report, meaning they are "moderately well suited to general intensive agriculture..."

The slopes of the low ridge on the subject property are classified by type as "Hookton 8," with a Storie index of 61. In this location, the principal limitation on agricultural use is the moderately steep slopes (8-16%) which create a risk of erosion.

"Prime agricultural land" is defined by the Coastal Act (Sec. 30113) and the Government Code (Sec. 51201) to include any one of several characteristics of crop-producing or grazing capability. The subject property fails to meet the thresholds established by the Government Code definition. That is, the property is not planted with crops or nut-bearing trees; the livestock carrying capacity of the upland 60 acres is indicated by the property owner to be .11 animal units/acre/year, which is well below the threshold of 1 animal unit/acre/year; the Storie index of the property, ranging from 61 to 72, falls

below the threshold of 80; and the capability classification of the Hookton 2 and 8 soils is likely to be III or lower, which is below the threshold of class II. Therefore, prime soils do not appear to be present on the property, and the Commission proceeds to the second goal established by Section 30241, which must be addressed whether or not prime soils are present.

The potential for conflicts between the land use allowable under this LCP amendment and surrounding agricultural use is less clear-cut than in some cases the Commission has reviewed. Although the potential land use in this case is residential, it is residential use of a less than urban density (i.e., a maximum of twenty homes would be allowed on 60+ acres). Furthermore, the neighboring lands designated Agriculture Exclusive are not all in agricultural use, since at the present time the 350 acres of former Mid-City Ranch lowlands have been taken out of production by the Department of Fish and Game. Nevertheless, the importance of protecting such agriculture as does exist causes the Commission to review each applicable measure established by Section 30241 for conversions of agricultural land.

The subject property is largely comprised of a low ridge, Walker Point, which serves in its present undeveloped condition as a natural buffer between the relatively dense residential areas to the north and east and the lowlands to the south and west. On the one hand, residential development on top of this ridge would bring houses closer to the farmed areas, potentially inviting conflicts between residential and agricultural uses. Thus, residential use of the property would not so much establish a buffer as develop an existing buffer.

On the other hand, development of the subject property would clearly not create the potential for leapfrog residential development, since most of the lowlands to the west are now publicly owned, and the remainder are seasonal wetlands which are inappropriate for residential development. Therefore, the Commission can find that development of the subject property will serve to establish a stable boundary between rural agriculture and urban (or, in this case, low-density residential) land uses.

The requirement of Section 30241(b) is not applicable to this case, since the subject property is not on the "periphery" of an urban area, at least as the Commission has interpreted that term. Instead, the residential areas adjacent to the property are designated by the County's LCP as "rural" or "exurban" in character, due to the lack of urban services available to them. Similarly, Subsection (c) is not applicable since urban uses do not surround the subject property.

In this context, the fact that most parcels within a quarter mile radius are developed with residences is relevant (see Section D. below). Given the high level of buildout within the immediate area, the Commission finds that other available lands which may be suitable for agriculture have already been developed, prior to the conversion of the subject property. Therefore, the conversion of this property is not premature in the sense that it would be where adjoining lands which are less amenable to agriculture continue to stand vacant.

Subsection (e) is not applicable since the residential development allowable would be served by on-site sewage disposal and water supply facilities, and the only real public service expansion necessary is access road improvements which would not affect agricultural land use. Finally, Subsection (f) is not applicable since prime soils do not appear to be present.

Since the property does not lie on the "periphery of an urban area," the Commission must also look to the tests of Section 30242 of the Coastal Act which provide that:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Concerning the first test of this section, the property owner has indicated that continued or renewed agricultural use is infeasible. In materials submitted to the county, the property owner indicated that the subject property by itself has a carrying capacity for grazing purposes of approximately 10.5 animal units/year (4.43 animal units/year on the 60 acres of upland and 6 animal units/year on the 15 acres of lowland). The owner states, and the Commission agrees, that a grazing operation on this property alone would have little chance of feasibility.

Although the Department of Fish and Game terminated grazing use on the 350 acres of lowlands which were formerly a part of Mid-City Ranch following its acquisition of the property, the Department has indicated that future grazing use is a very real possibility. Indeed, the Department has resumed grazing operations, under lease, at Ocean Ranch in the Eel River delta and at Lake Earl in Del Norte County following land acquisition at those locations. However, ~~because grazing is not taking place on the adjoining 350 acres of lowlands,~~ the subject 75-acre property is clearly not suitable for continued agricultural use.

Conversion to residential use meets the second test of this section by virtue of acting to complete a logical extension of rural residential use along Walker Point Road, consistent with Section 30250(a). In so doing, the amendment would concentrate residential development without raising the possibility of leapfrog development extending into adjacent agricultural lands.

In making this finding, the Commission notes the importance of the following requirements adopted by the County: the buffer adjacent to wetland/riparian areas, preparation of a drainage plan, and minimum parcel sizes sufficiently large to allow for safe use of on-site water supply and sewage disposal facilities. These requirements are necessary to ensure the continued health and productivity of adjacent wetlands, some of which are or may again be in agricultural use.

D. Land Divisions Outside Existing Developed Areas.

Section 30250(a) provides as follows:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Taking the second test first, the Commission has normally taken "surrounding parcels" to include those within a quarter-mile radius. Consistent with the decision of a state court of appeal (Billings v. CCC (1980) 103 Cal.App. 3d 729), this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, no such feature exists within the quarter-mile radius.

Some 95 parcels lie within one-quarter mile of the subject property. Four of these parcels are designed by the LCP for Agricultural Exclusive (AE) use, while nearly all the remainder are designated Rural Residential or Rural Exurban. Of the residential parcels, over half are less than one acre in size, and the largest is 12.5 acres. The arithmetic mean of these parcels is 1.67 acres, the median is .6 acres, and the mode (the value which occurs most frequently) is .2 acres.

The four AE parcels measure approximately 30, 61, 70, and 110 acres. Including these four parcels in the analysis, the arithmetic mean rises to 4.4 acres, while the median remains at .6 acres and the mode remains at .2 acres. Excluding the 110 acre parcel, which is now owned by the Wildlife Conservation Board and therefore cannot be developed, the arithmetic mean becomes 3.3 acres.

The court in Billings concluded that the Commission should identify the "typical" or "representative" parcel size. Where the presence of several large parcels would skew the average, the mode provides a better picture of the typical parcel size in the area. In this instance, due to the presence of several large agricultural parcels, the arithmetic mean of surrounding parcels is larger than the minimum parcel size (2.5 acres) allowable under the LCP amendment. However, the median and the mode of surrounding parcels are both smaller than 2.5 acres.

The County states that the certified LCP includes a policy which requires the Section 30250(a) analysis to focus on surrounding parcels in similar use. In other words, the handful of relatively large agricultural parcels near the subject property would be excluded from the calculation of surrounding parcel size, since the LCP amendment would allow residential use. In this instance, the median and the mode are unaffected by the inclusion or exclusion of these few parcels, and therefore the Commission finds that the LUP amendment is consistent with this part of Section 30250(a).

The other test established for land divisions outside existing developed areas refers to the development status of usable parcels in the area. In this case, some 84% of the residential parcels within the quarter-mile radius are developed (77 out of 91 parcels). Because some of these parcels are not usable, due to sewage disposal limitations or other limitations, the County states that the actual buildout of usable parcels is closer to 100%.

The Commission has sometimes looked to an area broader than a quarter-mile radius to apply this test of Section 30250(a), for instance where the market area for similar properties is larger than the quarter-mile radius. In this case, although the market area is arguably greater than the radius, the high buildout of the parcels in the immediate vicinity convinces the Commission that it is unnecessary to look further afield. The proposed LCP amendment is consistent with the rural land division criteria of Section 30250(a).

E. Urban Services.

During hearings before the County on the proposed LCP amendment, members of the public testified about problems associated with the lack of urban services in the nearby residential areas. These problems are undoubtedly significant, but are not directly relevant to the Commission's review of this amendment proposal. The Commission briefly notes that problems in the existing Walker Point Road area have resulted from the use of on-site sewage disposal, coupled with on-site water wells on parcels as small as 1/4 acre having clay soils and poor drainage. By contrast, according to the property owner, percolation tests indicate that at least two acceptable sites for leachfields can be found on each parcel which could be created under the LCP amendment. The County's Environmental Health Department has reviewed and approved these test results. Furthermore, a preliminary groundwater investigation conducted for the owner of the subject property indicates that on-site wells are "an acceptable means of water supply for the proposed parcel density of one dwelling unit per 2.5 acres" (Preliminary Investigation of the Cumulative Effects of Groundwater Withdrawal for Proposed 2.5 Acre Parcels at the Mid-City Ranch Project, Eureka, California; Trueman Vroman, P.E.) In any event, under the proposed LCP amendment, future subdivision approvals will be dependent on demonstration that each parcel meets health and safety standards for on-site sewage disposal and water supply.

In its review of the LCP amendment, the County concluded that traffic impacts due to potential development on the subject property can be mitigated through requirements for road improvements at such time as subdivision is proposed. Traffic impacts associated with the development of the property, particularly if mitigated as proposed, would not inhibit the ability of the public to reach coastal recreation areas or beach accessways, and therefore do not raise Coastal Act issues which the Commission must explore further. In sum, the Commission concludes that the status of urban services on or near the subject property is not a factor in its decision on this LCP amendment request.

F. Biological Resources.

Drainage from the subject property naturally flows into the adjoining lowlands. Residential development on the site therefore has the potential to affect the biological quality of adjoining wetlands, including the areas purchased by the WCB for the purpose of wildlife habitat enhancement. As approved by the County, this potential has been adequately mitigated through imposition of conditions.

This mitigation includes submittal of specific drainage plans prior to subdivision of the property and provision of a 100-foot wide habitat protection buffer adjoining the wetlands and riparian areas on the western and southern edges of the property. The 100-foot buffer is to be measured from the upland extent of the riparian vegetation, thus generally ensuring a buffer of more than 100 feet from the wetlands themselves. The buffer was recommended by a biologist who performed a survey of biological resources on the subject property.

The buffer is consistent with the policy of the Humboldt Bay Area Plan which, for development outside an urban limit line, requires a buffer of between 100 and 200 feet. By providing adequate separation between any future residential development and the wetlands, the buffer also assures consistency with the intent of Section 30231 of the Coastal Act to protect the quality and biological productivity of coastal waters and wetlands.

Two rare plants (Humboldt Bay Owl's Clover and Humboldt Bay Gumplant) were identified by the biological consultant as being located on the remnant salt marsh on the southeastern part of the property. These rare plants would be covered by the buffer, and therefore would be adequately protected, consistent with the requirement of Section 30240(a) to protect environmentally sensitive habitat areas.

Aside from wetlands and riparian resources identified by the biological consultant, the major biological resource found on the property is the coastal coniferous forest located on the northern end of the subject property. The consultant reports that the forest supports a high diversity of wildlife species, including black-tailed deer and many species of birds. No rare and endangered animal species were identified. The consultant recommends that in order to protect the biological diversity of the forest, tree removal be limited at such time as subdivision of the property is pursued.

The County's action of approval of the LCP amendment includes a requirement for an overall plan for tree removal as part of any subdivision proposal for the area. As submitted by the County, the proposed LCP amendment adequately protects upland biological resources, consistent with Section 30240.

G. Scenic Quality.

The subject property is visible to travelers on Highway 101. Development on the property, particularly on the open grassland portion of it, has the potential to adversely affect the scenic quality of this coastal area. The visual quality of the area is that of a mixture of agricultural land, coastal forest, and wetlands, although its "natural" character is lessened by scattered commercial development fronting on Highway 101.

The County's approval of the LCP amendment took visual quality into account through placement of a design review combining zone on the property. Under this combining zone, any development of the property will be subject to design review, which has the goal of maximizing compatibility of new development with the scenic and relatively open character of the area. As submitted by the County, the LCP amendment therefore adequately protects the scenic and visual quality of the area, consistent with Section 30251 of the Coastal Act.

H. Archaeological Resources.

An archaeological reconnaissance of the subject property has identified certain resources on it. Since those resources lie within the wetland/riparian buffer area described above, the County concluded that the buffer would also serve to protect archaeological resources. As submitted by the County, the LCP amendment is thus consistent with Section 30244 of the Coastal Act which requires mitigation of impacts on archaeological resources.

I. Public Access.

In its approval of the LCP amendment, the County included a requirement in the Humboldt Bay Area Plan for a public access easement extending from the terminus of Walker Point Road to the toe of Walker Point and around the western perimeter of the property adjacent to the lands owned by the Wildlife Conservation Board. An offer of dedication for such an easement would be required at such time as the property is subdivided. The precise location, width, and use of fencing or other means of separating the access easement from the neighboring wetlands are not specified in the LCP amendment. However, the basic requirement for public access to or near publicly-owned wetland areas is sufficient for the Commission to conclude that the LCP amendment is consistent with Section 30212 of the Coastal Act which provides generally that public access shall be provided in new development from the nearest public road to the shoreline.

IV. FINDINGS AND DECLARATIONS ON THE ZONING AMENDMENT.

A. Description of the Proposed Zoning Amendment.

The proposed amendment to the implementation component of the LCP would make the following changes:

Zoning Change (see Exhibits 6 and 7):

1. Reclassify the site from Agriculture Exclusive (AE) to Rural Residential Agriculture (RA) with a minimum parcel size of 2.5 acres on the upland 60+ acre portion and 10 acres on the lowland 15 acres.
2. Add combining zones to the entire 75-acre parcel regarding archaeological resources, coastal wetlands, flood hazard, and design review.

B. Consistency With and Adequacy to Carry out the LUP.

The Commission hereby finds and declares that the Residential Agriculture zoning for the subject property is consistent with and adequate to carry out the Rural Residential LUP designation. The density requirement on the upland portion of the property (2.5 acre parcels) will insure low-density residential use, while the 10-acre designation on the 15-acre portion will insure no future divisions of that parcel.

2900P/SFS/btr

ATTACHMENT D

The Humboldt Bay Area Plan (LUP) contained in the certified Humboldt County Local Coastal Program shall be amended, as follows:

Section 3.21B2.(d) shall be amended to read:

d) (2) Walker Point - RURAL RESIDENTIAL

This area was previously part of a large ranch commonly known as the Belcher property or Mid-City Ranch. With the support of Humboldt county, the ranch's approximately 350 acres of grazed wetlands identified as having high agricultural and habitat value have been conveyed to the State of California, leaving a 62-acre upland area extending to the southern tip of Walker Point, and a 15-acre area fronting on Myrtle Avenue/Old Arcata Road.

The 62-acre upland area has soils suitable for septic systems. The planned maximum density shall be one unit per three acres, or a maximum total of 20 dwelling units and 20 parcels. No parcel shall be smaller than 2.5 acres.

Subdivision of the 62-acre area shall be subject to an easement creating a 100' habitat buffer measured upland from the wetland/riparian corridor around the area's perimeter (as mapped by Newton & Associates in June, 1987). In addition, an overall plan for tree removal within the coniferous forest, mapped and identified as an important wildlife habitat area by Newton & Associates in June, 1987 shall be prepared for and approved by the County of Humboldt as part of any subdivision of the 62-acre area. The plan shall be prepared under the direction of a qualified biologist and registered professional forester and shall address wildlife habitat protection, windbreak and windthrow issues.

Subdivision of the area shall be subject to an offer to dedicate a public access easement from the terminus of Walker Point Road to the toe of Walker Point and around the western perimeter of the property adjacent to the lands now owned by the Wildlife Conversation Board.

Subdivision of the area shall also be subject to all other applicable LCP policies and the County's subdivision requirements including preparation of a detailed drainage analysis and construction of necessary drainage improvements prior to recordation of the Final Map.

The 15-acre remainder parcel fronting Myrtle Avenue/Old Arcata Road is presently developed with a single-family residence, well, septic system, and support structures. No further subdivision of this 15-acre area shall be permitted.

Language as approved by
Board on February 22, 1988

All new subdivision development along Walker Point Road shall be required to upgrade the public road from the end of the City limits through the subdivision to a minimum of 24 foot wide asphalt concrete surface traveled way as per the Standard outlined in the Appendix to Title III, Division 2 of the Humboldt County Code and within the City limits to standards determined appropriate by the City of Eureka.

Section 3.50c shall be amended to read:

27. Walker Point Road. There exists opportunity for public access to and along the base of Walker Point including Fay Slough.

RECOMMENDATION: Subdivision of the area at the end of Walker Point Road shall be subject to an offer to dedicate a public access easement from the terminus of Walker Point road to the toe of Walker Point and around the western perimeter of the property adjacent to the lands now owned by the Wildlife Conservation Board.

BIOLOGICAL SURVEY OF THE PROPOSED
WALKER POINT SUBDIVISION

LOCATION: HUMBOLDT BAY, HUMBOLDT COUNTY, CALIFORNIA

SUBMITTED TO: LORING SWANLUND
1000 MURRAY ROAD
MCKINLEYVILLE, CALIFORNIA 95521

DATE: JUNE 30, 1987

SUBMITTED BY: GAIL NEWTON AND ASSOCIATES
BIOLOGICAL CONSULTANTS
P.O. BOX 234
ARCATA, CALIFORNIA 95521

EXHIBIT NO. 8

APPLICATION NO.

1-03-049

BODE ET AL.

BIOLOGICAL SURVEYS
(1 of 16)

SUMMARY

The biological resources of the proposed Walker Point Subdivision were surveyed between June 16 and June 26, 1987. The area surveyed is generally referred to as the upland grassland and forest portions of the Mid-City Ranch (AP #402-171-08).

No rare, endangered, or threatened wildlife or plant species were observed during these surveys in the areas that will be directly impacted by the proposed subdivision. Two rare plant species are located within the remnant salt marshes on the southeast corner of the parcel (proposed lot #15). These populations and the associated habitats were previously documented by Newton 1985. The proposed 100 foot resource buffer will adequately protect these populations of Humboldt Bay owl's clover (Orthocarpus castillejoides var. humboldtensis) and Humboldt Bay gumplant (Grindelia stricta ssp. blakei). An Osprey, classified as a species of special concern by Fish and Game, was seen flying by the site. The site inspection revealed no active or inactive Osprey nests on the parcel; therefore, no special protection measures need to be taken with respect to this species.

The parcel is dominated by an upland grassland on the south half and a coastal coniferous forest on the north half. The west, south, and east boundaries of the project include wetland habitats such as a remnant riparian woodland, a low lying grassland, two types of seasonal marshes, a brackish marsh, and a salt marsh. Very little avian use of the remnant riparian woodlands was observed. The clearing of the adjoining areas for pasture has so severely reduced the width of the riparian woodlands that it provides little cover or forage for the wildlife species.

The ridgetop, coastal coniferous forest that adjoins the west side riparian woodland contains a very diverse mixture of avian species. This structurally diverse forest is, by far, the most important area for wildlife species on the parcel. There could be as many as fifty nesting species in this forest, and wetland species such as Great Blue Heron and Great Egret have potential nesting trees. Of interest: only the third county record of Hooded Warbler was sighted within this forested area.

RECOMMENDATIONS

The protection of the wetland habitats can be assured by including a 100 foot resource buffer between proposed land alterations and the wetlands. For this purpose, the enclosed map includes a dotted line which delineates the wetland areas from the upland areas. The 100 foot buffer should be measured from this line.

In addition to the resource buffer, slope stability should be considered, particularly on the northwest and east edges. The ground drops almost vertically from the upland habitats down to the wetland habitats in these areas. Care should be taken during the development processes such that potential slope failure from the upland areas will not impact the adjacent wetland areas.

Impacts on the avian species of the site will be concentrated in the ridgetop, coastal coniferous forest. The 100 foot wetland buffer will serve to keep approximately one-fourth (a linear section) of the forest intact. Beyond the buffer area, measures should be taken to retain as much of the avian diversity of the area as possible. In order to retain the avian diversity, the structural diversity of the vegetation should be preserved and encouraged. A policy of limited tree removal should be adapted and some of the dense brushy areas should not be cleared. Snags, which are important for nesting and roosting, should not be removed. The adverse impacts on the wildlife species can be kept to a minimum by the placement of building sites, leachfields, and wells in a manner that will result in preserving the largest possible contiguous section of the forest.

The proposed development will probably cause some shifts in the mammal populations; however, most of the mammals found on the site are resilient to urbanization and will adapt to the new site conditions. The Black-tailed deer which are known to frequent the parcel will most likely leave the site to forage in the undeveloped areas to the east, south, and west rather than within the developed lots.

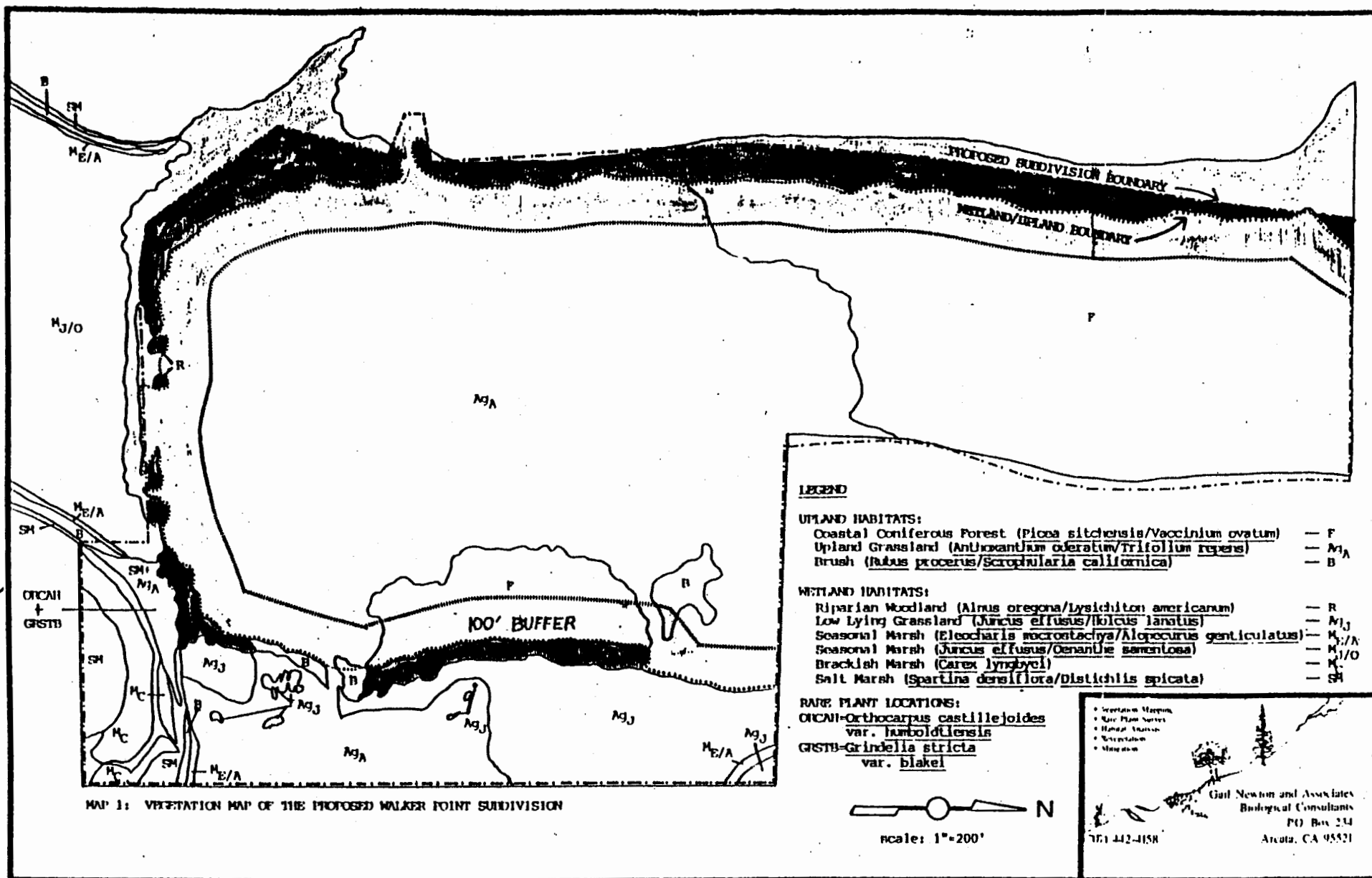
INTRODUCTION

The biological resources of the proposed Walker Point Subdivision were surveyed between June 16 and June 26, 1987 by Gail Newton (Botanist) and Gary Lester (Wildlife Biologist). The area surveyed is generally referred to as the upland grassland and forest portions of the Mid-City Ranch (AP #402-171-08). The low lying areas were previously mapped and described by Gail Newton in a report dated May 15, 1985 for the Humboldt County Public Works Department in preparation for the establishment of a wetland mitigation bank. The adjacent parcels to the west and south are in the process of being purchased by the Wildlife Conservation Board for this purpose. Portions of the 1985 data are included in this report for the sake of completeness.

In general, the vegetation and wildlife of the proposed subdivision is typical of grazed wetlands, upland grasslands, and coastal forests around Humboldt Bay. No rare wildlife species were located within the project boundaries; however, two rare plant species are found just within the southern boundary (see Map 1). These populations of Humboldt Bay owl's clover (Orthocarpus castillejoides var. humboldtiensis) and Humboldt Bay

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MAP 1: VEGETATION MAP OF THE PROPOSED WALKER POINT SUBDIVISION

gumplant (Grindelia stricta ssp. blakei) were previously documented by Newton in 1985.

The following section describes the vegetation types found within the project, paying particular attention to wetland indicator species. Map 1 includes the approximate project boundary and includes a dotted line which delineates wetland habitats from upland habitats. In accordance with Humboldt County procedures, a 100 foot buffer to the upland side will be necessary from this dotted line.

Appendix 1 contains a species list of the plants observed during the survey and indicates which habitats they were found within. Appendix 2 lists the wildlife species observed during the survey and the habitats they were found within; in addition, avian species that probably winter on the site are listed.

VEGETATION TYPES

The delineation of each vegetation type (or plant assemblage) is based on species composition, quantitative variations, and structure. The upland areas of the proposed subdivision are dominated by an upland grassland and a coastal coniferous forest, with occasional brush thickets. The low lying areas of the proposed subdivision are dominated by wetland habitats including a riparian woodland, a low lying grassland, two different seasonal marshes, a brackish marsh, and a salt marsh. These wetland habitats will be protected by the required 100 foot buffer.

I. UPLAND HABITATS

A. COASTAL CONIFEROUS FOREST -- F (Picea sitchensis/Vaccinium ovatum)

The conifer forest found on the northern half of the upland area is a complex mosaic of vegetation. The structure of the forest varies from a dense canopy and an open understory, to a open canopy with a dense shrub layer. Areas dominated by conifer species are interspersed with brushy areas. The structural diversity of this area, identified simply as coastal coniferous forest on Map 1, supports a correspondingly high diversity of wildlife species. The wildlife biologist found many avian species nesting in this area (see Appendix 2). Of interest to the bird watching community was the presence of only the third county record of Hooded Warbler, a species common to the eastern U.S.. An additional area near the east wetland/upland boundary was also identified as a conifer forest; however, this small forest area is not as heavily used by wildlife species.

Within the conifer areas, one or more of the following species makes up the canopy layer: sitka spruce (Picea sitchensis), Douglas-fir (Pseudotsuga menziesii), redwood (Sequoia sempervirens), and western hemlock (Tsuga heterophylla). If the canopy layer is dense, the shrub layer is low in cover (or absent) containing species such as evergreen huckleberry (Vaccinium ovatum) and poison oak (Toxicodendron diversilobum); and the herbaceous layer is diverse, containing grassland species, false lily-of-the-valley (Maianthemum dilatatum), sweetroot (Osmorhiza chilensis), wild cucumber (Marah oreganus), yerba buena (Satureja douglasii), iris (Iris douglasii), trillium (Trillium ovatum), and sword fern (Polystichum munitum).

The areas that lack a conifer canopy layer have a tall shrub layer which includes cascara sagrada (Rhamnus purshiana), elderberry (Sambucus callicarpa), salmonberry (Rubus spectabilis), twin berry (Lonicera involucrata), and occasionally red alder (Alnus oregona). The herbaceous layer ranges from absent to any combination of species from the understory of the conifer areas.

B. UPLAND GRASSLAND -- Ag_A
(Anthoxanthum oderatum/Trifolium repens)

This grassland is distinguished from the low lying grassland by the absence of obligatory wetland species, specifically pacific silverweed (Potentilla egedii ssp. grandis), water foxtail (Alopecurus genticulatus), and spike rush (Eleocharis macrostachya). In addition, common rush (Juncus effusus var. brunneus) is rarely found in the upland grassland. Very little wildlife use of the upland grassland was observed.

The upland grassland is dominated by grass species including brome grass (Bromus mollis), orchard grass (Dactylus glomerata), vernal grass (Anthoxanthum oderatum), perennial ryegrass (Lolium perenne), and colonial bent (Agrostis tenuis). Clover species are also common to this area: cow clover (Trifolium wormskioldii), creeping clover (Trifolium repens), and dubious clover (Trifolium dubum). Other common pasture weeds noted are cat's ear (Hypochoeris radicata), perennial trefoil (Lotus corniculatus), flax (Linum angustifolium), and common dock (Rumex acetosella). Total cover is always 100%.

C. BRUSH -- B

Brush thickets are common on the site in both upland and wetland areas, especially on the dikes and around the edges of the riparian woodlands. Therefore, when the brush is adjacent to a wetland area, it is included in the wetland designation on Map 1; when the brush is surrounded by upland vegetation, it is included in the upland

designation. The brush thickets near the riparian woodland and forest support various avian species; however, very little activity was noted in the thickets surrounded by grassland.

The brush areas contain some or all of the following species: himalaya-berry (Rubus procerus), figwort (Scrophularia californica), coyote bush (Baccharis pilularis ssp. consanguinea), twinberry (Lonicera involucrata), blackberry (Rubus vitifolius), thimbleberry (Rubus parviflorus), salmonberry (Rubus spectabilis), sword fern (Polystichum munitum), thistle (Cirsium sp.), hedge nettle (Stachys chamissonis), and willow species (Salix spp.)

II. WETLAND HABITATS

The designation of a wetland habitat for this study was based on presence/absence of wetland plant species and presence/absence of seasonal or permanent standing water. Once the wetland designation corresponding to the vegetation types was decided, the wetland/upland border was drawn on Map 1. The brush thickets, though described in the Upland Habitats Section above, can also be located within the wetland zone. This fact was taken into consideration while delineating the wetland/upland interface on Map 1.

A. RIPARIAN WOODLAND -- R

(Alnus oregona/Lysichiton americanum)

The proposed subdivision contains a thin strip of riparian woodland around the edge of the five foot contour line. Wildlife activity within the riparian woodland is very low. The clearing of the land for agricultural uses has so severely reduced the width of the riparian woodland that it probably provides little cover or forage value for the avian species.

The riparian woodland is dominated by red alder (Alnus oregona) in the canopy layer, with a lesser component of willow species (Salix spp.). The total cover of the canopy layer ranges from 30 to 100%, almost all due to the red alder. The shrub layer contains elderberry (Sambucus callicarpa), salmonberry (Rubus spectabilis), thimbleberry (Rubus parviflorus), himalaya berry (Rubus procerus), blackberry (Rubus vitifolius), twin berry (Lonicera involucrata), California hazelnut (Corylus cornuta var. californica), nootka rose (Rosa nutkana), and cascara sagrada (Rhamnus purshiana). Total shrub cover varies widely.

The herbaceous layer varies with the micro-topography and the amount and duration of water. In the areas that are flooded only for a short time during the winter months,

species such as hedge nettle (Stachys chamissonis), sword fern (Polystichum munitum), siberian montia (Montia sibirica), false lily-of-the-valley (Maianthemum dilatatum), and various grass species occur. Large stands of skunk cabbage (Lysichiton americanum) and water parsley (Oenanthe sarmentosa) occur in the areas that are seasonally flooded and retain standing water for much of the winter months.

A small slough, which is located underneath of the woodland on the edge boarding the grassland, is also included in the riparian designation. This slough contains cattail (Typha latifolia), marsh pennywort (Hydrocotyle ranunculoides), water foxtail (Alopecurus genticulatus), water parsley (Oenanthe sarmentosa), pacific silverweed (Potentilla egedii ssp. grandis), reed canary grass (Phalaris arundinacea), manna grass (Glyceria declinata), and duckweed (Lemna spp.).

B. LOW LYING GRASSLAND -- Ag_J
(Juncus effusus/Holcus lanatus)

This vegetation type is dominated by common rush (Juncus effusus var. brunneus) and velvet grass (Holcus lanatus). Other species commonly found within this type are cat's ear (Hypochoeris radicata), bedstraw (Galium trifidum), curly dock (Rumex crispus), and the species included in the following discussion. Total herbaceous cover is always 100%.

Most of this agricultural land was once salt or brackish water marshes. This area has been diked off and reclaimed from the bay's estuarine system for agricultural uses. The low lying grassland is differentiated from the upland grassland by the presence and abundance of wetland indicator species and by the presence of seasonally ponding water. Specifically, these wetland indicators are common rush (Juncus effusus var. brunneus), rush (Juncus effusus var. pacificus), pacific silverweed (Potentilla egedii ssp. grandis), spike rush (Eleocharis macrostachya), and water foxtail (Alopecurus genticulatus).

This grassland is differentiated from adjacent seasonal marshes by the abundance of upland forage species, specifically, velvet grass (Holcus lanatus), Italian ryegrass (Lolium multiflorum), vernal grass (Anthoxanthum odoratum), creeping clover (Trifolium repens), and perennial trefoil (Lotus corniculatus).

C. SEASONAL MARSHES -- M

These grazed seasonal marshes are differentiated from the previous low lying grassland by the abundance of wetland species and the lower frequency of grassland species.

1. Eleocharis macrostachya/Alopecurus genticulatus -- M_{E/A}

This marsh is found in seasonally wet sloughs and depressions that are low in salinity and experience grazing. In addition to the two characteristic species, spike rush (Eleocharis macrostachya) and water foxtail (Alopecurus genticulatus), species present in lesser amounts include pacific silverweed (Potentilla egedii), water starwort (Callitriche spp.), brass buttons (Cotula coronopifolia), reed canary grass (Phalaris arundinacea), and pimpernel (Anagallis arvensis).

2. Juncus effusus/Oenanthe sarmentosa -- M_{J/O}

This vegetation type is dominated by common rush (Juncus effusus var. brunneus), water parsley (Oenanthe sarmentosa), and pacific silverweed (Potentilla egedii ssp. grandis). Vernal grass (Anthoxanthum oderatum) and spike rush (Eleocharis macrostachya) are also common in this area. This area is seasonally flooded; soils are wet and can contain standing water. The total herbaceous cover varies from 75% to 100%. The structure of this type is two-storied; large stands of rush bushes are interspersed with the shorter grassy areas.

D. BRACKISH MARSH -- M_C

Monotypic stands of a sedge which is currently not described, but which resembles Carex lyngbyei, occur in Fay Slough. These stands are uniformly 1.0 meter in height with 100% total herbaceous cover.

E. SALT MARSH -- SM

The salt marsh located within the project boundaries is found along the banks of Fay Slough. This disturbed marsh exhibits very little of the usual species zonation with elevation. Two of Humboldt Bay's rare plant species, Humboldt Bay gumplant (Grindelia stricta ssp. blakei) and Humboldt Bay owl's clover (Orthocarpus castillejoides var. humboldtensis) are found within the salt marsh.

The dominant species of the salt marsh are salt grass (Distichlis spicata), pickleweed (Salicornia virginica), jaumea (Jaumea carnosa), and cordgrass (Spartina densiflora). Other species commonly found in this area but with low frequency and cover are slender arrow grass (Triglochin concinna), arrow grass (Triglochin maritima), and the two rare species. Total herbaceous cover of these areas ranges from 90% to 100%. Soils are generally moist and experience tidal inundation.

Karen Theiss and Associates

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CALIFORNIA
COASTAL COMMISSION

WETLANDS REPORT HARTRIDGE HOUSE MAJOR SUBDIVISION WALKER POINT, PARCEL #7

I INTRODUCTION

The biological resources of most of the area within the proposed Hartridge House Major Subdivision were addressed in a document prepared by Gail Newton and Associates, dated June 30, 1987 (Biological Survey of the Proposed Walker Point Subdivision). The area included in the current application as Parcel #7 was not part of the survey area of the 1987 report. Staff of the Humboldt County Planning Department, in a letter dated January 13, 1992, has requested that sensitive environmental habitat areas, conditions and recommendations for setbacks and other mitigation activities for protection of riparian resources be addressed. The following wetlands report has been prepared to address these concerns.

II METHODOLOGY

The area encompassed by Parcel #7 was examined by Karen Theiss and Gail Newton in 1988 as a potential mitigation site for a separate project. As part of this examination, an extensive and rigorous vegetative survey was conducted on Parcel #7 by Gail Newton and Associates, and was presented in Mid-City Ranch, Proposed Mitigation Site for the Allen and Finn Bulk Cargo Expansion Project, dated April 11, 1988, hereinafter referred to as GNA 1988. The data generated from that survey will be used as a basis for determination of the wetlands characteristics of the site. The parcel was examined as part of the current report to determine that conditions had not changed substantively over the past four years.

III FEDERAL WETLANDS CRITERIA

A. Definitions

1. Waters of the United States - The waters of the United States include "intermittent and perennial streams, rivers, open waters, wetlands, wet meadows and natural ponds" [33 CFR 328.3 (a)(3)]. Also included are "wetlands adjacent to waters" of the United States [33 CFR 328.3 (a)(7)].

2. Wetlands - The COE and EPA define jurisdictional wetlands as "those areas that are inundated or saturated by surface

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or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas." [COE 33 CFR 328.3(b)]. This definition requires the presence of three conditions - hydrophytic (water-loving) vegetation, hydric (wet) soils, and periodic inundation for a minimum of seven consecutive days during the growing season.

3. Adjacent - This term means "bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are adjacent wetlands." [COE 33 CFR 328.3(c)].

4. Hydrophytic Vegetation - Hydrophytic vegetation includes those wetland plants which grow "in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content" (Federal Interagency Committee for Wetland Delineation, 1987). A list of over 7000 species of vascular plants found growing in wetland conditions has been compiled by the FWS (National List of Plant Species That Occur in Wetlands, Reed, 1988). These species are separated into four categories, based upon each species' frequency of occurrence in wetlands:

a. Obligate (OBL) species almost always occur in wetlands under natural conditions (>99% of the time);

b. Facultative wetland species (FACW) usually occur in wetlands (67-99% of the time), but are occasionally found in uplands;

c. Facultative (FAC) species occur with equal frequency in wetlands and uplands (34-66% of the time);

d. Facultative upland (FACU) species occur infrequently in wetlands (1-33% of the time).

In general, an area supports hydrophytic vegetation if more than 50% of the composition of the dominant species from each stratum (canopy, understory, shrub, herb) are obligate wetland (OBL), facultative wetland (FACW) and/or facultative (FAC) species. If an area is 1) dominated by species which are all OBL, or 2) dominated by OBL and/or FACW species, and the wetland-upland boundary is abrupt, the area is a wetland and the soils and hydrology need not be examined (1987 Wetlands Delineation Manual, Part IV, Sec.D., Subsection 1, #62, Step 3a and 3b [pg.55]).

5. Hydric Soils - These soils are defined as "soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part" (USDA, 1987). Generally, this period of saturation, flooding, or ponding is one week or more during the period when soil temperatures are

above biologic zero, 41° F (US Department of Agriculture, 1975). This time period varies with climatic region. Hydric mineral soils are generally characterized by low chromas (2 or less on the Munsell Soil Color Charts) and/or the presence of mottling (bright orange or dark red areas within the soil matrix) and/or gleying (bluish, greenish or grayish colors).

B. Regulations

Policies of the Federal government call for a "no net loss" of the acreage and values of the nation's wetlands. Four Federal agencies are directly responsible for the identification of wetlands as part of implementation of a variety of Federal laws and policies. These agencies are the Army Corps of Engineers, (COE), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS) and the Soil Conservation Service (SCS).

The COE and EPA identify and delineate wetlands as part of the administration of Section 404 of the Clean Water Act, which covers the discharge of fill or dredged material into the waters of the United States. The SCS delineates wetlands on agricultural land in order to assess eligibility for US Department of Agriculture (USDA) benefits under the National Food Security Act. The FWS began an inventory of the Nation's wetlands in the late 1970's. The result of this effort has been the publication of Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et. al., 1979) and the National Wetland Inventory Maps, which indicate wetland location and types on USGS topographic base maps. While each agency uses slightly differing definitions of wetlands, they are in agreement in requiring the presence of all three parameters - wetland vegetation, soils and hydrology - for an area to be considered a jurisdictional wetland.

The COE issues permits for the discharge of fill or dredged material into the waters of the United States and adjacent wetlands, with program oversight by EPA. EPA and FWS provide consultation on all projects under consideration by the COE. EPA makes the final determination as to the extent of jurisdiction under the Clean Water Act.

IV STATE OF CALIFORNIA

On the State level, the California Department of Fish and Game (DFG) is responsible for the protection of the State's wetlands. The Department serves in an advisory capacity with regard to the fill and/or alteration of wetlands, and is generally a commenting agency for projects subjected to local, county and/or State environmental review processes. The Department uses the same criteria - vegetation, soils and hydrology - as the Federal agencies for determining a wetland. The policy of DFG is more restrictive, however, in that an area under consideration need only

exhibit one of the three criteria (vegetation, soils or hydrology) in order to be classified as a wetland, rather than all three.

Wetlands are protected by Fish and Game policy from fill and development which would impact fisheries and wildlife habitat values. In addition to protecting these resources, wetlands function in maintaining water quality by trapping sediments and pollutants. It is due to these concerns that it is also policy of the Department to require a buffer area (setback) from wetlands in order to protect and enhance wildlife habitat values and water quality.

V HUMBOLDT COUNTY

The Humboldt County General Plan, Volume 1 (Framework Plan) includes a policy to maintain Streamside Management Areas (Section 3431.4). The proposed parcel is within the Urban Development and Expansion Area, as delineated on maps at the by the Humboldt County Planning Department (Jim Baskin, pers. comm.). The outer boundary of Streamside Management Areas in Urban Development and Expansion Areas is 50 feet measured as the horizontal distance from the stream transition line on either side of perennial streams, or 25 feet on either side of intermittent streams (Section 3432.5.B1 and B2.). The following report describes the wetland resources of the subject property according to Fish and Game criteria. It further recommends appropriate uses and actions within the wetland and upland areas.

VI DESCRIPTION OF THE PROJECT AREA

1. Location and Topography - The project site, as depicted on the map at the end of the report, includes an area of about 15.6 acres located between Myrtle Avenue on the east and Walker Point on the west. The entire parcel lies below the grade of Myrtle Avenue, and exhibits minimum topographic relief. A small portion has been filled for the homesite and yard, as shown on the map. It appears that the fill material has been in place for quite a few years. The end of a branch of Fay Slough is located in the southwesterly corner of the parcel; it is separated from a natural drainage ditch by a tide gate.

2. Vegetation - Vegetation in the unfilled areas is dominated by obligate and facultative species, with some upland species being evident in places. Vegetation directly along the drainage course is dominated by *Juncus effusus* (common rush), an obligate species. As part of the GNA 1988 report, 140 vegetation plots (0.5 square meters each) were sampled. Fifty-seven of these were located in an area designated as Area II, west of the drainage ditch, and the remaining 87 plots were located in Area III, closer to Myrtle

Avenue (see map at end of report). Following are the results of vegetative characteristics of the plots in each area.

Vegetative Cover	AREA II	AREA III
>50% Obligate Species	28%	11%
>50% Combined Hydrophytic Species	58%	83%
>50% Upland Species	14%	6%
Percent Cover with Wetland Vegetation	86%	94%

Vegetation in the filled area is generally typified by weedy facultative, facultative upland, and upland species common in the Humboldt Bay Area. Some areas, such as the driveway near the well, support small areas of obligate species; this is likely due to soil compaction from vehicles and a constant water supply from the leaky well.

While there are small areas supporting predominantly upland species, perhaps due to slight topographic changes and/or variability in the substrate, the overall characteristics of the unfilled portion of the parcel meet the criteria for wetlands vegetation. The filled area, while supporting some species found in wetland areas, has been extensively modified over a number of years. The vegetation is variable over the site due to different uses in different areas. Overall, the vegetation does not meet the criteria for wetland plants.

3. Soils - Several soil samples were taken in the unfilled areas as part of the GNA 1988 report. The samples exhibited low chroma and mottling, both conditions being indicative of hydric soils. The entire area was historically under tidal influence from the Bay.

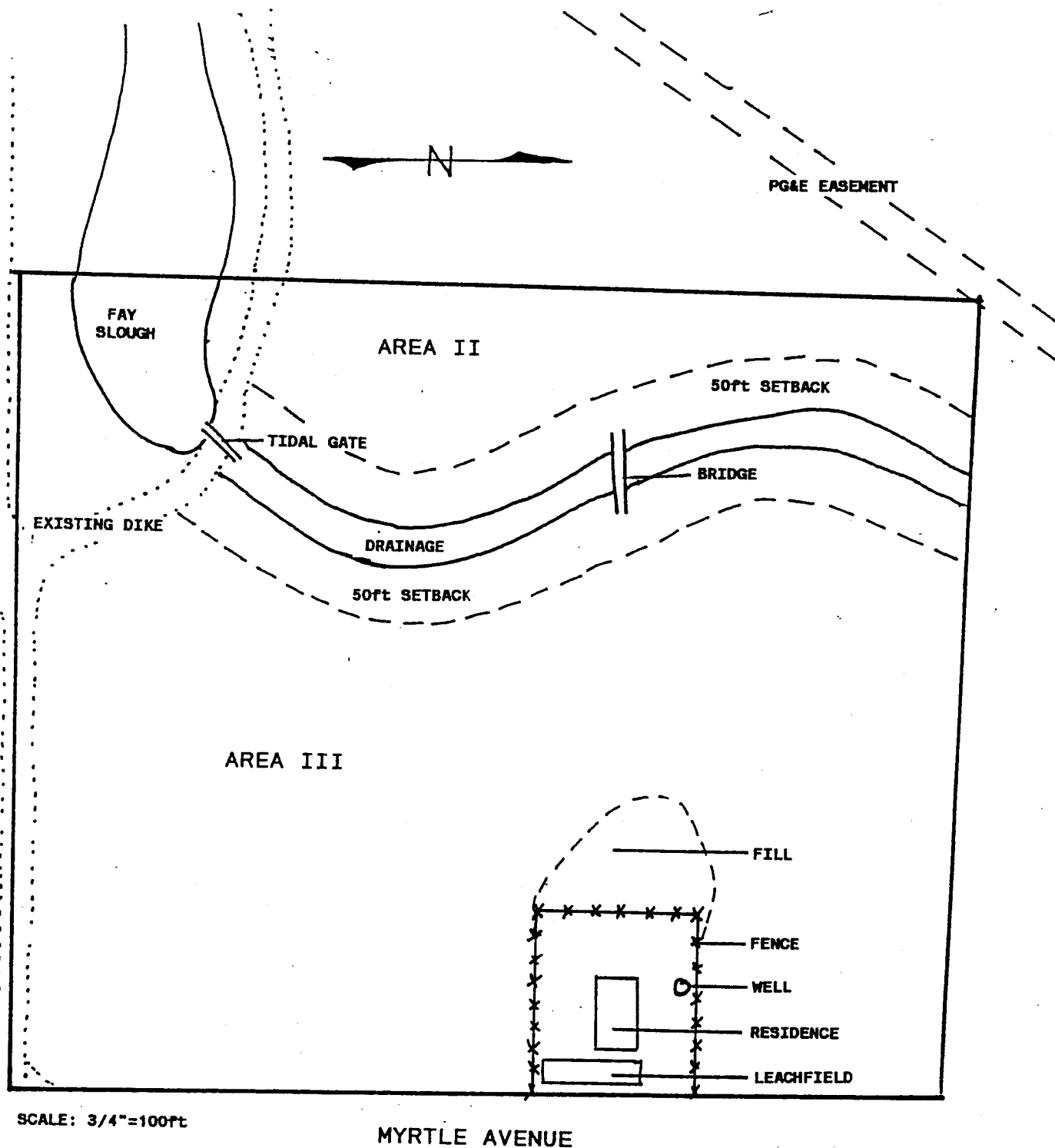
6. Hydrology - Fay Slough extends into the southwesterly corner of the property, where it is separated by a tide gate from a natural drainage running through the property. This latter drainage contains freshwater which collects from runoff and seepage from the surrounding area. Groundwater is at or close to the surface over most of the area during wet weather conditions.

VII DEVELOPMENT PLAN

Grazing is an allowable use within the seasonal wetlands which characterize this parcel. Vegetation directly associated with the drainage ditch is characterized by obligate species. A fenced 50-foot setback area from the drainage is proposed in order to protect these features from the physical impacts of trampling of grazing livestock. Additionally, the fencing along the base of the dike

should be repaired and maintained in order to avoid the destructive impacts of trampling. Fencing should also be installed along the westerly property line in order to restrict livestock from the riparian vegetation at the toe of Walker Point.

There is an existing bridge over the drainage ditch to allow for passage of livestock from one side to the other. This bridge will remain in use. Construction of agriculturally-related buildings (e.g., barn, corral) should occur only the filled area near the existing residence. Construction of a building in the wetland area would constitute a fill of wetlands and would require mitigation.



**HARTRIDGE HOUSE MAJOR SUBDIVISION
PARCEL #7**

EXISTING CONDITIONS

PREPARED BY: KAREN THEISS AND ASSOCIATES
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