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Staff: Tiffany S. Tauber
Staff Report: June 23, 2005
Hearing Date: July 14, 2006
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **1-88-164-A3**

APPLICANT: **SEASTACK ENTERPRISES, LLC**
(formerly Clifford & Emily Chapman)

AGENT: Tad Sanders

PROJECT LOCATION: At the Chapman Point subdivision located approximately one mile south of the Town of Mendocino, west of Highway One, on the north side of Chapman Road, at 45300 Chapman Road, Mendocino County (APN 119-330-11)

DESCRIPTION OF ORIGINAL PROJECT PREVIOUSLY APPROVED: (1) Divide approximately 31 acres into four 5-acre lots and one 11-acre remainder lot, (2) install a well and septic system on each lot, (3) construct access roads, (4) remove approximately 300 yards of stockpiled rock from bluff edge, and (5) install underground utilities.

DESCRIPTION OF CURRENT AMENDMENT REQUEST: Expand the building envelope on Parcel #4 of the previously approved minor subdivision.

GENERAL PLAN DESIGNATION: Rural Residential, 5-acres, Planned Development

ZONING DESIGNATION: Rural Residential

LOCAL APPROVALS RECEIVED: Minor Subdivision Parcel Map Modification

SUBSTANTIVE FILE DOCUMENTS: Mendocino County LCP; CDP File No. 1-88-164; Mendocino County Minor Subdivision Modification MS# 5-88

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions, the requested amendment to the coastal development permit originally granted to subdivide a 31-acre parcel into five lots and develop associated infrastructure at Chapman Point, located approximately one mile south of the Town of Mendocino on the west side of Highway One in a designated “highly scenic” area of Mendocino County.

The originally approved permit established a building envelope on each of the five created parcels. The proposed amendment would expand the previously approved building envelopes on Parcel #4 into one larger building envelope that would encompass the majority of the parcel. The applicant states that the intent of modifying the building envelope is to facilitate the future construction of a new single-family residence in a desired location atop the small knoll in the northwest corner of the site, an area that is currently outside of the permitted building envelope, and to convert the existing residence into a guest house and artist studio. Construction of the proposed new residence and change of use of the existing residence would require a separate coastal development permit from Mendocino County.

The proposed expansion of the previously approved building envelope raises issues with regard to (1) the protection of public views from Van Damme State Park located south of the subject parcel, (2) the protection of a rare plant population located on the southwest corner of the site, (3) and coastal zoning requirements that provide for only one primary residence per residential parcel.

To ensure protection of public views from the state park and the protection of the ESHA on site, staff recommends Special Condition No. 8 that would require revisions to the proposed building envelope to limit the size and location of the building envelope to the desired building site on top of the knoll and outside of the 100-foot buffer area around the rare plant population. The condition further requires that only appurtenant residential improvements that do not involve aboveground structures, such as a septic system, well, underground water storage tank, drainage improvements, landscaping etc., may be developed outside of the revised building envelope provided the improvements are

setback 100 feet from the rare plant population and would not involve planting invasive exotic vegetation.

To ensure that only one primary residence exists on the parcel, Special Condition No. 8(C) requires that a new primary single-family house shall only be developed in the designated building envelope if the existing residence located in the southeast corner of the property is removed or legally converted to an allowable use other than a primary residence.

Staff further recommends Special Condition No. 9, which would require the applicant to record and execute a deed restriction to impose the special conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property, so that future purchasers of the property would be informed of all of the coastal development permit requirements that pertain to the property.

As conditioned, the proposed amended building envelope would have no greater impact on public access to the coast than the originally approved project, as the amendment would not change the planned use or development density of the parcel in a manner that would increase the burden on existing public access in project vicinity.

Staff recommends that the Commission find that the proposed amendment, as conditioned, would be consistent with the policies of the certified Mendocino County LCP and the public access policies of the Coastal Act.

The motion to adopt the staff recommendation of approval with conditions is found on page 5.

STAFF NOTES:

1. Procedural Note

Section 13166 of the California Code of Regulations states that the Executive Director shall reject an amendment request if: (a) it lessens or avoids the intent of the previously approved permit; unless (b) the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

The Executive Director has determined that the proposed amendment would not lessen or avoid the intent of the conditionally approved permit. On October 13, 1988, Coastal Permit No. 1-88-164 (Champan) was approved by the Commission to (1) divide approximately 31 acres into four 5-acre lots and one 11-acre remainder lot, (2) install a well and septic system on each lot, (3) construct an access road, (4) remove approximately 300 yards of stockpiled rock from bluff edge, and (5) install underground

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utilities. In a combined staff report and related action, the Commission also approved CDP No. 1-88-166 (Lambie) that approved construction of a single family residence on Parcel #3 created by the subdivision approved under CDP No. 1-88-164. The permit that is the subject of this proposed amendment was approved with seven special conditions intended to assure consistency with the provisions of the Coastal Act regarding the protection of visual resources, environmentally sensitive habitat areas, archaeological resources, public access, and the provision of adequate services.

The original permit delineated building envelopes on each of the five parcels created by the minor subdivision. The current amendment request seeks to expand the previously approved building envelope on Parcel #4 to facilitate future construction of a single family residence on a portion of the parcel that is currently outside of the permitted building envelope, and to convert the existing residence into a guest house and artist studio. Construction of a new residence and change of use of the existing residence would require a separate coastal development permit from Mendocino County.

Upon receipt of the amendment request, the Executive Director accepted the amendment request for filing on the basis that with conditions, the proposed modification to the building envelope could be made consistent with the policies of the certified LCP and the public access and recreation policies of the Coastal Act, and would not lessen or avoid the intent of the Commission's prior action on the original permit (CDP No. 1-88-164).

With the inclusion of Special Condition No. 8 and No. 9, the proposed amendment would be consistent with the visual resource and environmentally sensitive habitat area (ESHA) policies of the LCP. Special Condition No. 8 would require revisions to the proposed building envelope to limit the size and location of the revised building envelope to the desired building site on top of the knoll and outside of the 100-foot buffer area around a population of rare plants located in the southwest corner of the site. The condition further requires that only appurtenant residential improvements that do not involve aboveground structures, such as a septic system, well, underground water storage tank, drainage improvements, landscaping etc., may be developed outside of the building envelope provided the improvements are setback 100 feet from the rare plant population and would not involve planting invasive exotic vegetation.

With the inclusion of Special Condition No. 9, which would require the applicant to record and execute a deed restriction to impose the special conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property, future purchasers of the property would be informed of all of the coastal development permit requirements that pertain to the property.

Finally, as conditioned, the proposed amended building envelope would have no greater impact on public access to the coast than the originally approved development, as the amendment would not change the planned use or density of the parcel in a manner that would increase the burden on public access in the area. As conditioned, the project

would be consistent with the public access policies of the certified LCP and the Coastal Act.

Therefore, the Executive Director accepted for processing the proposed amendment request to Coastal Development Permit No. 1-88-164 because with conditions, this amendment request would not result in a lessening or avoidance of the intent of the originally approved permit.

2. Standard of Review

The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective acceptance of a certified LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access policies of the Coastal Act.

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 Amendment No. 1-88-164-A3 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMITAMENDMENT:

The Commission hereby approves the coastal development permit amendment and adopts the findings set forth below on grounds that the development as amended and subject to conditions will be in conformity with the policies of the certified Mendocino County Local Coastal Program, is located between the sea and the nearest public road to the sea, and is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

II. STANDARD CONDITIONS: (See attached Appendix A)

III. SPECIAL CONDITIONS:

NOTE: Special Condition Nos. 8, 9, and 10 are new conditions attached to the permit amendment. Special Condition Nos. 1-7 are unchanged from the original permit and remain in full force and effect (see Exhibit No. 7).

8. Revised Building Envelope & Future Development

- A. No development, as defined in Section 30106 of the Coastal Act, shall occur outside of the revised building envelope as generally depicted on Exhibit No. 6 attached to this staff report and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, except as otherwise described in Sections (C) & (D) below. The building envelope shall exclude those portions of the property that are (1) to the south or southeast of the topographic break at the base of the knoll (144-foot contour line), or (2) within 100-feet of the coastal morning glory population, or (3) within corridor preservation setbacks and yard setbacks required by the Mendocino County Code including 30 feet from the north and east property lines, and 55 feet from the centerlines of the easements along the west and south property lines.
- B. **PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 6 attached to this staff report.
- C. All future development on the property shall require a coastal development permit or an amendment to Coastal Development Permit Amendment No. 1-88-164-A3. Any primary single-family house and other new aboveground appurtenant or accessory structures developed on the property in the future shall be located entirely within the building envelope approved pursuant to Coastal Development Permit Amendment No. 1-88-164-A3 and as shown on Exhibit No. 6. A new primary single-family house may be developed only if the existing residence located in the southeast corner of the property is removed or legally converted to an allowable use other than a primary residence pursuant to an approved coastal development permit.
- D. Other appurtenant residential improvements, which do not involve aboveground structures, may only be developed outside of the building envelope approved

pursuant to Coastal Development Permit Amendment No. 1-88-164-A3 and as shown on Exhibit No. 6, subject to the following requirements and any additional requirements imposed in the coastal development permit granted for such development:

- (1) Such appurtenant residential improvements, which do not involve aboveground structures, are limited to a septic system, well, underground water storage tank, underground propane tank, underground utilities, driveway and parking areas that are constructed between the building envelope and the north side of the property, drainage improvements, tree limbing and the removal of dead trees or other vegetation as required by fire management law for maintaining defensible space, and landscaping with native species or non-invasive exotic species.
- (2) All such development shall be setback at least 100 feet from the population of coastal bluff morning glory as delineated in the botanical report entitled, "*Floristic Survey for Proposed Single Family Residence, Sea Stack Property 45300 Chapman Road, Mendocino, Mendocino County, AP# 119-330-011*" prepared by Susan A. Morrison, KPFF Consulting Engineers, and dated August 9, 2005 and attached as Exhibit No. 5.
- (3) No invasive exotic vegetation shall be planted.

9. Deed Restriction

PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 1-88-164-A3, the applicant shall submit to the Executive Director for review and approval, documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, 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 amended, 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 or parcels governed by this permit amendment. 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, as amended, 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.

10. Consistent Parcel Map Approvals

PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT

AMENDMENT NO. 1-88-164-A3, the applicant shall submit, for the review and approval of the Executive Director, a copy of a revised Parcel Map and revised Exhibit Map for Parcel 4 of the Chapman Point Subdivision, that has been reviewed and approved by the Director of the Mendocino County Department of Planning and Building Services, and which is consistent with Special Condition No. 8 of this CDPA. The revised Exhibit Map shall show both the change in building envelope and the 100-foot buffer area from the edge of the coastal bluff morning glory population that are required by Special Condition No. 8. The revised Parcel Map and Exhibit Map shall be consistent with all terms and conditions of Coastal Development Permit Amendment No. 1-88-164-A3. Any proposed changes to the approved revised Parcel Map and Exhibit Map shall be reported to the Executive Director. No changes to the approved revised Parcel and Exhibit Map shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS FOR APPROVAL

The Commission hereby finds and declares:

1. Site Description

The subject site is located on a coastal headland on the south side of Mendocino Bay known as Chapman Point. The headland is generally flat and slopes gently outward to the north and west from a small knoll located in the southeast corner of the property. The Chapman Point subdivision authorized by CDP No. 1-88-164 created four five-acre parcels and one eleven-acre remainder parcel configured on the Point around a central circular access road accessed from Highway One via an approximately 1,000-foot-long driveway. The parcel subject to this permit amendment, Parcel #4, is an interior lot located at the southeast corner of the property with the small knoll rising approximately fifteen feet in elevation in the northwest corner of the parcel. (See Exhibit Nos. 1-3.)

The subject parcel is designated in the Mendocino County Land Use Plan as Rural Residential 5-acres, Planned Development. The property and surrounding area is designated as “highly scenic” in the certified Mendocino County LCP. The subject parcel is not visible from Highway One due to residential development and forested landscapes on intervening parcels. Additionally, the parcel is not visible from the Town of Mendocino across Mendocino Bay to the north due to topographical variations, the forested nature of the intervening parcel (Parcel #5), and a dense stand of Bishop Pine trees along the northern property boundary. The subject parcel is visible, however, from Van Damme State Park located to the south, directly adjacent to the subject property.

A botanical survey prepared for the proposed permit amendment identified a population of coastal bluff morning glory (*Calystegia purpurata ssp. saxicola*) on the far western portion of the parcel (see Exhibit No. 5). The coastal bluff morning glory is a California Native Plant Society (CNPS) List 1B species designating it as rare, threatened, or endangered in California or elsewhere.

The subject site (Parcel #4) is developed with an existing 1,673-square-foot single-family residence with an attached 550-square-foot garage located in the southeast corner that was constructed prior to the Coastal Act. The site is also developed with an existing well and septic system and an old, concrete foundation located in the western portion of the site.

2. Originally Approved Project

The original permit application was approved by the Commission on October 13, 1988. The approved permit authorized (1) subdivision of approximately 31 acres into four 5-acre lots and one 11-acre remainder lot, (2) installation of a well and septic system on each lot, (3) construction of an access road, (4) removal of approximately 300 yards of stockpiled rock from the bluff edge, and (5) installation of underground utilities. The original permit approved a designated building envelope on each of the five parcels created by the minor subdivision and revised by the Special Conditions attached to the permit as described below. The staff report for CDP No. 1-84-164 (Chapman) also analyzed CDP No. 1-88-166 (Lambie) as a related project that proposed construction of a single-family residence on Parcel #3 created by CDP No. 1-88-164.

CDP No. 1-88-164 was approved with seven Special Conditions that required (1) recordation of the parcel map approved under CDP No. 1-88-164 prior to issuance of CDP No. 1-88-166 that approved construction of a residence on Parcel #3; (2) recordation of an open space deed restriction over portions of Parcel Nos. 1, 2, 3, and 5; (3) submittal of revised parcel map/site plan that shows (a) reductions to the building envelopes on Parcel Nos. 1, 2, 3, and 5, (b) the open space easement over Parcel Nos. 1, 2, 3, and 5, and (c) the areas where tree planting is required to mitigate visual impacts of future development of Parcel Nos. 1, 2, 3, and 5; (4) submittal of Conditions, Covenants, and Restrictions (CC&Rs) that require (a) all exterior materials be natural materials of earthtone color only, (b) that all exterior materials be non-reflective, and (c) that all exterior lighting be low voltage, downcast lighting; (5) submittal of a County-approved water quantity evaluation and installation of water saving devices, (6) recordation of a future development deed restriction, and (7) agreement that the permit does not prejudice any subsequent assertion of public access rights or interfere with any rights of public access to or along the shoreline acquired through use which may exist on the property. (See Exhibit No. 7.)

Special Condition Nos. 2 and 3 requiring revised building envelopes and recordation of an open space easement over Parcel Nos. 1, 2, 3, and 5 were required to protect environmentally sensitive habitat areas, including rare plant habitat and a seal colony, archaeological resources near the bluff edge, and views from the Town of Mendocino and Mendocino Headlands State Park to the north, and Van Damme State Park to the south. Two special conditions from the original permit that continue to specifically pertain to the parcel subject to this permit amendment are Special Condition No. 4 requiring design restrictions be incorporated in the CC&Rs and Special Condition No. 5 regarding demonstration of adequate water and installation of water conserving devices. The original applicants satisfied the special conditions that were required to be met prior to issuance of the permit, and the permit was issued.

3. Permit Amendment Description

CDP No. 1-88-164 approved two building envelopes on Parcel #4 identified as Alternate No. 1 and Alternate No. 2. Alternate No. 1 is a 100' x 120', 12,000-square-foot building envelope located on the southwest portion of the parcel and encompasses an old, existing concrete foundation. Alternate No. 2 is a 140' x 200', 28,000-square-foot building envelope located in the northeast corner of the parcel to the north of the existing residence. The building envelopes were approved as proposed.

The proposed amendment request seeks to expand the two originally approved building envelopes on Parcel #4 into one larger building envelope measuring approximately 300' x 410', or 123,000 square feet, that would encompass the majority of the parcel (see Exhibit No. 4). The applicant states that the intent of modifying the building envelope is to facilitate the future construction of a new single-family residence in a desired location atop the small knoll in the northwest corner of the site, an area that is currently outside of the permitted building envelope, and future conversion of the existing residence into a guest house and artist studio. Construction of a new residence and change of use of the existing residence would require a separate coastal development permit from Mendocino County. A single-family residence, guest cottage, and associated development are permitted uses within the Rural Residential land use classification and RR zoning district. The Planned Development regulations of the County's LCP require preparation of a site plan designed to ensure maximum preservation of open space, protection of views from public roads, and protection of resources.

On June 18, 2006, the Mendocino Planning Commission approved a Minor Subdivision Modification (MS# 5-88) to modify the Parcel Map for the original subdivision to enlarge the building envelope on Parcel #4 with three special conditions. These conditions require (1) the applicant to submit to the Department of Planning and Building Services, an Exhibit Map defining building envelopes which will (a) avoid the rare plant community and a surrounding 100-foot buffer, and (b) be consistent with corridor preservation and yard setback requirements; (2) a note be placed on the Parcel Map stating that development will be confined to the building envelopes described on the

Exhibit Map required by Special Condition No. 1; and (3) that the Parcel Map be prepared by a licensed surveyor or qualified civil engineer and shall be based on a field survey of the subject property to the satisfaction of the County Surveyor.

4. Visual Resources

The subject property is located in an area designated by the Mendocino County Land Use Plan as “highly scenic.” The Chapman Point subdivision was originally approved by the Commission in 1988 prior to certification of the Mendocino County LCP. The standard of review for the project at that time was the policies of Chapter 3 of the Coastal Act. The Coastal Commission effectively certified the Mendocino County LCP in 1992 and thus, the standard of review for the permit amendment is the certified LCP and the public access policies of the Coastal Act. Applicable LUP Policies and Coastal Zoning Ordinance Standards regarding the protection of visual resources from the impacts of new development are as follows:

Summary of LCP Policies

Section 30251 of the Coastal Act has been specifically incorporated into LUP Policy 3.5-1 of the Mendocino LCP and states in part:

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

LUP Policy 3.5-3 states in applicable part:

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

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

In addition to other visual policy requirements, new development west of Highway One in designated ‘highly scenic areas’ is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of

character with surrounding structures. ...New development should be subordinate to the natural setting and minimize reflective surfaces. ...

NOTE 1: The LUP Maps designate the area west of Highway One in the project vicinity as highly scenic.

NOTE 2: Coastal Zoning Ordinance 20.504.015(A) reiterates that this section of coastline is a “highly scenic area.”

Zoning Code Section 20.504.015(C)(1) states that:

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

Zoning Code Section 20.504.015(C)(2) states that:

In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.

Zoning Code Section 20.504.015(C)(3) states that:

New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

Zoning Code Section 20.504.015 (C)(12) states that:

Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions...

Discussion

Policy 3.5-1 of the County’s LUP provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas. Policy 3.5-3 states that new development west of Highway One in designated “highly scenic areas” should be subordinate to the natural setting. The County’s Zoning Ordinance reiterates these policies. Specifically, Coastal Zoning Ordinance Section 20.504.015(C)(1) requires that new development in highly scenic

areas protect coastal views from public areas including roads, trails, and parks. Section 20.504.015(C)(2) of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that new development be subordinate to the natural setting and minimize reflective surfaces and requires that in highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

As noted previously, the original permit approved two building envelopes on Parcel #4 identified as Alternate No. 1 and Alternate No. 2. Alternate No. 1 is a 100' x 120', 12,000-square-foot building envelope located on the southwest portion of the parcel and encompasses an old, existing concrete foundation. Alternate No. 2 is a 140' x 200', 28,000-square-foot building envelope located in the northeast corner of the parcel to the north of the existing residence. The proposed amendment request seeks to expand the two originally approved building envelopes on Parcel #4 into one larger building envelope measuring approximately 300' x 410', or 123,000 square feet, that would encompass the majority of the parcel. The applicant states that the intent of modifying the building envelope is to facilitate the future construction of a new single-family residence in a desired location atop the small knoll in the northwest corner of the site, an area that is currently outside of the permitted building envelope, and the future conversion of the existing residence into a guest house and artist studio. Construction of a new residence and change of use of the existing residence would require a separate coastal development permit from Mendocino County.

LUP Policy 3.5-3 states that all proposed divisions of land and boundary line adjustments within highly scenic areas shall be analyzed for consistency of potential future development with the visual resource policies of the LCP and shall not be allowed if development of resulting parcels could not be consistent with the visual resource policies. The proposed amendment is an amendment of a coastal development permit for a subdivision and involves expanding a building envelope established, in part, by the original permit to protect visual resources. Accordingly, the impacts of future development as they relate to the proposed revised building envelope must be considered in the review of the proposed amendment.

The parcel does not have any shoreline frontage and therefore does not afford views to or along the ocean. The site is largely screened from view from the Town of Mendocino across Mendocino Bay by topographical variations, trees on the intervening parcel (Parcel #5), and by a large stand of Bishop Pines along the northern property boundary. Additionally, the site is not visible from Highway One due to existing residential development and forested landscapes on intervening parcels between the highway and the subject parcel. The primary public vantage point of the parcel and existing and future development is from Van Damme State Park located directly adjacent to the south of the subject parcel.

Protection of Views From Public Parks and Trails

LUP Policy 3.5-1 and Coastal Zoning Code Section 20.504.015(C)(1) require new development to protect views from public areas including trails and parks.

According to the County, a well-used public access trail leads west from Highway One opposite its intersection with Gordon Lane, approximately ¼ mile south of the northern boundary of the park from which only a slight glimpse of the proposed building site would be visible from the trail until reaching the edge of the bluff where a new residence on the knoll would be visible. The majority of the parcel is visible to the public walking on park land just south of the fence separating the park from the applicant's parcel.

The applicant constructed story poles on the proposed building site on top of the knoll to assess the visual impact of future residential development at this location. Although the proposed building envelope atop the knoll is approximately 15 feet higher in elevation than the approved building envelope immediately south, it would not be significantly more visible. The proposed building site on top of the knoll would locate the residence further north from the park and in a location where it would be tucked farther back among the dense, mature stand of Bishop Pine trees that exist on all three sides of the knoll. A residence in this location would have large trees as a backdrop and would not be silhouetted against the sky, thereby further reducing the visual prominence of a residence in this location as viewed from the park.

Therefore, the proposed building site on top of the small knoll in the northwest corner of the site can be found to be consistent with the visual resource policies of the LCP that require the protection of views from public vantage points including parks and trails. However, establishing a building envelope that encompasses nearly the entire parcel as proposed would likely encourage current or future owners to build and/or expand into areas of the building envelope beyond the building site on top of the knoll currently contemplated by the applicant. Extending residential development, or siting other types of aboveground appurtenant development down the face of the knoll to the south and onto the more open, unvegetated expanses of the parcel would increase the visibility of development as viewed from public vantage points within the park.

Therefore, to protect public views from the park and associated public trails, Special Condition No. 8 would require revisions to the proposed building envelope to limit the size and location of the building envelope to the desired building site on top of the knoll as shown on Exhibit No. 6. The condition requires, in part, that any new primary single-family residence or other aboveground structure developed on the property in the future be located entirely within the revised building envelope and that only appurtenant residential improvements that do not involve aboveground structures, such as a septic system, well, underground water storage tank, drainage improvements, etc., may be developed outside of the building envelope.

Special Condition No. 9 requires the applicants to record a deed restriction for the amended project, to impose the special conditions of the permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. By imposing the requirement as a deed restriction, future buyers of the property will be informed through title reports secured during purchase of the property that the residential building envelope is limited to the top of the knoll and that only belowground appurtenant residential improvements are allowed outside of the building envelope.

As conditioned, limiting the size and location of the building envelope on the subject property and limiting aboveground development to only within the building envelope would protect public views from the state park and associated public trails by preventing aboveground development from encroaching into areas where it would not be sufficiently screened from view. Therefore, as conditioned, the amended development would be consistent with the provisions of LUP Policies 3.5-1 and Coastal Zoning Code Section 20.504.015(C)(1) that require new development to protect views from public areas, including parks and trails.

Compatible with the Character of Surrounding Areas and Subordinate to the Natural Setting

LUP Policies 3.5-1, 3.5-3, and Coastal Zoning Code Sections 20.504.010 and 20.504.015(c)(3) require new development to be visually compatible with the character of surrounding areas and to be subordinate to the natural setting. The proposed expanded building envelope would facilitate residential development on top of the small knoll in the northwest corner of the site. Residential development in this location would be visually compatible with the rural residential character of the surrounding area. Although the house plans are not before the Commission as part of this amendment application, the applicant has indicated an intent to construct an approximately 2,000-square-foot single-family residence at less than 18-feet in height. Such a residence would be compatible with the scale of development in the surrounding residential area and, as noted above, would be set against a backdrop of large pine trees on three sides, which largely comprise the character of the area.

In its approval of the original permit, the Commission attached Special Condition No. 4 that required revisions to the CC&Rs for the subdivision to require that exterior materials be limited to natural materials of earthtone colors and be non-reflective, and to require that all exterior lighting be low voltage, and downward cast to ensure that new development would be subordinate to the character of the area. Special Condition No. 4 would remain in full effect and would apply to any future development proposed within the revised building envelope.

As proposed, the expanded building envelope could potentially result in future residential and appurtenant development to occur practically anywhere on the parcel. As discussed

above, establishing a building envelope that encompasses the majority of the parcel as proposed would likely encourage current or future owners to build and/or expand into areas of the building envelope beyond the building site on top of the knoll currently contemplated by the applicant. While future development on top of the knoll and structures buried underground could be found to be compatible with the character of the area and subordinate to the natural setting, extending residential development, or siting other types of aboveground appurtenant development down the face of the knoll to the south and onto the more open, unvegetated expanses of the parcel where it would not necessarily be screened from view, could adversely affect the visual character of the area in a way that would not be subordinate to the natural setting.

Therefore, as discussed above, Special Condition No. 8 would require revisions to the proposed building envelope to limit the size and location of the building envelope to the desired building site on top of the knoll, which would ensure that future development would not encroach throughout the parcel in a manner that would adversely affect the visual character of the area. The condition also requires, in part, that any new primary single-family residence or other aboveground structure developed on the property in the future be located entirely within the revised building envelope and that only appurtenant residential improvements that do not involve aboveground structures, such as a septic system, well, underground water storage tank, drainage improvements, etc., may be developed outside of the building envelope.

Special Condition No. 9 requires the applicants to record a deed restriction for the amended project, to impose the special conditions of the permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. By imposing the requirement as a deed restriction, future buyers of the property will be informed through title reports secured during purchase of the property that the residential building envelope is limited to the top of the knoll and that only belowground appurtenant residential improvements are allowed outside of the building envelope.

Therefore, limiting the size and location of the building envelope on the subject property and limiting aboveground development to only within the building envelope would provide for future development of the site in a manner that would be visually compatible with the character of surrounding areas and subordinate to the natural setting as it would locate aboveground development against a densely forested area of the parcel that forms an important part of the natural setting of the site. Therefore, as conditioned, the amended development is consistent with LUP Policies 3.5-1, 3.5-3, and Coastal Zoning Code Sections 20.504.010 and 20.504.015(c)(3) requiring new development to be visually compatible with the character of surrounding areas and to be subordinate to the natural setting.

Minimize Alteration of Natural Landforms

LUP Policy 3.5-1 states that new development shall minimize the alteration of landforms. The proposed building envelope as conditioned would not require alteration of landforms, as the proposed building site on top of the knoll is relatively flat. Special Condition No. 8 would allow appurtenant residential improvements that do not involve aboveground structures, such as a septic system, well, underground water storage tank, drainage improvements, etc., to be developed outside of the building envelope. Although these types of improvements would necessitate some degree of excavation and grading to bury certain appurtenant residential development, such future development would occur in a manner that would substantially retain natural contours, and not significantly alter the coastal terrace landform or the knoll itself. Therefore, as conditioned, the amended development is consistent with the landform alteration policies of LUP Policy 3.5-1.

Therefore, the Commission finds that as conditioned, the amended development is consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.504.015(C) of the Zoning Code, as the revised building envelope would (1) be sited and designed to protect coastal views from public areas, (2) facilitate development that would be visually compatible with the character of surrounding areas and subordinate to the character of its setting, and (3) minimize alteration of natural landforms.

5. Protection of Environmentally Sensitive Habitat Areas (ESHA)

Summary of LCP Policies

Section 20.308.040(F) of the Mendocino County Coastal Zoning Code (CZC) defines the term “environmentally sensitive habitat area” as follows:

‘Environmentally Sensitive Habitat Area’ means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals. (emphasis added)

LUP Policy 3.1-7 in applicable part states:

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100

feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development...

...

Section 20.496.020 of the Coastal Zoning Ordinance states in applicable part:

ESHA- Development Criteria

(A) *Buffer areas. A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

(1) *Width.*

The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. ...

A botanical survey prepared for the original permit (CDP No. 1-88-164) identified the presence of Mendocino coast paintbrush (*Castilleja latifolia mendocinesnsis*), a California Native Plant Society (CNPS) List 1B plant indicating it as rare, threatened, or endangered in California or elsewhere, along the bluff edge of Parcel #5 and on Parcel #2. A new botanical survey was conducted in conjunction with the subject amendment application and identified a population of coastal bluff morning glory (*Calystegia purpurata ssp. saxicola*) in the southwest corner of the subject parcel (Parcel #4). Coastal bluff morning glory is also a CNPS List 1B plant. (See Exhibit No. 5.)

Coastal Zoning Code Section 20.308.040(F) defines the term “environmentally sensitive habitat area” to include habitats of rare and endangered plants. Therefore, the habitat of the coastal bluff morning glory is an environmentally sensitive habitat area as defined by CZC Section 20.308.040(F). LUP Policy 3.1-7 and CZC Section 20.496.020 requires that buffers be established to protect the environmentally sensitive habitat from

degradation resulting from future developments and be compatible with the continuance of such habitat areas. These provisions of the LCP state that the width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development, in which case the buffer can be reduced to not less than fifty (50) feet in width.

The coastal bluff morning glory population is located in the southwest corner of the subject parcel adjacent to an existing access road and outside of the proposed building envelope. The 100-foot buffer area, however, extends approximately half way across the previously approved southwestern building envelope and over the southwest corner of the knoll within the area of the proposed expanded building envelope (see Exhibit No.5). The proposed building site on top of the knoll would be located well outside of the 100-foot buffer area. However, as proposed, the building envelope would include portions of the ESHA buffer area, thereby resulting in future development that could potentially be sited within the buffer area and closer than 100 feet from the rare plants in a manner inconsistent with the ESHA buffer policies of the LCP.

Therefore, to ensure the protection of the rare plants on the parcel, the Commission attaches Special Condition No. 8 that requires a revised building envelope that would avoid the 100-foot buffer area as shown on Exhibit No. 6. Special Condition No. 8(D) further requires that any appurtenant residential improvements which do not involve aboveground structures allowed to be developed outside of the building envelope be setback at least 100 feet from the population of coastal bluff morning glory as delineated in the botanical report.

Furthermore, the Commission finds that the rare plant ESHA located on the site could be adversely affected if non-native, invasive plant species were introduced in landscaping at the site. Introduced invasive exotic plant species could physically spread into the ESHA and displace the native rare plants, thereby disrupting the values and functions of the ESHA. The seeds of exotic invasive plants could also be spread to nearby ESHA by wind dispersal or by birds and other wildlife. Therefore, to ensure that the rare plant ESHA is not significantly degraded by any future landscaping that would contain invasive exotic species, Special Condition No. 8(D)(3) prohibits the planting of invasive exotic vegetation.

Special Condition No. 9 requires the applicants to record a deed restriction for the amended project to impose the special conditions of the permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property. By imposing the requirement as a deed restriction, future buyers of the property will be informed through title reports secured during purchase of the property that the residential building envelope is limited to the top of the knoll outside the area of the 100-foot rare plant buffer and that

no belowground appurtenant residential improvements otherwise allowed outside of the building envelope may be located within 100-feet of the rare plant population.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the environmentally sensitive habitat area by ensuring an adequate buffer between the rare plants and any future development, the project as conditioned will not significantly degrade the ESHA and will be compatible with the continuance of the habitat area. Therefore, the Commission finds that as conditioned, the amended development is consistent with the ESHA protection policies of the LCP.

5. Locating New Development

Summary of LCP Provisions

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for coastal development permits. The intent of the policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits.

Zoning Code Section 20.376.025 provides for one dwelling unit per residentially designated parcel.

Discussion

The subject property is designated in the Mendocino County LUP and Coastal Zoning Code as Rural Residential, 5-acres and is developed with an existing 1,673 square-foot single-family residence with an attached 550-square-foot garage located in the southeast corner that was constructed prior to the Coastal Act. The site is also developed with an existing well and septic system and an old, concrete foundation located in the western portion of the site.

The proposed amendment request seeks to expand the two originally approved building envelopes on Parcel #4 into one larger building envelope measuring approximately 300' x 410', or 123,000 square feet, that would encompass the majority of the parcel. The applicant states that the intent of modifying the building envelope is to facilitate the future construction of a new single family residence in a desired location atop a small

knoll in the northwest corner of the site, an area that is currently outside of the permitted building envelope, and to convert the existing residence into a guest house and artist studio. A single family residence, guest cottage, and associated development are permitted uses within the Rural Residential land use classification and RR zoning district.

Construction of a new residence and change of use of the existing residence for use as a guest cottage and artist studio as contemplated by the applicant would require a separate coastal development permit from Mendocino County. As noted above, Zoning Code Section 20.376.025 allows only one dwelling unit per residentially designated parcel. Therefore, Special Condition No. 8(C) requires that a new primary single-family residence shall only be developed in the designated building envelope if the existing residence located in the southeast corner of the property is removed or legally converted to an allowable use other than a primary residence. Special Condition No. 9 requires the applicants to record a deed restriction for the amended development to impose the special conditions of the permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property, which would inform future buyers of the property that only one primary residence is allowed on the parcel.

Development of the site for single-family residential use and associated development is envisioned under the certified LCP. Potential significant cumulative adverse impacts on traffic capacity of Highway One from development approved pursuant to the certified LCP were addressed at the time the LCP was certified. The permit amendment to modify the building envelope on Parcel #4 would not result in a change of use or increased development density in a manner that would result in increased traffic beyond that which is already contemplated by the LCP. Therefore, the proposed permit amendment would not result in adverse impacts to the traffic capacity of Highway One consistent with the applicable provisions of LUP Policy 3.8-1.

The site is currently served by an existing on site well and septic system that was installed pursuant to the original permit (CDP No. 1-88-164). Any future residential development on the site would require a coastal development permit from Mendocino County and would require verification from the Mendocino County Department of Environmental Health that the existing well and septic system are adequate to serve new development, or that the site can accommodate new or expanded services.

As discussed above, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts regarding visual resources and environmentally sensitive habitat areas. Therefore, the Commission finds that as conditioned, the amended development is consistent with LUP Policies 3.9-1, 3.8-1, and with Zoning Code Sections 20.376.025, because (1) there will be only one primary residential unit on the parcel, (2) there would be adequate services on the site to serve future development, and (3) the project would not contribute to adverse cumulative impacts on highway capacity, scenic values, environmentally sensitive habitat areas, or other coastal resources.

6. Consistency with Mendocino County Approval

Mendocino County approved a Minor Subdivision Modification (MS #5-88) to modify the building envelope on Parcel #4 with special conditions requiring submittal of an Exhibit Map with a revised building envelope that (1) avoids the rare plant habitat and a 100-foot buffer area, and (2) is consistent with corridor preservation and yard setback requirements. The County's conditions also require that a note be placed on the Parcel Map stating that development be confined to the building envelope as described on the Exhibit Map. To ensure that the amended building envelope as revised by the requirements of Special Condition No. 8 discussed above is consistent with the amended Exhibit Map required to be submitted to the County, the Commission attaches Special Condition No. 10. The condition requires that prior to issuance of the permit, the applicant submit a copy of a revised Parcel Map and Exhibit Map for Parcel #4 of the Chapman Point Subdivision that has been reviewed and approved by the Director of the Mendocino County Department of Planning and Building Services and is consistent with Special Condition No. 8 of this permit amendment. The revised Exhibit Map is required to show both the change in building envelope and the 100-foot buffer area from the edge of the coastal bluff morning glory population that are required by Special Condition No. 8. The revised Parcel Map and Exhibit Map shall be consistent with all terms and conditions of Coastal Development Permit Amendment No. 1-88-164-A3. The condition further requires that any proposed changes to the approved revised Parcel Map and Exhibit Map be reported to the Executive Director. No changes to the approved revised Parcel and Exhibit Map shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Public Access and Recreation

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

In its application of the above policies, 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.

As described above, the subject parcel is located west of Highway One between the sea and the first public road. The LCP does not designate the property for public access use. In its approval of the original permit, the Commission found that the minor subdivision would not interfere either physically or visually with any prescriptive access that may exist and therefore, did not require the provision of any public access. The Commission did however, attach Special Condition No. 7 to the original permit to require noninterference with any potential rights should any be litigated in the future.

The proposed permit amendment would modify the size and location of a residential building envelope originally approved by the Commission. There is no evidence of public trails across any portion of the subject property. Additionally, the proposed amendment would not change the use or increase the density of development in a manner that would create any new demand for public access or otherwise create any additional burdens on existing public access in the project vicinity.

Therefore, the Commission finds that as conditioned, the amended development does not have any significant adverse impact on existing or potential public access, and that the project as proposed, which does not include provision of public access, is consistent with the requirements of the Coastal Act Sections 30210, 30211, and 30212 and the public access policies of the County's certified LCP.

8. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements 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 which the activity may have on the environment. The Commission incorporates its findings on LCP and 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 development as amended has been conditioned to be found consistent with the policies of the certified Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been required as permit amendment special conditions. 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 may have on the environment. Therefore, the Commission finds that the development as amended and conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Exhibits:

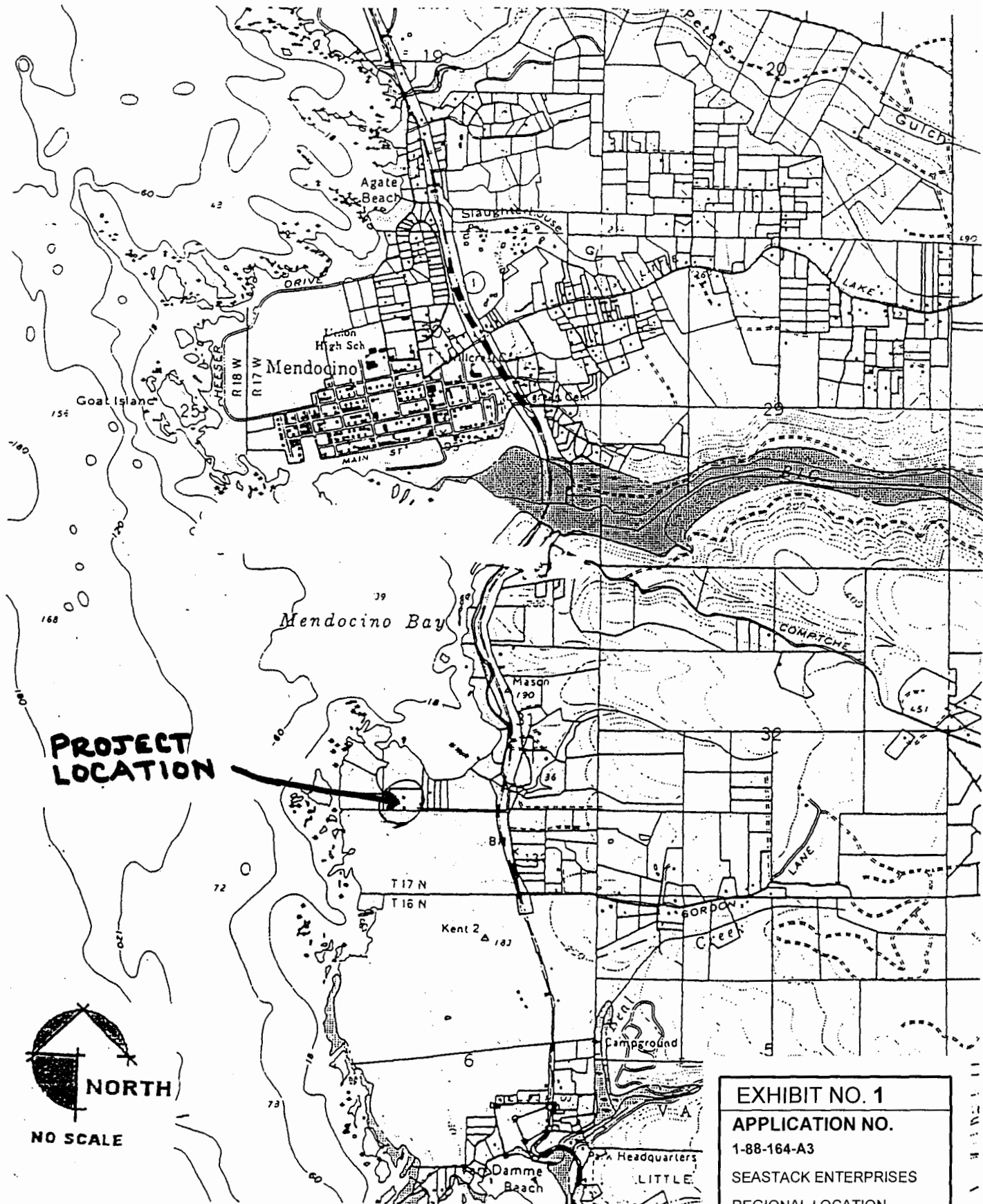
1. Regional Location Map
2. Vicinity Map
3. Original Parcel Map
4. Proposed Amended Building Envelope
5. ESHA Map
6. Revised Building Envelope
7. Original Staff Report 1-88-164

ATTACHMENT A:

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. 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 amount 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 of 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



**PROJECT
LOCATION**



NO SCALE

EXHIBIT NO. 1
APPLICATION NO.
1-88-164-A3
SEASTACK ENTERPRISES
REGIONAL LOCATION
MAP

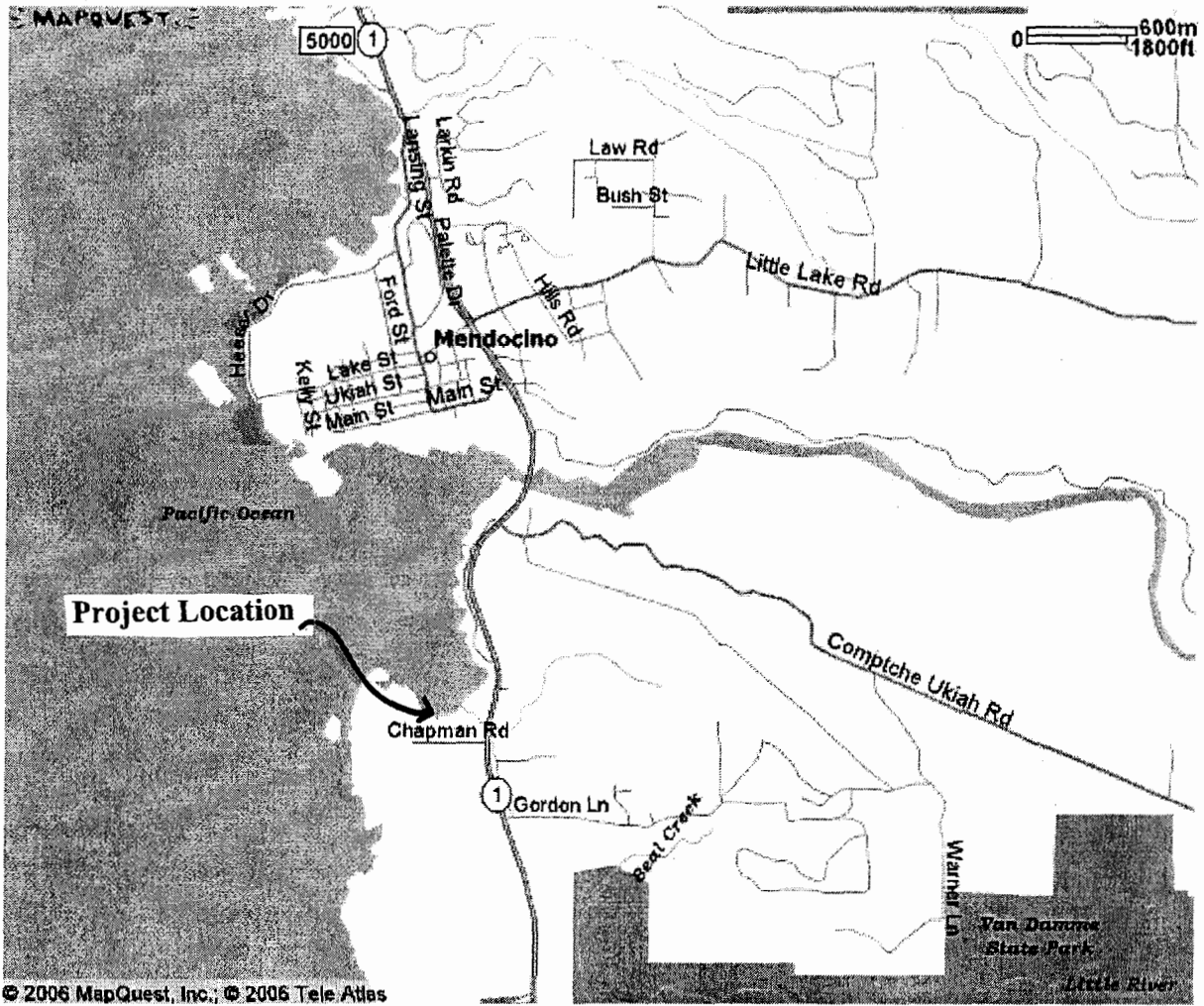


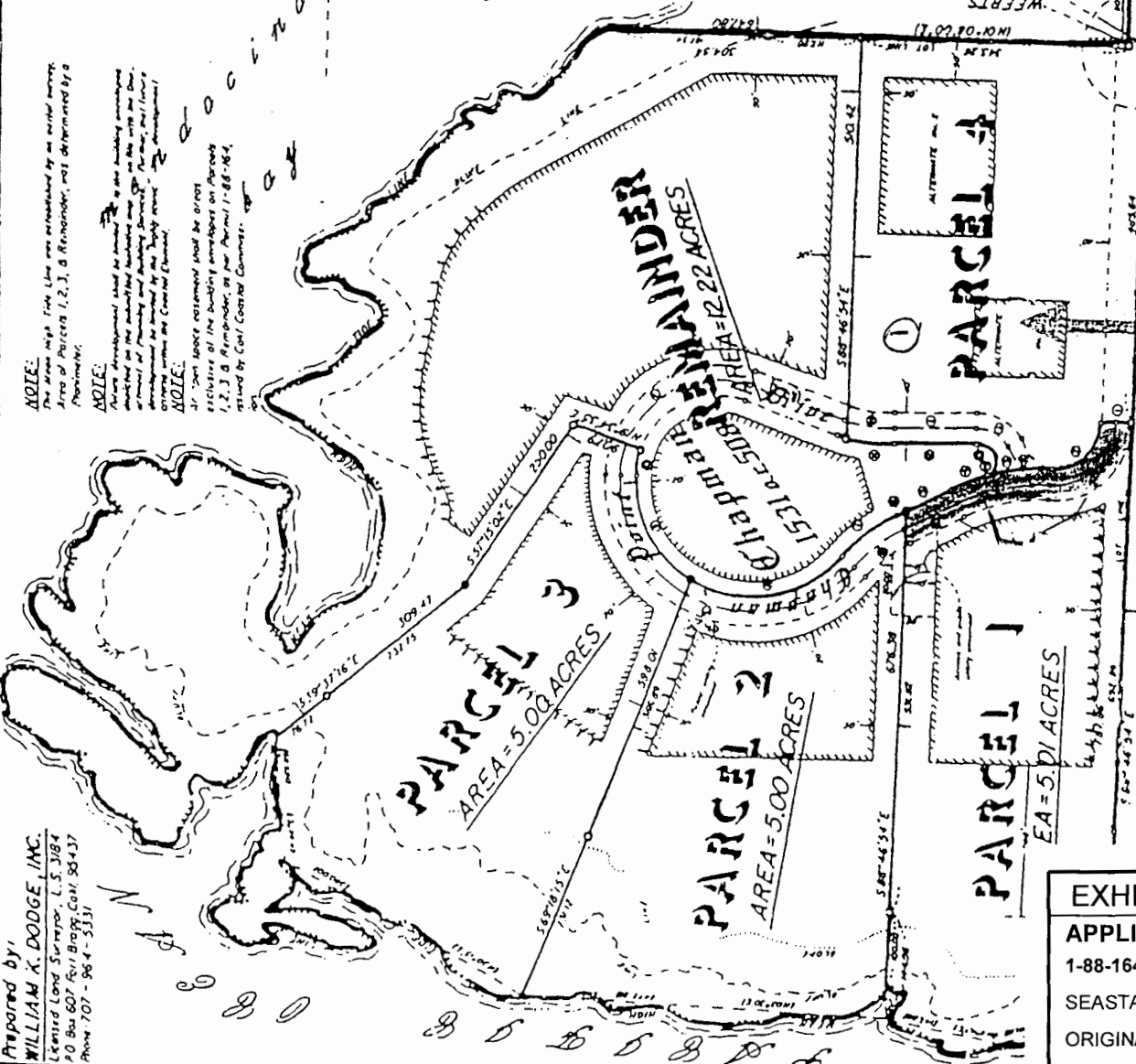
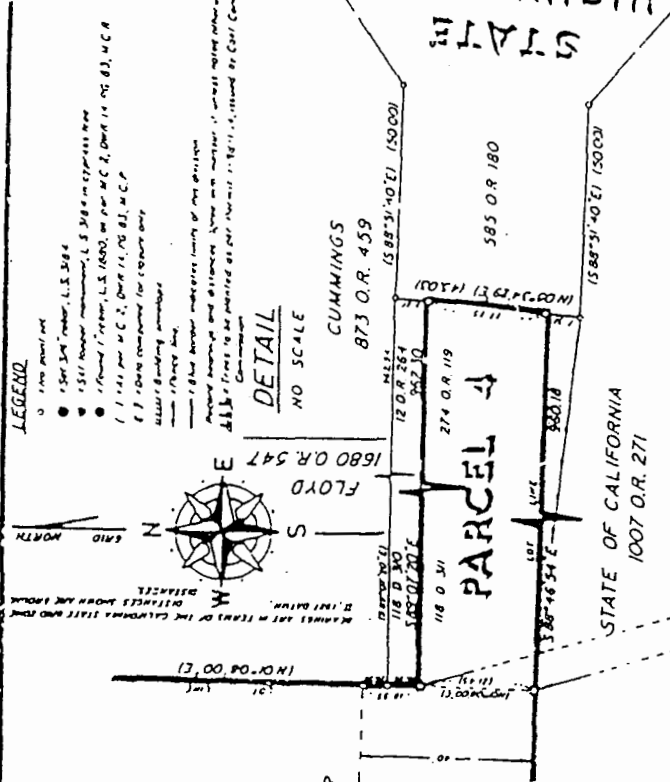
EXHIBIT NO. 2
APPLICATION NO.
1-88-164-A3
SEASTACK ENTERPRISES
VICINITY MAP

Prepared by
WILLIAM K. DODGE, INC.
 Licensed Land Surveyor, L.S. 3184
 P.O. Box 607, Folsom, Calif. 95637
 Phone 707-964-3331

NOTE:
 The area maps file line was established by an earlier survey.
 Area of Parcels 1, 2, 3, & Remainder, as delineated by a
 Planimeter.

NOTE:
 Acreage Computations made in accordance with the building measurement
 indicated on the building envelopes are subject to the same as the
 actual of Planning and Building Department. Parcel area/Land
 area are not to be construed as "Tribal" acreage. The Department's
 acreage is based on the County Survey.

NOTE:
 All "Setback" distances shall be areas
 exclusive of the building envelopes on Parcels
 1, 2, 3 & Remainder, as per Parcel 1-88-164,
 issued by Civil Control Commission.



M.S. NO. 5-88
 SHEET 2 OF 2
 P.A.R.B.E.L. M.A.P.
 OF THE LANDS OF
 Emily S. Chapman
 &
 Clifford R. Chapman
 BEING U.S. GOV'T LOT 4 AND A PORTION OF LOT 3, SECTION
 T.17 N., R.17 W., M.D.B. 8 M.
 COUNTY OF YUBA
 STATE OF CALIFORNIA

APRIL 22, 1988
 JOB NO. 5926
 MAP CASE 22
 DRAWER 47
 PAGE 10

SUBJECT PARCEL

EXHIBIT NO. 3
 APPLICATION NO.
 1-88-164-A3
 SEASTACK ENTERPRISES
 ORIGINAL PARCEL MAP

NOTICE: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land. No reliance should be placed thereon for purposes of title. The information is furnished by the Surveyor as a matter of course.

X-X-X = Proposed Building Envelope

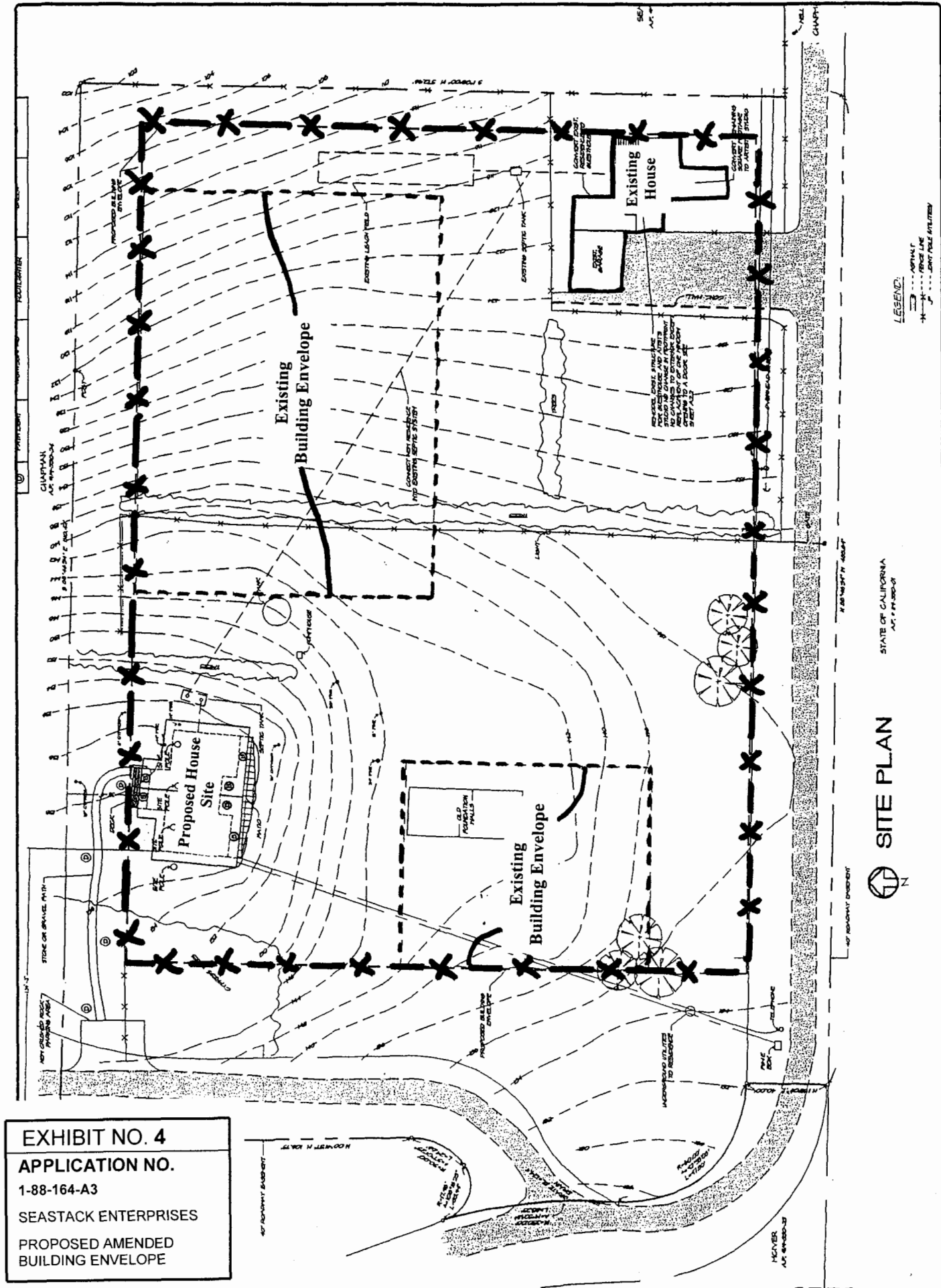
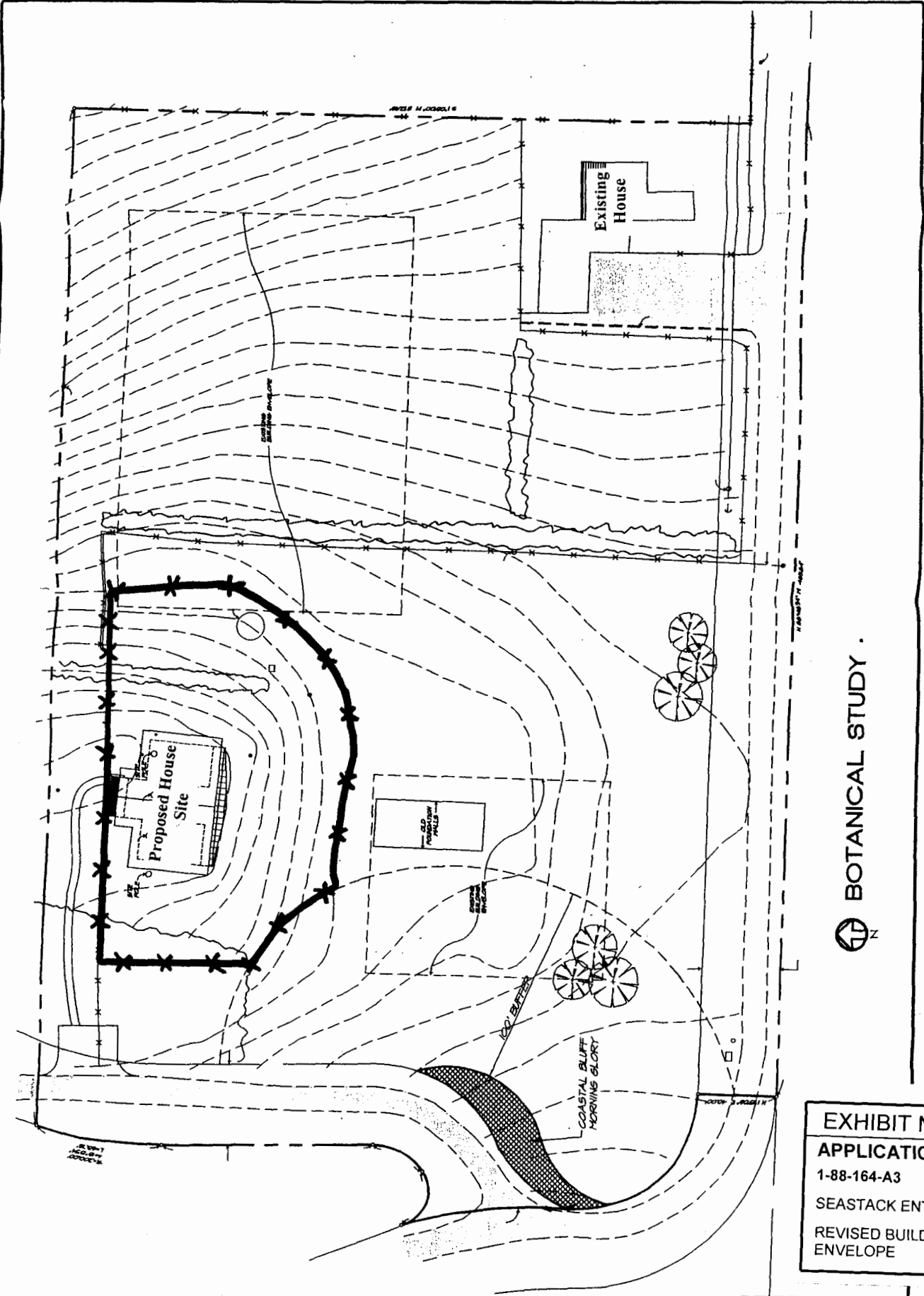


EXHIBIT NO. 4
APPLICATION NO.
 1-88-164-A3
SEASTACK ENTERPRISES
PROPOSED AMENDED
BUILDING ENVELOPE

STATE OF CALIFORNIA
 ARCHITECTS
 LICENSE NO. 10000
 LEVY HALL ARCHITECTS
 10000

LEGEND:
 --- PROPOSED
 - - - - - EXISTING
 --- EXISTING POLE UTILITIES

OWNER	
DESIGNER	
SCALE	
DATE	



BOTANICAL STUDY

EXHIBIT NO. 6
APPLICATION NO.
1-88-164-A3
SEASTACK ENTERPRISES
REVISED BUILDING
ENVELOPE

x-x-x-x-x = Revised Building Envelope

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

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

EXHIBIT NO. 7

APPLICATION NO.

1-88-164-A3

SEASTACK ENTERPRISES

ORIGINAL STAFF REPORT
CDP NO. 1-88-164 (1 of 19)

Filed: 8/16/88
 49th Day: Waived
 180th Day: 2/12/89
 Staff: B. Saxon
 Staff Report: 9/20/88
 Hearing Date: 10/13/88
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 1-88-164 and 1-88-166

APPLICANT: Clifford & Emily Chapman &
Tom LambieAGENT: William K. Dodge &
Paul Tay

PROJECT LOCATION: 45300 Chapman Road, Mendocino, Mendocino County

PROJECT DESCRIPTION: 1-88-164: Division of 31+ acres into four 5+ acre lots and one 11+ acre lot, install well and septic system on each lot, construct road, remove 300+ yards of stockpiled rock from bluff edge, install underground utilities. 1-88-166: Single-family residence, attached garage and workshop, well, septic system, water storage, and driveway.

Lot area: 31 acres
 Plan designation: RR5 PD
 Project density: 5 parcels per 31 acres

LOCAL APPROVALS RECEIVED:

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Land Use Plan and Commission findings for certification, 11/85.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. See attached.

II. SPECIAL CONDITIONS:

1. SEQUENCE OF PERMIT ISSUANCE:

PRIOR TO THE ISSUANCE of Permit 1-88-166 it is required that Permit 1-88-164 be issued and effectuated by recordation of the parcel map with the County Recorder's Office.

2. OPEN SPACE DEED RESTRICTION:

PRIOR TO THE ISSUANCE OF PERMIT 1-88-164 the applicant shall record a restriction against Parcel #1, #2, #3, and #5, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The open space restriction prohibits any alteration of landforms, removal of vegetation or the erection of structures of any type in the area shown on the attached Exhibit 4 and generally described as including all areas not authorized for development by permit 1-88-164 without the written approval of the California Coastal Commission or successor in interest.

3. REVISED PARCEL MAP/SITE PLANS:

PRIOR TO THE ISSUANCE OF Permit 1-88-164 the parcel map/site plan shall be revised and submitted to the Executive Director for review and approval. The map shall illustrate the following:

- a. a reduction of building envelopes on Parcel 2 and 3 to the 72 foot contour line, a reduction of the building envelope on Parcel #5 to approximately the 78 foot contour line, just south of the existing graded roadway, as illustrated on Exhibit 3. The reduction of the building envelopes takes into consideration visual impacts, impacts to rare and special species, and potential geologic problems;
- b. an open space easement shall be delineated over all areas, exclusive of the building envelopes, on Parcels #1, #2, #3, and #5, as illustrated in Exhibit 4, where alteration of landforms, removal of vegetation, or the erection of structures of any type will be prohibited;
- c. the areas where tree planting is required to mitigate visual impacts of future development shall be identified along the southern boundary of building envelope #1, along the northern portion of building envelope #2, along the northwestern portion of building envelope #3, and the northern portion of building envelope #5.

4. DESIGN RESTRICTIONS:

a. PRIOR TO THE ISSUANCE of permit 1-88-164 the applicant shall submit for Executive Director review and approval the proposed Conditions, Covenants, and Restrictions (CC&Rs) which shall provide (1) that all exterior materials shall be natural materials of earthtone color only; (2) that all exterior materials shall be non-reflective, including tile roofs,

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and windows; (3) that all exterior lighting shall be low voltage, nonreflective, sodium lights and shall have a directional cast downward. After review and approval of the proposed CC&Rs by the Executive Director the applicant shall record the document and submit evidence of recordation.

b. PRIOR TO THE ISSUANCE of permit 1-88-166 the applicant shall submit design plans to the Executive Director for his review and approval confirming that exterior glass will be nonreflective and recessed so views from the town of Mendocino will not be impacted by reflective glares. The plans shall also indicate the location, type, voltage and directional cast of all exterior lighting and the type, location, and method of watering of any landscaping proposed.

5. WATER RESOURCES:

a. PRIOR TO THE ISSUANCE of Permit 1-88-164 the applicant shall submit for review and approval a County-approved water quantity evaluation proving that there is adequate water on site to serve the proposed development.

b. PRIOR TO THE ISSUANCE of Permit 1-88-164 the applicant shall also submit revised CC&Rs which provide that new development will be required to install water saving devices such as low flow faucets, waterclosets, and water conserving appliances. In addition the CC&Rs shall provide that new landscaping shall be limited to species which are drought tolerant, nonwater intensive, and native to the area. The CC&Rs shall also provide that irrigation will be limited to drip irrigation systems.

c. Water saving devices shall be utilized in the development authorized by Permit 1-88-166. In addition all landscaping, should any be proposed, shall be limited to native, drought tolerant vegetation and irrigation limited to a drip system.

⑥ FUTURE DEVELOPMENT:

PRIOR TO THE ISSUANCE OF PERMIT 1-88-164, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. 1-88-164; and that any future additions or other development as defined in Public Resources Code section 30106 will require an amendment to Permit No. 1-88-164 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

7. PUBLIC RIGHTS:

By acceptance of Permit No. 1-88-164, the applicant agrees: (a) that the issuance of the permit and the completion of the development does not prejudice any subsequent assertion of any public rights of access to or along the shoreline, e.g. prescriptive rights or public trust; and (b) that approval

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by the Commission of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to or along the shoreline acquired through use which may exist on the property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

1. PROJECT DESCRIPTION:

The project consists of two separate applications which were found by the Executive Director to be factually related for purposes of preparing the staff report and hearing, pursuant to California Administrative Code Section 13058. Permit application 1-88-164 requests a minor land division of a parcel consisting of approximately 31 acres into four parcels of five acres each and one parcel of eleven acres, installation of a well and septic system on each lot, the construction of a road system, the removal of 300 yards of stockpiled rock, and the installation of underground utilities. Permit application 1-88-166 requests approval of a single family residence, attached workshop and garage, well, septic system, water storage, and driveway on proposed parcel #3. It is noted that Permit 1-88-164 must be issued prior to the issuance of Permit 1-88-166 as Parcel #3, the proposed development site, will not be a legal parcel until Permit 1-88-164 is effectuated.

The subject site is a tree-covered headland on the south side of Mendocino Bay, visible from Mendocino Town; it is generally flat, sloping gently outward to the north and west from a small knoll located in the southeast corner of the property. The property is adjacent to state parkland and is accessed from the highway via a 980-foot long driveway, shared by State Parks and several other neighboring property owners (see Exhibit 1). The Mendocino County Land Use Plan designates the parcel Rural Residential, five acres, planned development (RR-5:PD), within a highly scenic area, which requires that new development be sited and designed to protect both visual resources and environmental resources, and preserve a maximum amount of open space. Environmental resources of concern located on the subject parcel include Mendocino Paintbrush, a rare botanical species, and an archaeological site (CA-MEN 1089), in addition a seal colony is located just west of Chapman's Point and future development on the parcel may impact scenic views from Mendocino Town, a special community, and public views from adjacent state parklands.

2. PUBLIC ACCESS:

Section 30210 of the Coastal Act 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.

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Section 30211 of the Coastal Act 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.

Section 30212 of the Coastal Act states in 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, ...

The subject property is located between the first public road and the sea. The certified LUP does not designate the property for future public access although the draft LUP at one time proposed public access crossing Chapman's Point as a link in that area's blufftop trail system and as an ideal viewing spot to observe the town of Mendocino. The Commission did not certify the site for access due to unsafe blufftop conditions and because viewing turnouts exist off Highway One, which provide views of the Town.

The property has been owned by the Chapman family for approximately 70 years and according to several attestants, is now posted and has continuously been posted and fenced to discourage trespassers during that time (See Attachment 1). The landowner does admit that, even with signs and fences, trespassing has been a continuing problem, especially since the state acquired the adjacent property, which has a blufftop trail, in the late 1970s. Trespassing by those who are not using state property but who are interested in photographing or observing the town of Mendocino also occurs in spite of the No Trespassing signs because the point offers a spectacular, unobstructed view which even the nearby Highway One turnouts do not provide. The owners have stated that people seeking permission to enter their property have not been denied -- that they have only ejected people who have not sought permission to enter.

The blufftop of this site ranges from a very steep drop to visibly eroding, descending terraces, which supports the validity of the Commission's finding that unsafe conditions exist. However it is hard to distinguish this situation from other lateral blufftop access situations as most of those also arguably pose unsafe conditions; the basis of this conclusion is complicated by the fact that an old graded roadway exists, running along the blufftop which could provide a very safe blufftop trail as an extension of the state park trail.

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Although the graded roadway could provide safe blufftop access, and there is some evidence of public use in the form of trespassing, in view of the fact that the proposed development will not interfere either physically or visually with any prescriptive access that may exist, this permit will not be conditioned to require public access. Because there is a possible prescriptive rights issue, the permit will be conditioned to address any possible public rights that may exist and noninterference with such potential rights prior to the settlement of a potential public rights issue, should any be litigated. As conditioned the proposed development is consistent with the public access policies of the Coastal Act as potential prescriptive rights are protected.

3. DEVELOPMENT:

Section 30250(a) of the Coastal Act states:

New 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. 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 31-acre parcel which is the subject of Permit 1-88-164 is located in a rural area and is subject to the Coastal Act's rural land division criteria which is that the parcel must be within an area 50% developed, no smaller than the average parcel size of surrounding parcels, and that significant cumulative or individual impacts must not result.

A. 50% Development Criterion:

The site is within Market Area 3, defined in the Mendocino County Land Use Plan as that area extending from the southern urban/rural boundary of the City of Fort Bragg to the Navarro River excluding lands within the Rural Village land use classification and within the town plan boundary of the Town of Mendocino. Development in this market area is over 50%, with 1,056 developed parcels and 910 vacant parcels. The subject proposal therefore is consistent with the 50% development criterion of Section 30250(a) of the Coastal Act.

B. Average Parcel Size:

In order to determine the average parcel size referred to in Section 30250(a), previous Commission procedure has been to ascertain the arithmetic mean of all surrounding parcels lying within 1/4 mile of the subject parcel's perimeter unless those parcels are within an urban area, or unless a predominant topographical feature acts to distinguish some parcels within 1/4 mile from the parcel under review.

Using this procedure, the "one-quarter mile test" was applied. There are 11 parcels within 1/4 mile of the site (adjacent State Park property was not used in the calculation); the average parcel size is approximately 21 acres. This figure includes a 202-acre parcel which lies between two state properties and is protected by Williamsom Act (agricultural) contract. Billings vs. California Coastal Commission, 103 Cal.App 729 (1980), a case which explored the conversion of agricultural land to residential use, laid out a different method to calculate average parcel size, which requires the consideration of "typical" parcel sizes in a given, geographic area. Not only is the arithmetic mean to be examined, but also the median and the mode, combined with a review of the physical characteristics of the surrounding area.

Using the Billings test and calculating the median and the mode of the same 11 parcels, the outcome is a 2.6 acre median and a one-acre mode. The average parcel size was recalculated to consider only parcels like the subject parcel (i.e. "typical parcels"), and so excludes the 202-acres which is protected agricultural land in the midst of state parkland, and is unrepresentative of the other residentially designated parcels. The average parcel size decreases using this approach, to approximately three acres.

Considering the above, the proposed parcel sizes of five acres and eleven acres does reflect the typical parcel size in the area and is therefore consistent with the average parcel criterion imposed by Section 30250(a) as the proposed division will not result in uncharacteristic atypical parcels for the area.

C. Development Impacts:

Section 30250(a) states that new development shall be located within or near existing development where it will not have significant individual or cumulative adverse impact on coastal resources. The proposed land division, if left unmitigated, has the potential for significant impact, as discussed below.

i. Visual Resources: As described above, the subject property, designated "highly scenic" by the certified LUP, is highly visible from both Mendocino Town, a special community and adjacent state parklands. Coastal Act Section 30251 states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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The Coastal Act also protects special communities, such as Mendocino Town, and so requires mitigation of negative impacts to those communities. Coastal Act Section 30253(5) states that: "Where appropriate, [new development shall] protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses." In addition Section 30240(b) of the Act states, "Development in areas adjacent to ... parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such ... areas."

In addition to Coastal Act policies, the Mendocino Land Use Plan contains policies which address development within highly scenic areas and requires, among other things, that new development be limited to one story where public views to the ocean would be affected, that buildings be sited near the toe of a slope, below ridges, and in or near the edge of a wooded area, and that tree planting to screen buildings shall be encouraged where trees will not block coastal views from public areas. Besides specific visual policies, the LUP Planned Development designation also requires that proposed parcel maps identify building envelope locations, sited to preserve visual resources, maximize open space, and protect environmental resources.

Over the years the character of Chapman's Point has changed dramatically. Low-growing coastal prairie once covered the headland, but about thirty years ago it was planted with approximately 6,000 evergreen trees. The trees are primarily clustered in the center of the property while the edges of the parcel retain the native vegetation, mostly native grasses covered with a scattering of low-growing prairie shrubs. The proposed parcel map illustrates building envelopes which are, with the exception of proposed Parcel #5, set away from the bluff edges, and clustered around an existing graded roadway, which circles the interior of the property at about 100 to 130 feet above sea level, and either among, or adjacent to tall trees. Proposed parcel #4 and #5 illustrates more than one building envelope so a choice for future development location is available (see Exhibit 2).

As proposed, several of the building envelopes extend onto the sparsely vegetated, exposed coastal shelf which lies at about 66 feet above sea level, a drop of about 34 to 64 feet from the tree-lined roadway. Development of the lower elevations would significantly affect public coastal views from both the main street of Mendocino, Mendocino Headlands State Park, and public views from state parkland adjacent to the subject property. Although tree planting is not encouraged on prominent coastal headlands, development probably could not be adequately mitigated in any event, as landscaping would be adversely affected by salt spray from the ocean, and probably would not survive.

In order to achieve consistency with the Coastal Act, Permit 1-88-164 will be conditioned to require a reduction of the proposed building envelopes to the 72 foot contour line for Parcel #2 and Parcel #3. In addition, the northern boundary of the building envelope on Parcel #5 shall be reduced to lie just south of the existing graded roadway running along the northern tip of this parcel, at approximately the 78 foot contour line (see Exhibit 3). This condition is required so future development will not project onto the most visible portions of the headland.

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In addition to the above, additional tree planting of a native, evergreen variety, in a sufficient density to screen future development from public views, will be required. Planting shall occur along the southern boundary of building envelope #1, along the northern portion of building envelope #2, along the northwestern portion of building envelope #3, and the northern portion of building envelope #5. Furthermore approval will be conditioned to require that all land area adjacent to the ocean, exclusive of the building envelopes on Parcel #1, #2, #3, and #5 will be included within an open space easement where alteration of landforms, removal of vegetation, or the erection of structures of any type will be prohibited in order to insure that there will not be negative visual impacts to public views (see Exhibit 4), consistent with Sections 30251, 30240, and 30253(5) of the Coastal Act.

To further mitigate visual impacts, future development allowed on the proposed parcels must be subordinate to the character of the area, and designed to protect adjacent parklands from impacts, consistent with Sections 30251 and 30240 of the Coastal Act. Anticipating this concern, the landowner submitted proposed Covenants, Conditions, and Restrictions which attempt to outline certain design, construction, and site usage criteria. The CC&Rs require, among other things, vegetation maintenance and that all utilities are to be located underground, which are both consistent with Coastal Act policies. They also require structure height to be limited to one story although where site conditions warrant, split-levels may be considered, which is also consistent with the intent of the Coastal Act.

The CC&Rs also specify the type of building materials allowed (redwood or cedar siding, tile roofs or split cedar or redwood shakes), however they fail to specify material colors, which is an important consideration where potential visual impacts are concerned. Permit 1-88-164 will therefore be conditioned to require that the CC&Rs limit exterior materials to natural materials of earthtone colors only. In addition all exterior materials shall be non-reflective -- this requirement shall include tile roofs and windows. Finally this permit will be conditioned to require that the CC&Rs specify that all exterior lighting be low voltage, nonreflective, sodium lights that have a directional cast downward. The revised CC&Rs shall be submitted for Executive Director review and approval prior to the issuance of permit 1-88-164.

As conditioned the permit is consistent with the policies of the Coastal Act as future development will be set back off the coastal terrace, will be screened by the additional planting of evergreens, will be subordinate to the character of the area as exterior colors will blend into the surrounding environment, and visual impacts, as seen from Mendocino and adjacent state parklands will be mitigated to an insignificant level.

The development of parcel #3, as proposed in 1-88-166, will also impact public views from Mendocino because future construction will be located on a small knoll which is an exposed area in the midst of dense vegetation. The proposed development is a one-story, 20 foot high structure set into the hillside. Proposed exterior materials are naturally weathered wood, and a nonreflective tile roof of a very dark blue-gray. In order to achieve consistency with the visual policies of the Coastal Act, this permit will be conditioned to require

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nonreflective, recessed glass and the submittal of a landscaping plan and lighting plan (if exterior lighting is to be placed on the structure, or on the parcel), both designed to mitigate the visual impact of the development from Mendocino Town and Mendocino Headlands State Park views. As conditioned, Permit 1-88-166 is consistent with Section 30251, 30240, and 30253(5) of the Act as visual impacts will be reduced.

ii. Environmentally Sensitive Habitat/Archaeological Resources/Hazards: As part of the permit application the applicant submitted a botanical survey which identified several locations where the rare species, Castilleja latifolia mendocinensis, (Mendocino coast paintbrush) were found. A cluster of the plants are located on the bluff edges of proposed Parcel #5 and the proposed building envelope on Parcel #2 contains several of the specimens. Besides the existence of rare plant species, the site also contains a state registered archaeological site (CA MEN 1089), geological fragile bluffs, and a seal colony is located just to the west of proposed Parcel #1 and #2.

Section 30240 of the Coastal Act states:

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

Section 30244 of the Coastal Act states:

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

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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Section 30253 of the Coastal Act states in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As discussed above under Visual Resources, the permit will be conditioned to require the reduction of several of the proposed building envelopes including the building area on proposed Parcel #2 where several of the rare plants are located. The reduction of the building area will effectively exclude plant habitat from the development area thus preventing impacts to the paintbrush, consistent with Section 30240 of the Coastal Act.

Also providing habitat protection will be the open space easement, required primarily to mitigate potential adverse visual impacts, but additionally aiding the protection of, and insuring the continued existence of all identified specimens of paintbrush. Furthermore the easement will also help to protect the seal colony which is located just west of proposed parcels #1 and #2 by prohibiting disturbing development activity from the blufftop area, consistent with Section 30230 of the Act which requires special protection of areas and species of special biological significance.

The open space easement additionally ensures the protection and nondisturbance of the state registered archaeological site which is located near the bluff edge, consistent with Section 30244 of the Coastal Act, which provides for reasonable mitigation in order to protect such resources. In addition both the easement and the building envelope reduction assure that future development will be set back a sufficient distance from the geologically fragile bluffs, consistent with Section 30253 which provides that new development shall neither create nor contribute significantly to erosion or geologic instability.

iv. Water Resources: Permit 1-88-164 requests approval of individual wells on each lot however the results of the water quantity evaluation have not been compiled nor submitted thus far. Because it is the Commission's policy to require this kind of information as part of the application filing, the applicant was informed that he would have to submit proof of water before this item was scheduled for hearing. The applicant responded by submitting evidence of his right to withdraw water from a neighboring spring which has a documented yield of 60 gallons per minute. Should the results of the hydrology test prove unsuccessful the applicant will amend this permit to request approval of the spring diversion. The applicant has previously

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conducted soils testing, approved by Mendocino County Environmental Health, which substantiates that there will be no adverse impact resulting from the proposed septic systems.

Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Because the Coastal Act requires the protection of ground water supplies this permit will be conditioned to require, prior to issuance, the submittal of the water quantity information proving that there is adequate water on site to serve the proposed parcels. Should the water quantity test prove unsuccessful the applicant shall amend Permit 1-88-164 to request the diversion of water and development of water lines from the neighboring spring. In addition Permit 1-88-164 shall be conditioned to require that the proposed CC&Rs include provisions for water conservation devices, such as low flow faucets, water closets, and water saving appliances to be installed in new development. The CC&Rs shall also limit new landscaping to that which is drought tolerant, nonwater intensive, and of a native species. As conditioned Permit 1-88-164 is consistent with Section 30231 of the Coastal Act as water resources will be protected.

v. Mendocino Land Use Plan: Section 30604 of the Coastal Act allows permit issuance if the project is consistent with Chapter 3 of the Coastal Act. Approval of the project is consistent with Sections 30210, 30211, 30212, 30250(a), 30253, 30240, 30244, 30230, and 30231 of the Coastal Act as discussed above, and thus will not prejudice local government's ability to implement a certifiable LCP. There is one additional issue that relates to the certified land use plan that should be addressed. The proposed CC&Rs submitted by the applicant indicates that second residential units will be allowed on each lot. At this time the certified LUP does not allow guest houses and whether they will be allowed in the future is at this time an unresolved issue. Therefore, while the proposed CC&Rs may provide for second residential units, there is no guarantee that a coastal development permit authorizing the development will be issued in response to such a proposal. An associated issue is that there may be cumulative impacts resulting from increased density if an additional residential unit per lot is proposed.

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Adverse cumulative impacts resulting from new development are required to be evaluated and mitigated by the Coastal Act and that process may reopen the question whether there is an additional need for public access.

4. CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The project, as conditioned, does not have a significant effect, within the meaning of CEQA and is therefore consistent with the provisions of the California Environmental Quality Act and the California Coastal Act. Mitigation measures have been set forth to lessen possible environmental damage, consistent with the Coastal Act, as discussed above, and which discussion is hereby incorporated by reference.

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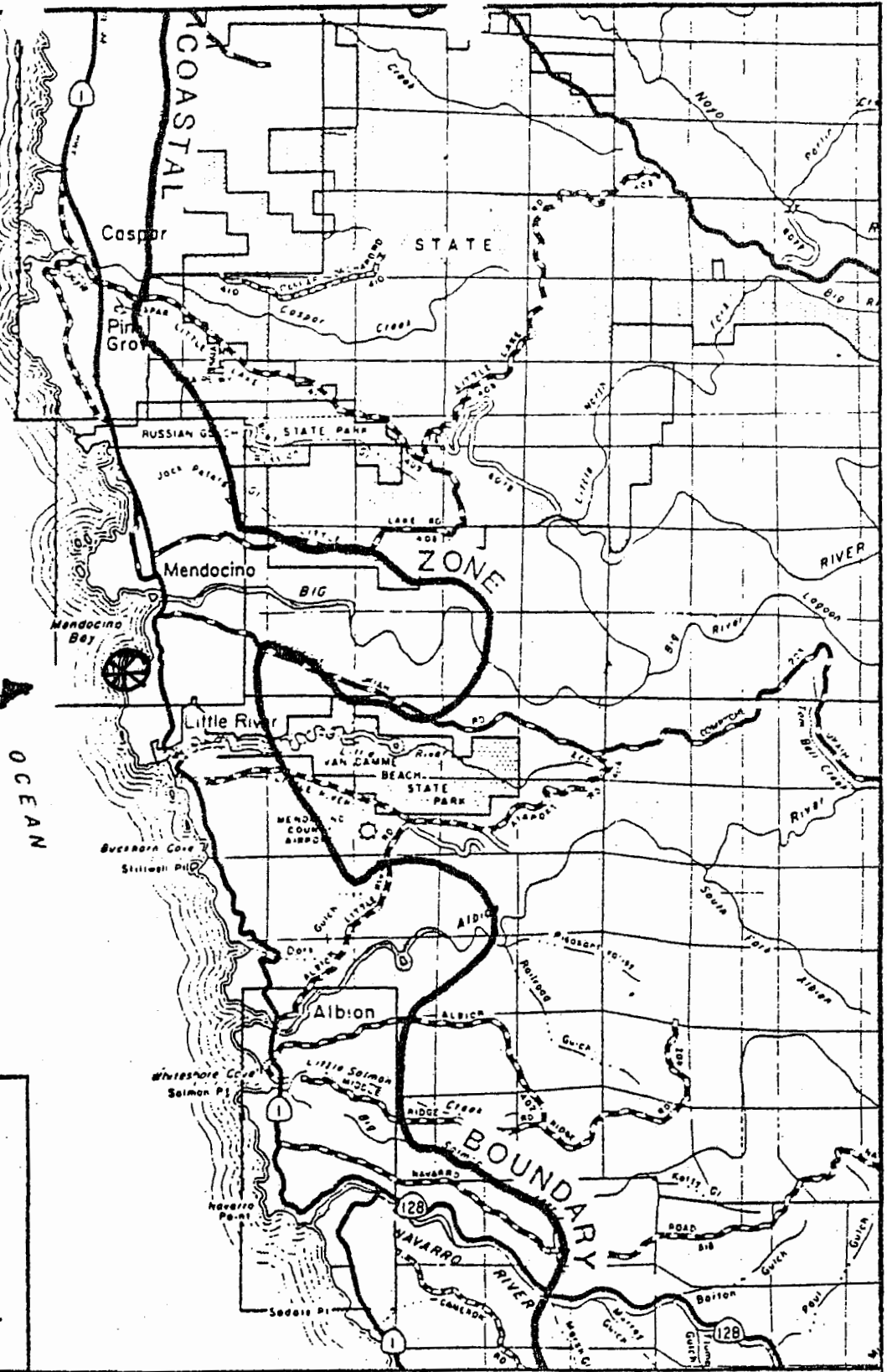
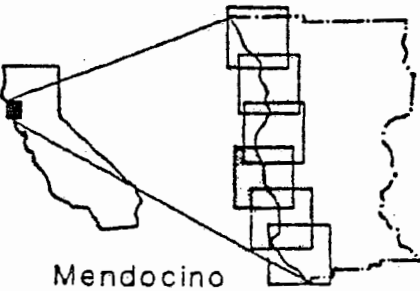
STANDARD CONDITIONS


1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction shall be pursued in a diligent manner and completed in a reasonable manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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APPROXIMATE
LOCATION

EXHIBIT NO. 1
APPLICATION NO.
1-88-164
and
1-88-166
 California Coastal Commission



 California Coastal Commission

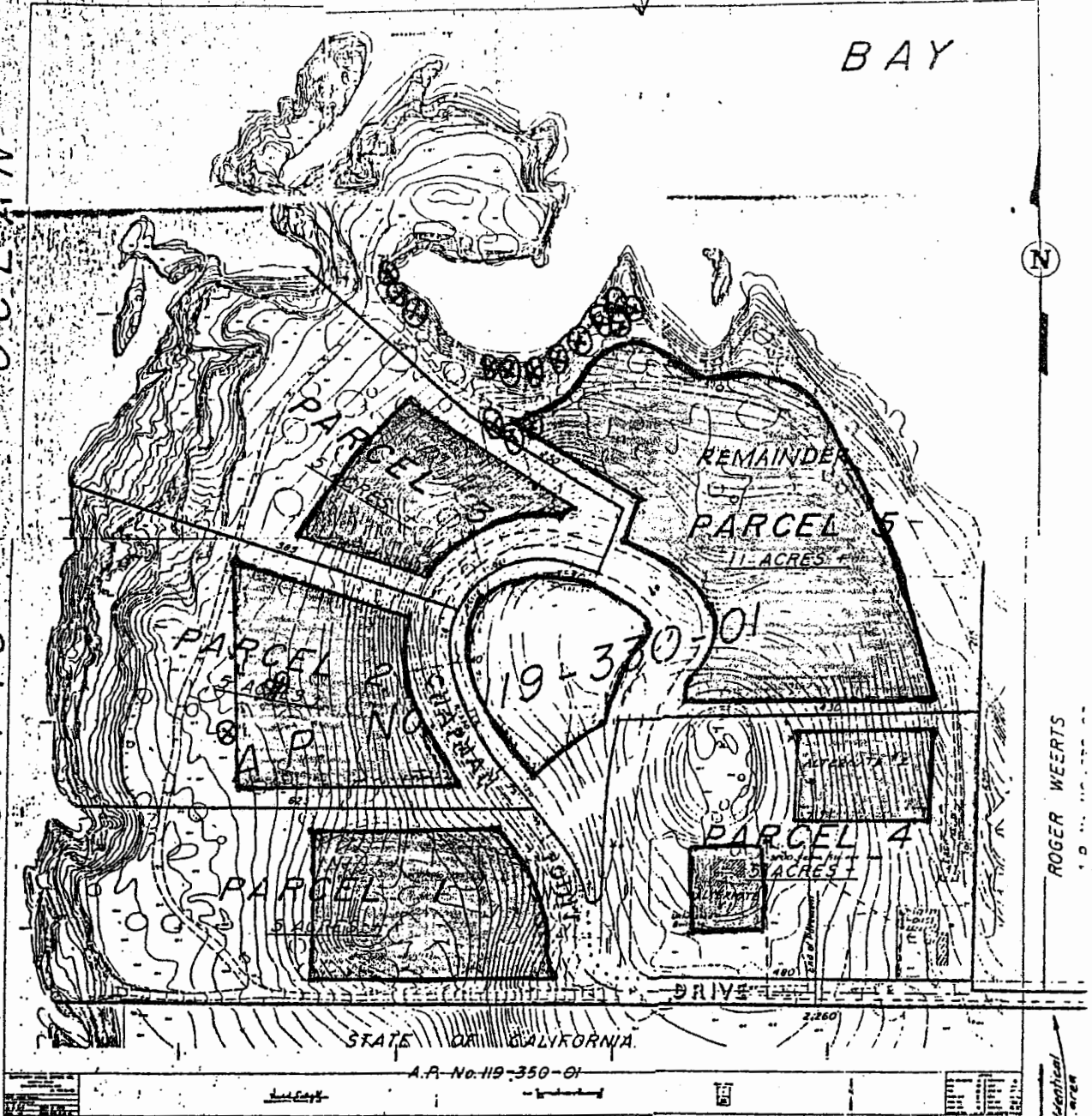
LOCATION MAP



MENDOCINO

BAY

PACIFIC OCEAN



LEGEND



= PROPOSED BUILDING ENVELOPES

EXHIBIT NO. 2

APPLICATION NO.

1-88-166

Proposed Parcel Map

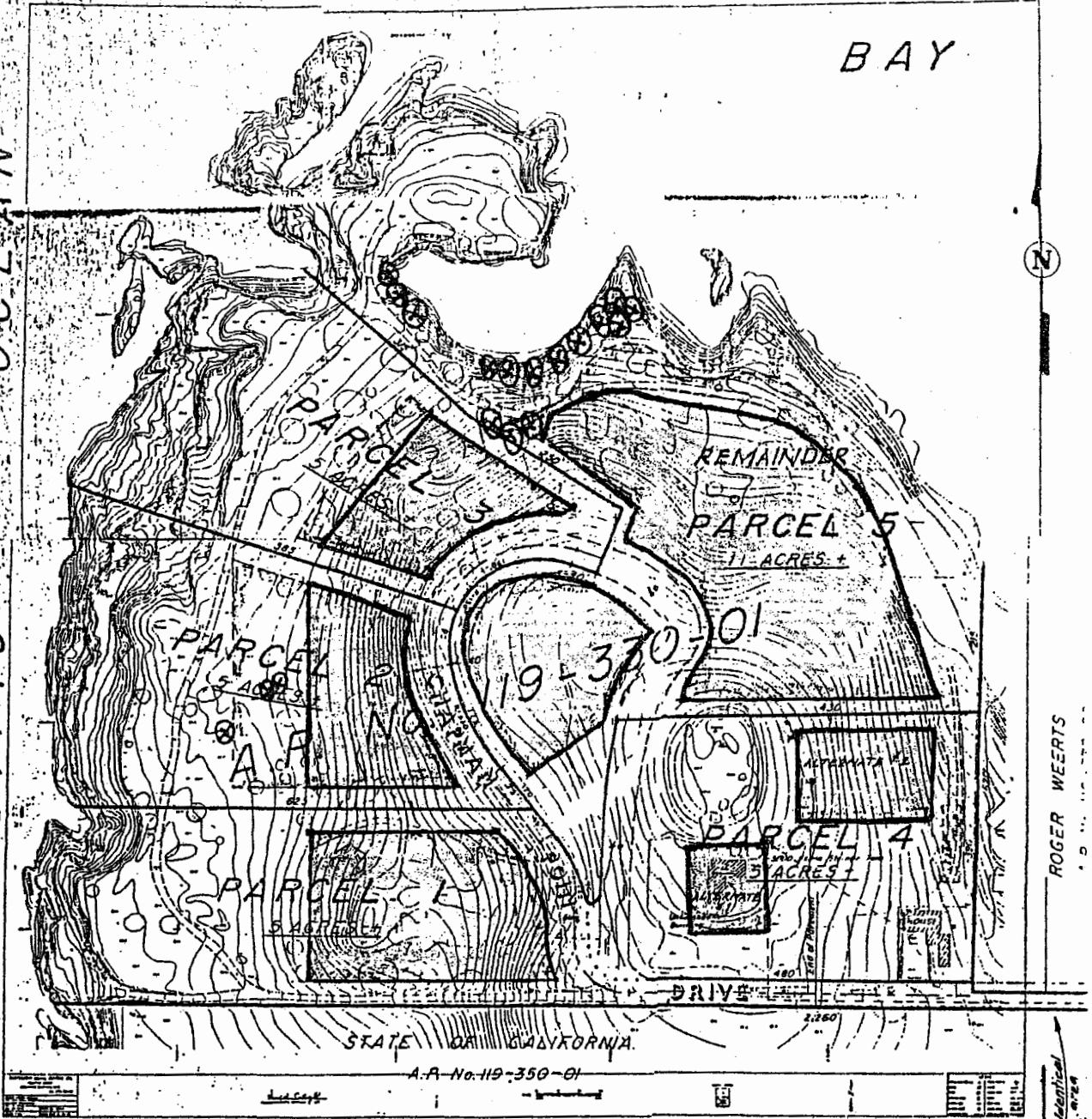
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APPROXIMATE LOCATIONS OF

CASTILLEJA LATIFOLIA MENDOCINENSIS

MENDOCINO

BAY

PACIFIC OCEAN



LEGEND:



Revised Building Envelope

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⊗ APPROXIMATE LOCATIONS OF

CASTILLEJA LATIFOLIA MENDOCINENSIS

EXHIBIT NO. 3

APPLICATION NO.
1-88-164

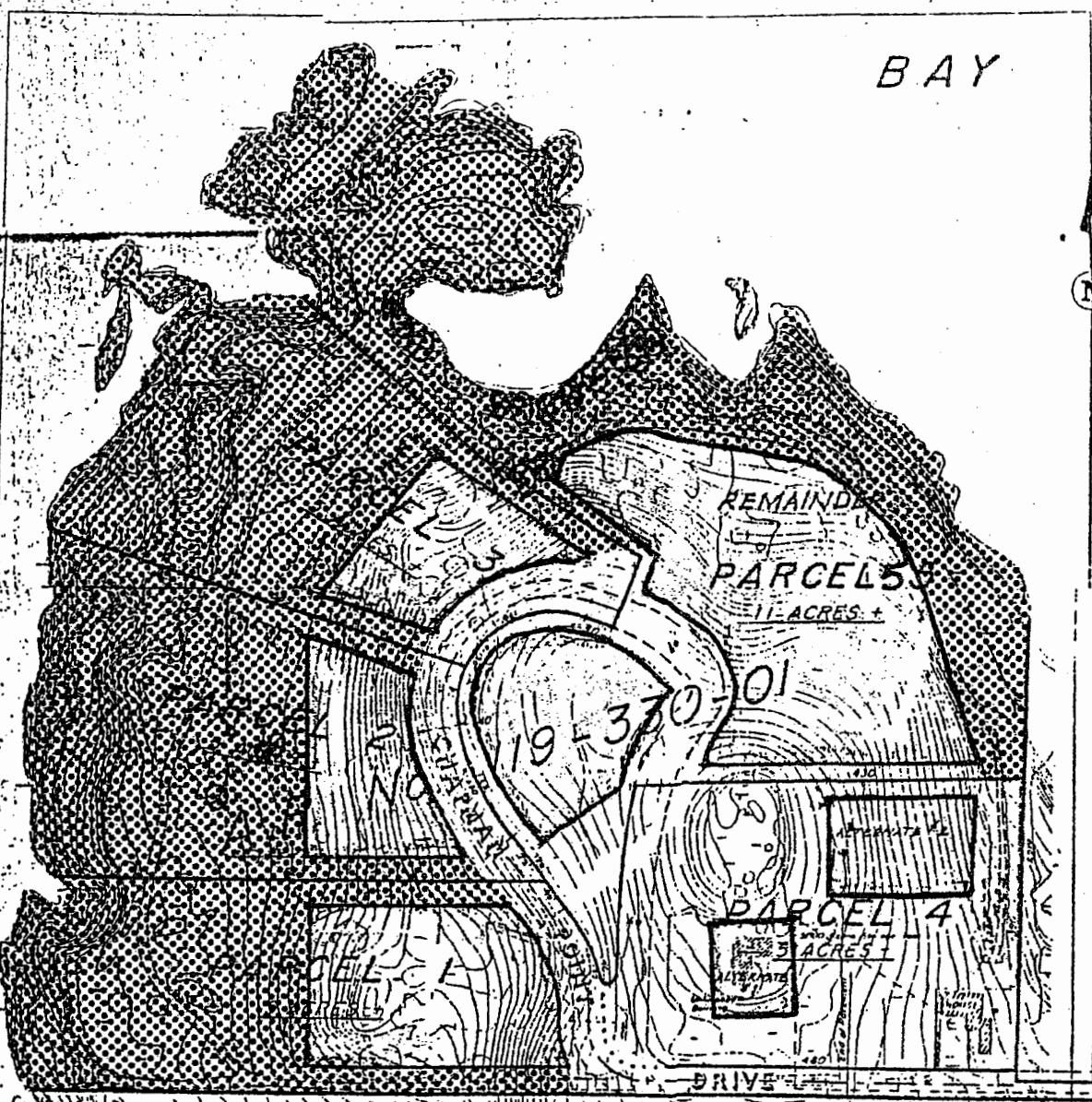
PARCEL MAP
(Revised)

California Coastal Commission

MENDOCINO

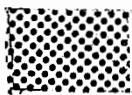
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PACIFIC OCEAN



ROGER WEERTS

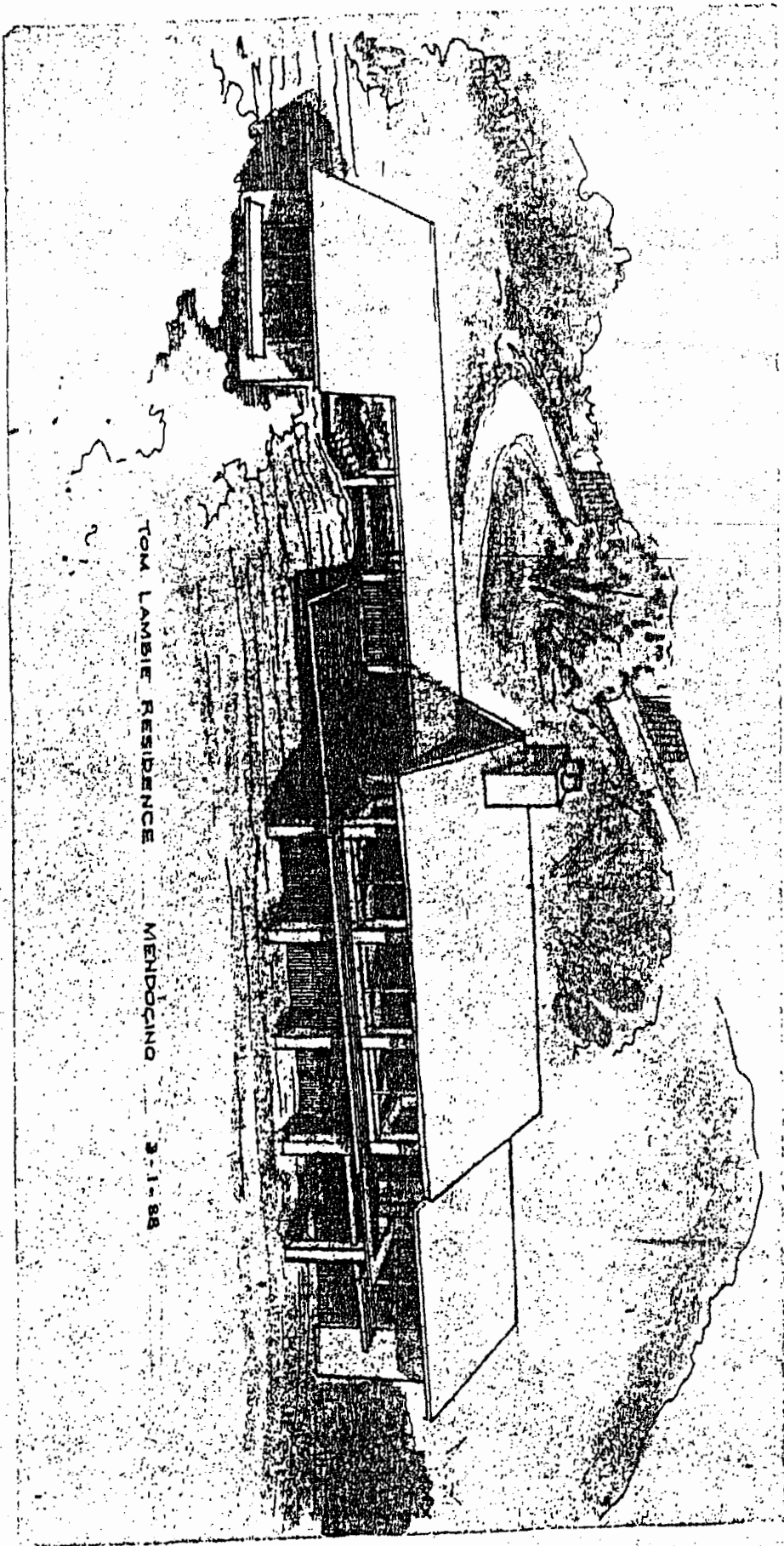
LEGEND:

 = Open Space

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⊗ APPROXIMATE LOCATIONS OF
CASTILLEJA LATIFOLIA MENDOCINENSIS

EXHIBIT NO. 4
 APPLICATION NO.
 1-88-164
 Open Space
 Easement
 California Coastal Commission



TOM LAMBIE RESIDENCE MENDOCINO 3-1-88

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EXHIBIT NO. 5
APPLICATION NO. 1-88-166
Lambie HOUSE
 California Coastal Commission