

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877



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Staff Report:	November 21, 2008
Hearing Date:	December 12, 2008
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	1-08-034
APPLICANT:	DUSTY & LINDA DILLION TRUST
PROJECT LOCATION:	32094 North Harbor Drive, Noyo Harbor Area, Mendocino County, (APN 18-130-31)
PROJECT DESCRIPTION:	Rehabilitate an existing 23 space recreational fishing Recreational Vehicle (RV) Park by: (1) installing new service hook-up pedestals for each space; (2) replacing existing water, sewer, and electric lines as necessary; (3) replacing an existing underground electrical service box, and (4) installing landscaping.
GENERAL PLAN DESIGNATION:	Fishing Village
ZONING DESIGNATION:	Fishing Village (FV)
OTHER APPROVALS REQUIRED:	None Required

directional cast downward. To ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species, Special Condition No. 3 would require that only native and/or non-invasive plant species be planted at the site.

In addition, staff is recommending several other special conditions. As the development is located on lands that may be subject to the public trust, Special Condition No. 5, would require that the project be reviewed and where necessary approved by the State Lands Commission prior to the commencement of development. Because the project site is within a designated flood hazard area, Special Condition No. 6 requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. Finally, to ensure that all future owners of the property are aware of the requirements of these special conditions, Special Condition No. 7 would require recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

As conditioned, staff recommends that the Commission find that the project is consistent with the certified Mendocino County LCP and the public access and recreation policies of the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on pages 4.

STAFF NOTES:

1. Standard of Review

The proposed project is located on the northern banks of the Noyo River estuary in Mendocino County, in areas shown on the State Lands Commission over which the state retains a public trust interest. Therefore, the site is within the Commission's area of retained jurisdiction, and the standard of review that the Commission must apply to the development is the Chapter 3 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 No. 1-08-034 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

- (a) All construction materials and debris originating from the project shall be stored and/or contained in a manner to preclude their uncontrolled entry and dispersion to the waters of the Noyo River. Any debris resulting from construction activities that should inadvertently enter the river shall be removed from coastal waters immediately;

- (b) Any and all debris resulting from construction activities shall be removed from the project site within 10 days of project completion;
- (c) Excavated soil materials associated with the trenching for the installation of utility conduits and pipelines shall be side-cast in windrows immediately adjacent to the excavated trench to allow for ease in covering the exposed materials during inclement weather;
- (d) Silt screens, straw bales, and/or coir-rolls appropriate for use in riverside and floodplain settings applications shall be installed around the perimeter of the areas to be graded and excavated prior to the initiation of grading and excavation activities and shall be maintained throughout project construction. Additional silt and sediment barrier materials shall be kept at the site and deployed as needed to reinforce sediment containment structures should unseasonable rainfall occur;
- (e) If rainfall is forecast during the time construction activities are being performed:
 - (i) all exposed soils materials excavated to form the utility trenches shall be covered with minimum 10-mil plastic sheeting, secured with sand bagging or other appropriate materials, and (ii) any other exposed soil areas shall be promptly mulched before the onset of precipitation;
- (f) Mechanized heavy equipment, including excavation and materials delivery vehicles used during the construction process shall not be staged, operated, stored, or re-fueled within 100 feet of the waters of Noyo River;
- (g) Fuels, lubricants, and solvents shall not be allowed to enter the waters of the Noyo River. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up.

2. Future Development Restriction

This permit is only for the development described in Coastal Development Permit Application No. 1-08-034. All development authorized by Coastal Development Permit No. 1-08-034 must occur in strict compliance with the proposal set forth in the application for the permit as modified by the special conditions. Any (a) deviation from the plan proposal, (b) increases in the intensity, density, of use of the site, (c) any change in the specific use of the RV Park including, but not limited to, lease or use of the RV Park spaces for residential purposes or for the long term exclusive use of persons, or (d) any other changes to the proposed project may require an amendment to this permit, unless the Executive Director determines that no amendment is legally required.

3. Landscaping Restrictions

- A. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used.
- B. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed amended development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- C. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

4. Design Restrictions

All new exterior lights installed for the RV Park, including any lights attached to the outside of the adjoining buildings, shall be the minimum necessary for the safe ingress and egress of the RV Park and the individual RV spaces, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

5. State Lands Commission Review

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, a written determination from the State Lands Commission that:

- A. No State or public trust lands are involved in the development; or
- B. State or public trust lands are involved in the development and all permits required by the State Lands Commission for the approved project as conditioned by the Commission have been obtained; or

- C. State or public trust lands may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

6. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. Deed Restriction

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Site Description and Background.

The project site is located along the northern bank of the Noyo River estuary just east of the Highway One Noyo River Bridge, at 32094 North Harbor Drive within the lower Noyo Harbor area (see Exhibit Nos. 1-3). Noyo Harbor is largely an unincorporated area of Mendocino County adjacent to the City of Fort Bragg. Noyo Harbor is developed with a variety of priority coastal-dependent, coastal-related, and visitor-serving uses, including numerous commercial and sports fishing docks, wharves, marinas, and drayage facilities, fishing guide charters, restaurants, and related commercial retail interests.

The subject 1.6-acre parcel itself is developed with a variety of uses including a boat dock and old wharf structure along the edge of the waterfront, an approximately 7,500-square-foot fish processing building, a 1,200-square-foot boat house, a 960-square-foot restaurant, and an approximately 22,000-square-foot, 23-space recreational vehicle (RV) park, a parking lot, and several accessory buildings such as storage sheds and restrooms (see Exhibit No. 6).

The RV park is located in the southern portion of the subject parcel, extending approximately 215 feet east from North Harbor Drive to a point approximately 30 feet east of the existing wharf and dock structures along the waterfront of the parcel. According to information provided by the applicant, the RV Park has been in operation since the 1960's prior to the coastal development permit requirements of the 1972 Coastal Initiative and the 1976 Coastal Act. California Department of Housing and Community Development permits and local permits and licenses for the RV Park have been renewed annually. The RV Park was temporarily used by the Department of Transportation for three years beginning in 2002 as a staging area for use in the replacement of The Highway One Noyo River Bridge. The new bridge has been completed and the staging area use of the site has been removed. However, the applicant is waiting to reopen the RV park to recreational vehicle use until after the RV Park improvements proposed in the current permit application have been completed.

The Commission approved a separate coastal development permit for a variety of improvements to the subject property in 2005. Coastal Development Permit No. 1-04-033 authorized (a) the replacement of storm-damaged dock shoring treated with ACZA, (b) placement of new decking and lattice in the outside dining area of the restaurant, (c) replacement of 200 feet of chain linked fence, (d) placement of decorative piling posts (on land), (e) placement of 75' of wooden railing at the water edge of an existing dock, (f) placement of a care-takers trailers, (g) placement of temporary vehicle barriers in the RV park to protect RV hook ups from damage from the adjoining Noyo Bridge construction work, (h) relocation of the restaurant dumpster and enclosure, (i) construction of a boat shed on the pier, (j) placement of temporary chain link fence on a portion of the pier to limit access during construction on the pier, (k) repair of boat hoist at the waters edge, (l) repair and replacement of areas of pier surface for safety, (m) placement of 3 signs (under 32 square feet each), (n) construction of 2nd exit for the

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existing restaurant, (o) replacement of restaurant storage sheds (10' x 16'), and (p) replacement of posts in parking area with decorative pilings (on land).

The permit was approved with ten special conditions, including water quality conditions that required the preservative treated shoring to be wrapped with a watertight protective sleeves and the use of best management practices to minimize pollution from construction operations, a condition requiring additional permit authorization for any changes to the use of the caretaker's trailer or any changes to the approved development, conditions requiring the submittal of other necessary agency approvals for the development, a condition requiring the permittees to assume the risks and indemnify the Commission from any claims of damage or injury stemming from the permitted development from flood hazards associated with the site, conditions restricting the building materials, colors, and lighting to minimize visual impact of the development, and a condition requiring recordation of a deed restriction that would impose the special conditions of the permit as covenants, conditions, and restriction on the use and enjoyment of the property.

Many of the improvements authorized under Coastal Development Permit No. 1-08-034 have already been installed or completed. None of these previously authorized improvements except for the installation of the caretaker's trailer and the placement of the temporary vehicle barriers in the RV park to protect RV hook ups from damage from the temporary use of the RV Park as the Noyo Bridge reconstruction corporation and storage yard are located within the boundaries of the RV Park.

The temporary vehicle barriers were removed when the bridge reconstruction staging area was removed. The caretaker's trailer has been occasionally moved, but is intended to remain parked for the long term in a former RV space at the west end of the RV Park and continued to be used as a caretaker's residence. The current coastal development permit application does not affect the continued use of the caretaker's trailer under Coastal Development Permit No. 1-04-033.

The flat waterfront property largely consists of denuded, paved or graveled covered surfaces occupied by the uses described above. The land area of the site contains no known environmentally sensitive habitat, but the site is adjacent to the Noyo River estuary which contains threatened salmonid species and environmentally sensitive wetland and riparian habitat. Beach and dune habitat can be found at nearby Ocean Front Park, just west of the Noyo River Bridge.

The subject parcel is not located within an area designated by the Mendocino County Local Coastal Program as highly scenic and there are only partial views of the estuary through the development from North Harbor Drive. The subject parcel and much of the rest of Noyo Harbor can be seen from the Noyo River Bridge high above the estuary.

B. Project Description.

The proposed project involves the rehabilitation of the pre-existing 23-space, 22,000 square-foot recreational vehicle park known as the “Sportsman RV Park” on the subject parcel (see Exhibit Nos. 4 and 5). The principal development proposed is to install new service pedestals for each of the 23 RV spaces. The approximately three-foot-wide by seven-foot-long service pedestals provide water, sewer, and electric utility connections for the RVs. Municipal water and sewer service is provided to the RV Park and the other existing uses at the subject parcel by the City of Fort Bragg. The project also includes replacing an electric utility company underground service box in addition to digging or trenching to replace existing underground water, electrical and sewerage lines as needed. Drought-tolerant landscaping would be installed along the frontage of the RV Park with North Harbor Drive following installation of the proposed new service pedestals.

C. Protection of Coastal Water Quality.

Section 30231 of the Coastal Act 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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed improvements to the RV park would take place near the coastal waters of the Noyo River estuary. All of the project elements involve soil disturbance. Therefore, there is a potential for adverse impacts to the water quality and biological productivity of the Noyo River and adjoining intertidal wetlands.

Coastal Act Section 30231 protects the quality of coastal waters, streams, and wetlands through, among other means, controlling runoff and maintaining natural vegetation. Grading and soil disturbance can result in the discharge of sediment into site runoff, which upon entering coastal waters, increases turbidity and adversely affects fish and other sensitive aquatic species. Sediment is considered a pollutant that affects visibility through the water, and affects plant productivity, animal behavior (such as foraging) and reproduction, and the ability of animals to obtain adequate oxygen from the water. With respect to potential effects on fish and fish habitat, sediment is often a major pollutant of concern, because fine sediments have been well documented to fill pore spaces between larger gravel and cobble, eliminating the relatively coarse sediments required for egg and fry survival of many freshwater-spawning fish. Sediments may physically alter or reduce

the amount of habitat available in a watercourse by replacing the pre-existing habitat structure with a stream-bottom habitat composed of substrate materials unsuitable for the pre-existing aquatic community. In addition, sediment is the medium by which many other pollutants are delivered to aquatic environments, as many pollutants are chemically or physically associated with the sediment particles.

The requirements of Special Condition No. 1 will ensure that soils disturbed by project excavation will be stabilized to minimize erosion and minimize the entrainment of sediment and other pollutants in stormwater runoff that enters the Noyo River. In addition, the requirements of Special Condition No. 1 will minimize the potential for the discharge of fuels, lubricants, and solids from construction equipment into the river. Therefore, as conditioned, the Commission finds that the RV park infrastructure repair work is consistent with Section 30231 of the Coastal Act, as the proposed repair work will protect the biological productivity and water quality of the Noyo River estuary.

D. Protection of Priority Waterfront Sites and Coastal Dependent Developments.

Coastal Act Section 30213 of the Coastal Act states in applicable part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Development providing public recreational opportunities are preferred.

Coastal Act Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Coastal Act Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry

Coastal Act Section 30223 states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30224 states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water dependent land uses that congest access corridors and preclude boating support facilities, providing harbors for refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Coastal Act Section 30234 states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Coastal Act Section 30255 states:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The Coastal Act establishes numerous provisions for the protection and reservation of waterfront sites and areas for development of facilities for a variety of high-priority coastal dependent, coastal related, and visitor serving uses. Priority is to be given to such highly desired uses, especially those functionally dependent upon locations on or near open coastline and watercourses.

Since its founding as a small fishing village in the 1850s, the Noyo Harbor area has served as an important center for a variety of coastal dependent uses. Upon the extension of a logging railroad line up into the Noyo watershed, the harbor grew to become one of Mendocino County's chief centers for the milling and export of timber products. In the early 1900s, the area also developed into a "harbor of refuge" for both commercial fishing and passenger vessels transiting the North Coast waters between San Francisco and Eureka. Currently, the harbor is the home port to approximately 200 commercial fishing boats. Further commercial diversification within the harbor over the years has

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brought a variety of other uses, including fishing charter guide services, mooring and repair facilities for both commercial fishing and recreational pleasure craft, and seafood processing facilities, including the first production center on the West Coast for sea urchins. Although timber processing facilities have largely been scaled back and relocated to other areas and access to ocean salmon for commercial fishing has diminished somewhat due to closures related to conservation, the Noyo Harbor remains an important commercial and sport fishing center.

The subject property supports activities consistent with the priority use policies of the Coastal Act. All of the existing, approved, and proposed facilities at the site comprise priority visitor-serving commercial recreational uses, commercial fishing uses, and recreational boating uses, including the restaurant, the fish processing area, the commercial and recreational boat docks and boat hoist, the limited small boat storage, and the RV park.

The RV park is a lower-cost visitor serving facility that provides space for transient overnight use by people with RVs. Continuance of this use is consistent with the requirements of Coastal Act Sections 30213, 30222, and 30223. The improvements authorized under Coastal Development Permit No. 1-08-034 only involve improvements to the infrastructure of the existing RV Park, including the installation of new service pedestals for each of the 23 RV spaces, replacement of an electric utility company underground service box, replacement of existing underground water, electrical and sewerage lines as needed, and the installation of landscaping. These improvements do not affect the density or intensity of use of the longstanding RV Park, as no changes in use of the park are proposed and the proposed development would not decrease or otherwise change the number of RV spaces that can continue to be leased for transient recreational vehicle use.

The introduction or substitution of new uses at the RV park could result in the loss of lower cost visitor serving overnight accommodations and preclude the establishment of other priority uses at the site. In particular, the conversion of spaces currently rented for transient use of RVs to a more permanent residential use or the long term lease of an RV space at the park for the exclusive use of one person or group would reduce the amount of lower cost visitor serving overnight accommodations available at the site for RVs and instead have the effect of privatizing the use of space that was previously available for public recreational use. Accordingly, to prevent displacement of needed priority uses, the Commission attaches Special Condition No. 2. Special Condition No. 2 sets restrictions on future development at the project site, requiring any modifications to the approved project, the introduction of new uses or development or any changes in the density or intensity in the use of land or access to water to be subject to the Commission's permitting authority. Furthermore, to ensure that all future owners of the property are aware of the restrictions on future development at the project site, Special Condition No. 7 requires recordation of a deed restriction that imposes the special conditions of the

permit as covenants, conditions, and restrictions on the use of the property. The review of such changes will enable the Commission to ensure that new development remains fully consistent with policies of the Coastal Act requiring the protection, prioritization, and reservation of these priority uses and developments. Therefore, as the development as conditioned will (a) facilitate the continuance of an existing priority commercial visitor-serving recreational use of the site, and (b) not allow conversions of this use without an amendment of the permit, the Commission finds the development as conditioned is consistent with Sections 30220, 30222, 30223, 30224, 30234, and 30255 of the Coastal Act.

E. Visual Resources

Section 30251 of the Coastal Act states:

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...shall be subordinate to the character of its setting.

The subject site is located on the north side of Noyo River. As described above, the site is currently developed with the existing RV park, commercial fishing facilities, a restaurant, boat dock, a parking lot, recreational boating storage facilities, and a caretaker's trailer. Other improvements to the site have been authorized by Coastal Development Permit No. 1-04-033. The project vicinity is not designated as a "highly scenic" area in the Mendocino County LUP. However, the subject site is located within a working harbor on the estuary that is prominently within view of certain public vantage points, including North Harbor Drive and from the east side of the Highway One Noyo River Bridge.

Section 30251 sets forth three principal limitations on new development. First, new development must be sited and designed to protect views to and along the ocean and scenic coastal areas. Second, new development must minimize the alteration of natural landforms. Finally, new development must be visually compatible with the character of surrounding areas and if located within a highly scenic area, the development must not only be compatible with the character of the surrounding area but must also be subordinate to the character of its setting.

The project will not adversely affect views to the ocean and Noyo River estuary from North Harbor Drive or other vantage points. The existing development of the site already blocks most direct view of the water through the site, although one can still see the

elevated structure of the Noyo River Bridge and the headlands that border the mouth of the river. These views of the bridge and the headlands will be retained and the development will not obstruct views of the estuary or ocean from any other vantage points.

With regard to alterations of landforms, the development will not involve any significant grading or excavation. Therefore, the project would not alter any natural landforms.

The project will not introduce new uses or visually prominent new development to the site that would affect the visual compatibility of the site with the character of the surrounding area. As discussed previously, the RV park is a long standing use of the site, even though no recreational vehicles are currently using the RV park while the applicants apply for the necessary permit authorizations and begin the process of rehabilitating the RV Park infrastructure. Thus, the RVs at the site have been a feature of the visual setting for many years. The infrastructure improvements proposed as part of the current development mainly involve replacement of the service pedestals for each of the 23 RV spaces. The approximately three-foot-wide by seven-foot-long service pedestals are relatively small and low to the ground and will not be visually prominent. Much of the other proposed development involves the installation or replacement of buried utilities that will not be visible at all.

The most prominent feature of the proposed development is the new landscaping that will be installed along the frontage of the RV Park with North Harbor Drive. However, this landscaping will soften the view of the recreational vehicles and the RV park in general from North Harbor Drive, thus helping to blend the existing development into the surrounding landscape.

The installation of unrestricted new lighting at the RV park that shines beyond the boundaries of the property or is not shielded would adversely affect views of the site and the surrounding area at night from public vantage points including the Noyo River Bridge. Therefore, to ensure that the proposed RV park improvements are compatible with the character of the setting of the Noyo Harbor fishing village and consistent with Section 30251, the Commission attaches Special Condition No. 4. The special condition limits all exterior lighting be the minimum necessary for the safe ingress and egress of the RV park and the individual RV spaces, and requires that the lighting be shielded and have a directional cast downward. Furthermore, to ensure that all future owners of the property are aware of these lighting restrictions, Special Condition No. 7 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

Therefore, the Commission finds that as conditioned, the proposed development as amended would be fully consistent with the visual resource protection requirements of Section 30251 of the Coastal Act, as (1) the development will not block any additional view of the Noyo River harbor or the ocean (2) the development includes no significant

grading or excavation and therefore would minimize the alteration of landforms, and (3) the development, would be visually compatible with and subordinate to the character of surrounding areas.

F. Protection of Environmentally Sensitive Habitat Areas (ESHA)

Summary of LCP Policies

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....

...

LUP Policy 3.1-10 states:

Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:

- *Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;*
 - *pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;*
 - *existing agricultural operations;*
 - *removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values.*

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. ...

LUP Policy 3.1-7 requires that buffers be established to protect ESHA from significant degradation resulting from future developments on the property. LUP Policy 3.1-10 requires that riparian ESHA be protected against any significant disruption of habitat values. 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.

The portion of the subject property where the rehabilitation of the RV park is proposed does not contain any known environmentally sensitive habitat. However, the subject property fronts on to the Noyo River estuary and is located near coastal beach and dune habitat at Ocean Front Park, a few hundred yards to the west.

The Commission finds that ESHA associated with the Noyo River estuary and the beach and dune area located near 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 native riparian, wetland, or dune vegetation thereby disrupting the values and functions of the ESHAs. The seeds of exotic invasive plants could also be spread to nearby ESHA by wind dispersal or by birds and other wildlife. The applicant is proposing to install landscaping along the frontage of the RV Park with North Harbor Drive. Other than indicating the landscaping would be drought-tolerant, no details have been provided regarding the specific plant species to be utilized in the landscaping. To ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species, the Commission attaches Special Condition No. 3. The special condition requires that only native and/or non-invasive plant species be planted at the site. Furthermore, to ensure that all future owners of the property are aware of these landscaping restrictions, Special Condition No. 7 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

In addition, the Commission notes that certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wild land interface areas. As these target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, the pest

control compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. To avoid this potential cumulative impact to environmentally sensitive wildlife species, Special Condition No. 3 contains a prohibition on the use of such anticoagulant-based rodenticides.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent and nearby environmentally sensitive habitat areas, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area. Therefore, the Commission finds that the amended development as conditioned is consistent with the ESHA protection policies of the LCP.

G. Flood Hazards

Section 30253 states in applicable part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

Coastal Act Section 30253 requires in applicable part that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard and neither create nor contribute significantly to erosion or geologic instability.

The subject property is located along the Noyo River, and within a floodplain area as mapped by the Flood Insurance Rate Maps (FIRM). The project site is also designated in the LCP as being within a flood combining zone..

Special Condition No. 6 requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite flooding risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards.

Furthermore, to ensure that all future owners of the property are aware of the flood hazard present at the site, the Commission's immunity from liability, and the indemnity afforded the Commission, Special Condition No. 7 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

Therefore, as conditioned, the project would minimize risks to life and property from flood hazards and is consistent with Section 30253 of the Coastal Act.

H. Public Access.

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject site is located on the Noyo River, an arm of sea. Public access exists just west of the site at Ocean Front Park, on the west side of Noyo Bridge. Ocean Front Park contains a public restroom, parking lot, and a beach. The subject property itself provides waterfront facilities available to paying visitors, including a restaurant with an outdoor dining deck with views of the estuary and a dock for launching small watercraft. In addition, a private rowing club conducts some operations from the waterfront at the site. However, there are no public trails, walkways, or viewing areas that are available for the use of non-paying visitors to the site.

The development will not adversely affect public access. The RV park to be rehabilitated is a long-standing use of the site and the numbers of spaces available for RV use will not be increased. Therefore, rehabilitation of the RV park will not change the nature or intensity of use of the site and thus, will not create any new demand for public access by bringing significant numbers of additional visitors to the site. The RV park is located in a separate area of the property from the restaurant and dock facilities, and thus the installation and repairs to the RV park's infrastructure will not affect the continued use of those recreational and visitor serving facilities or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project does not have any significant adverse effect on public access, and that the project as proposed without new public

access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

I. State Waters

The project site is located in an area subject to the public trust. Therefore, to ensure that the applicant has the necessary authority to undertake all aspects of the project on these public lands, the Commission attaches Special Condition No. 5, which requires that the project be reviewed and where necessary approved by the State Lands Commission prior to the commencement of development.

J. California Environmental Quality Act

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. 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. Mitigation measures that will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

EXHIBITS:

1. Regional Location Map
2. Project Vicinity Map
3. Parcel Map
4. Plot Plan
5. Schematic Site Plan of RV Park
6. Photos of Site

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.

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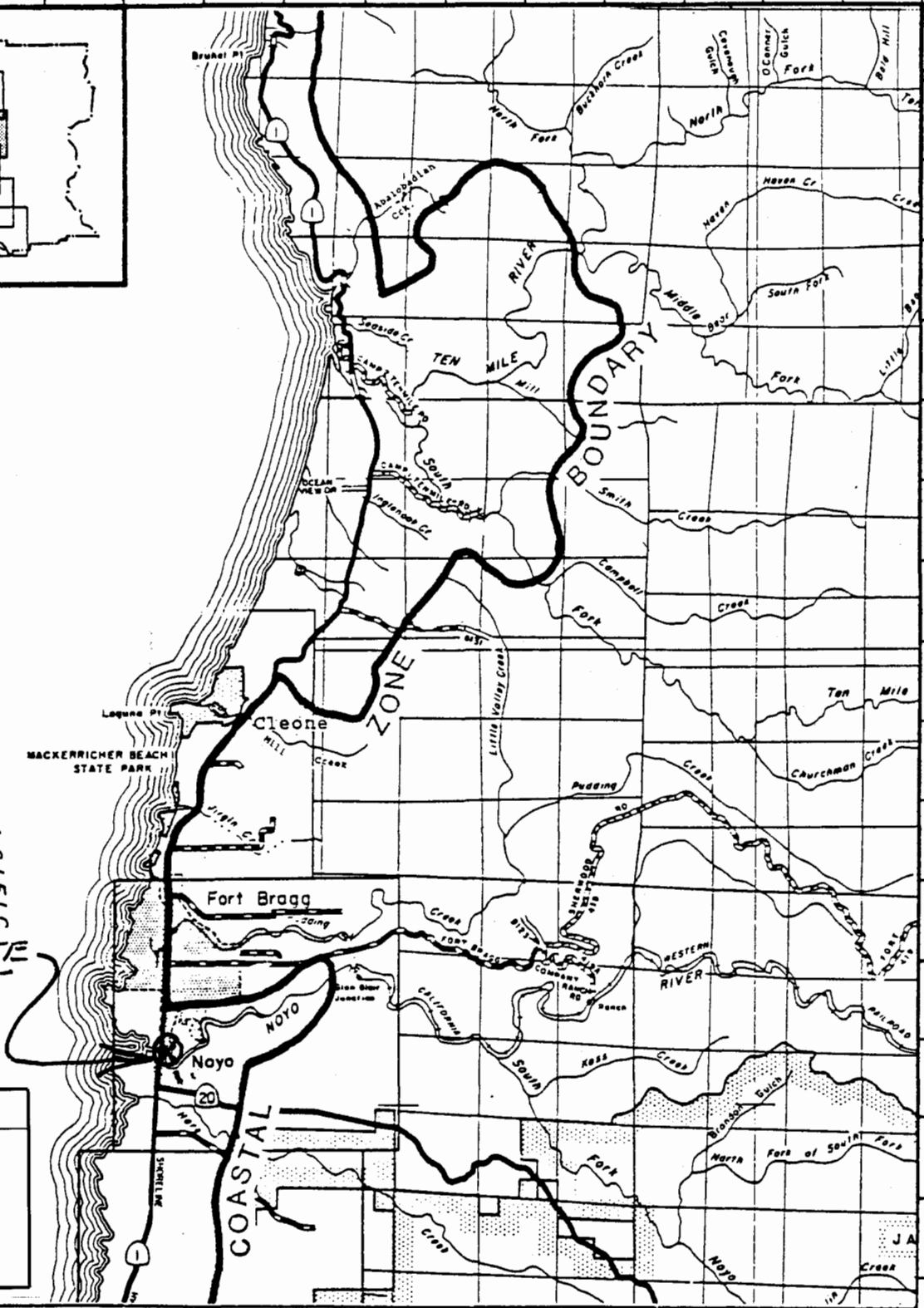
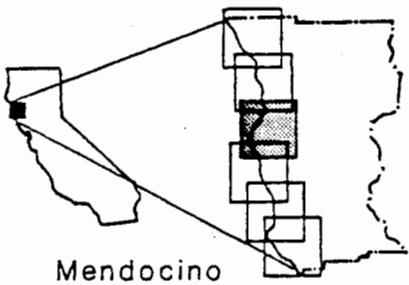
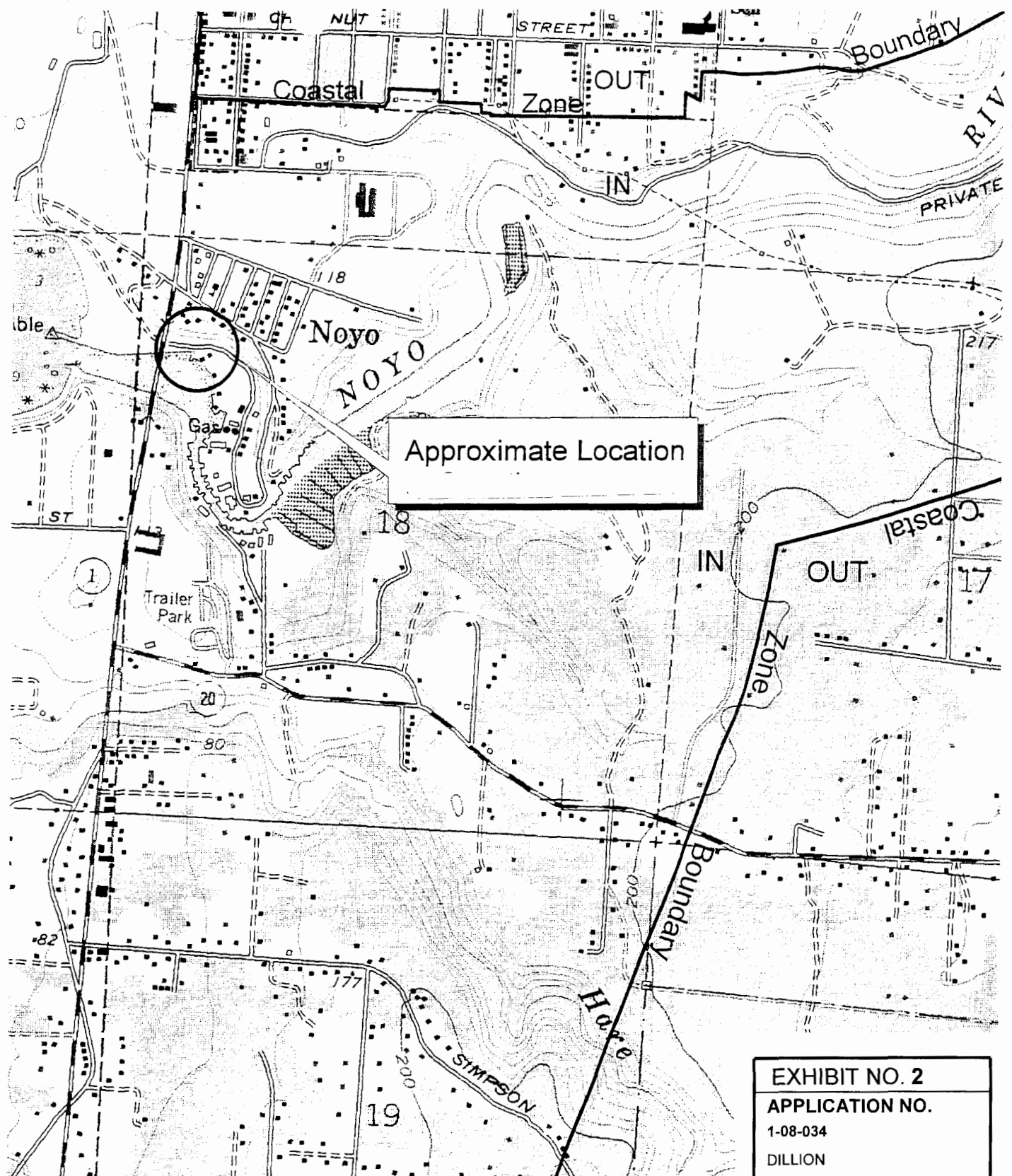


EXHIBIT NO. 1
APPLICATION NO.
1-08-034
DILLION
REGIONAL LOCATION MAP

LOCATION MAP



County of Mendocino



BD No. 34-2003
 APN 018-130-31
 Mendocino County

Portion of Coastal Zone
 Boundary Map No. 31
 (Fort Bragg Quadrangle)

EXHIBIT NO. 2
APPLICATION NO.
1-08-034
DILLION
PROJECT VICINITY MAP

CALIFORNIA
COASTAL
 COMMISSION

Technical Services Division





23

1-000
76-004

SUBJECT PARCEL

(Formerly State Hwy 1)

1-002 1-000

North Meeker Drive
159.56'

54
CL. DEER CIL

North Meeker Drive
32.00'

North Meeker Drive
32.00'

North Meeker Drive
32.00'

North Meeker Drive
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*Overlooking the
Palmer*

Noyo River

76-004

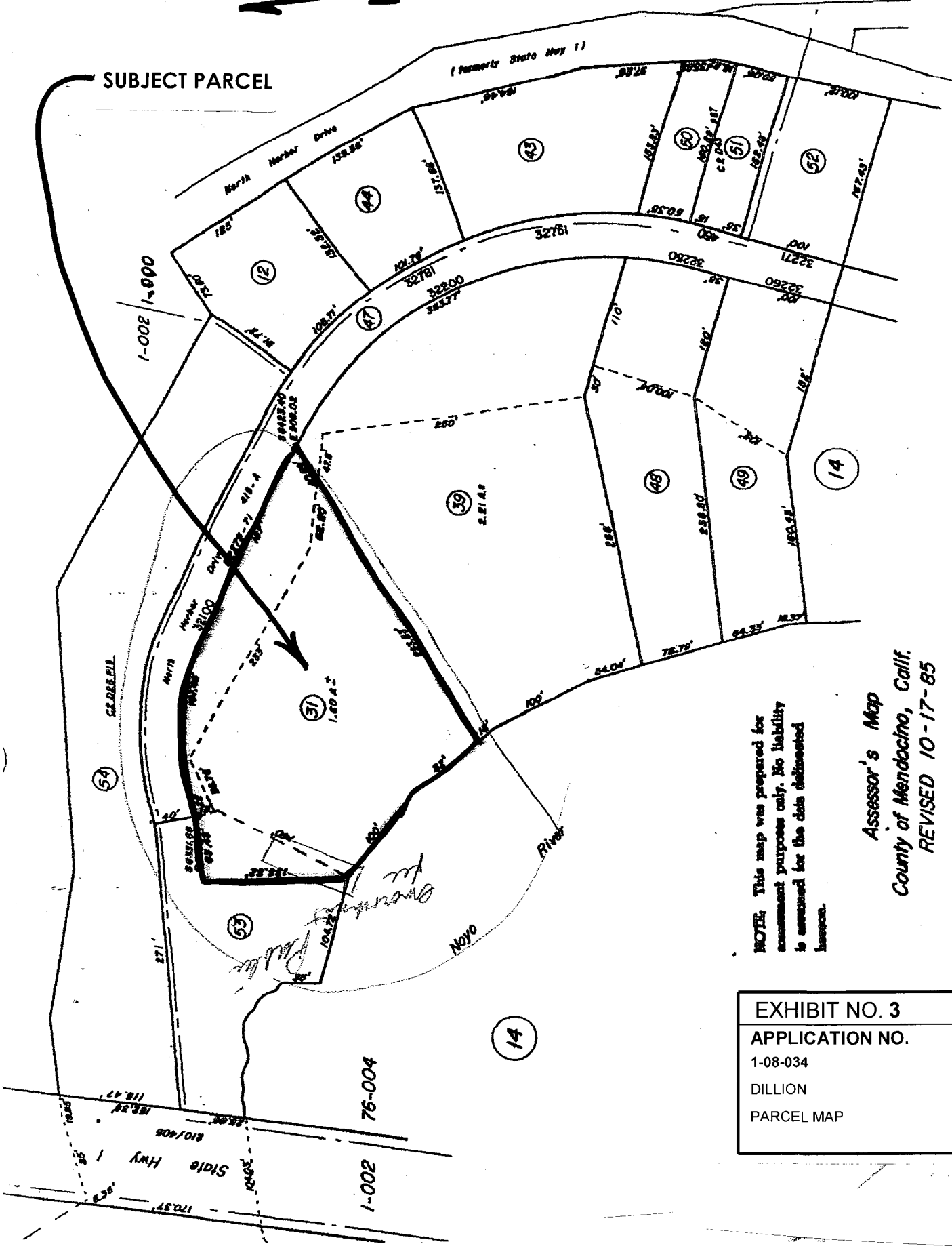
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NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.

Assessor's Map
County of Mendocino, Calif.
REVISED 10-17-85

EXHIBIT NO. 3
APPLICATION NO.
1-08-034
DILLION
PARCEL MAP



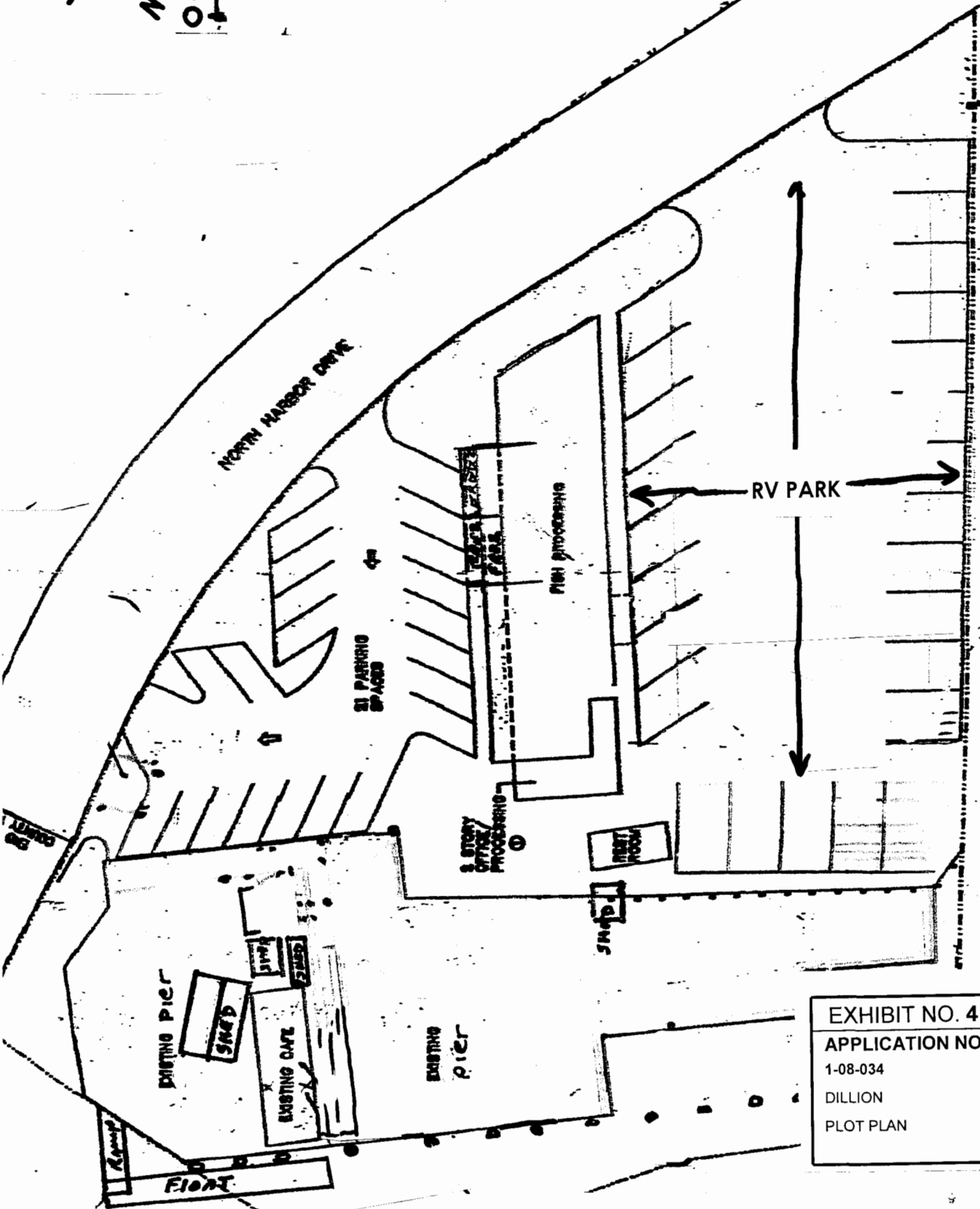
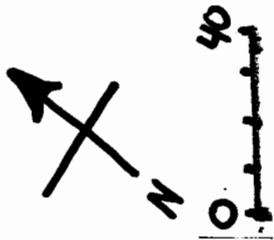


EXHIBIT NO. 4
APPLICATION NO.
1-08-034
DILLION
PLOT PLAN

Sportsman's Trailer Park

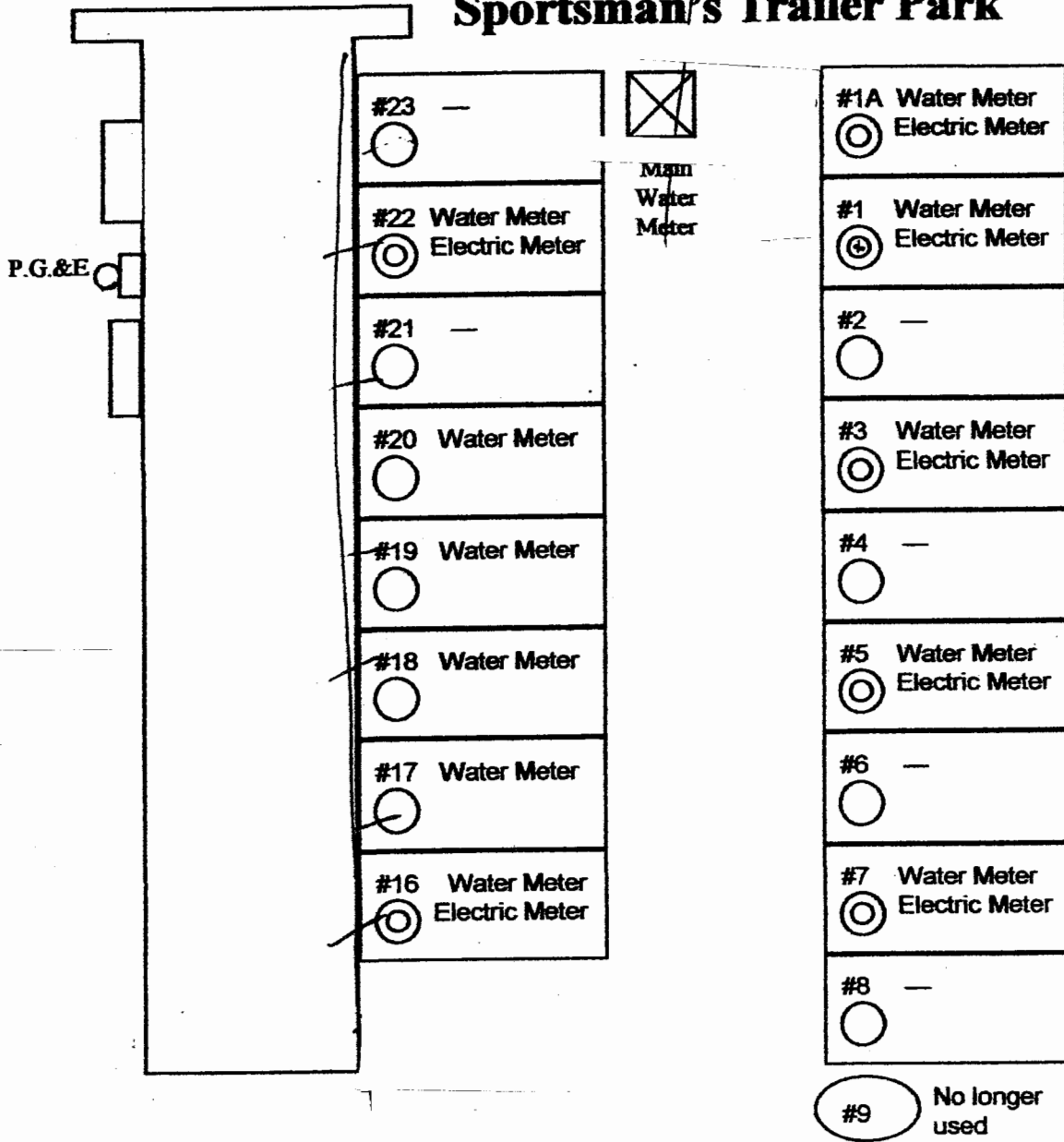
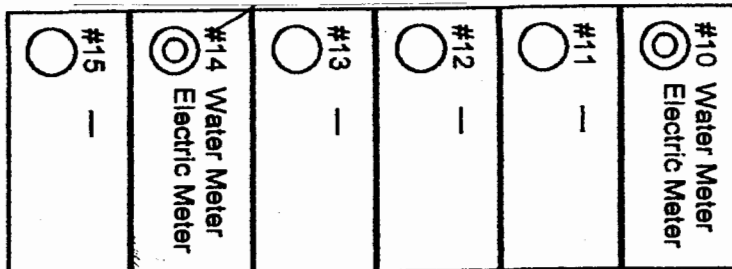
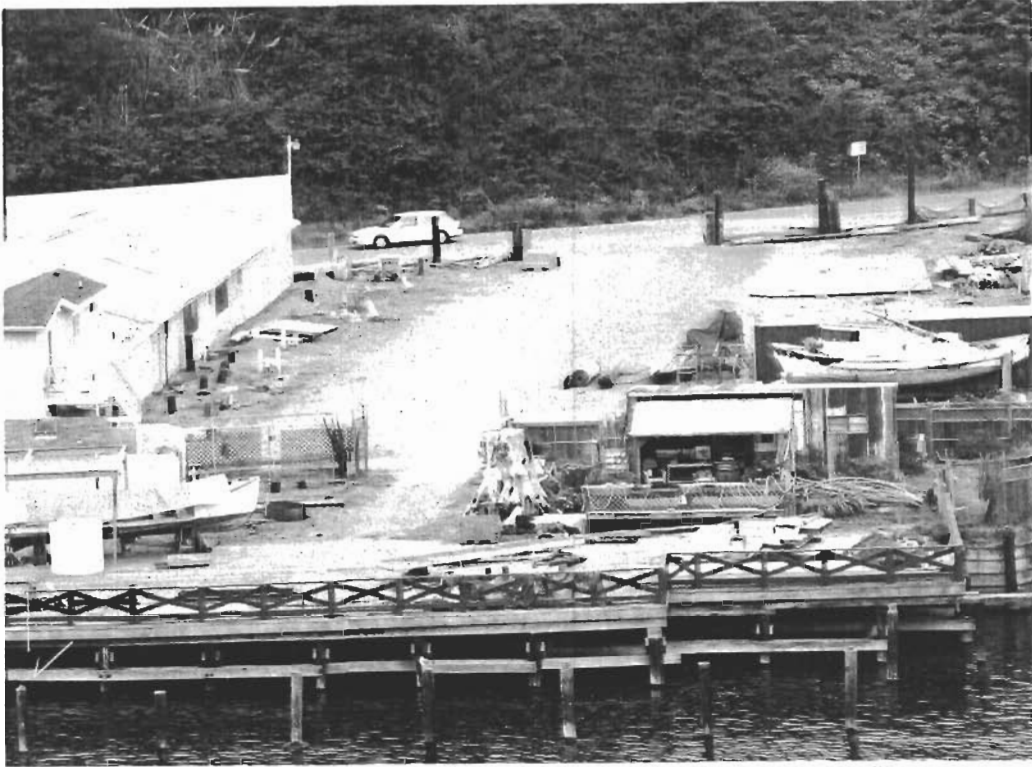


EXHIBIT NO. 5
 APPLICATION NO.
 1-08-034
 DILLION
 SCHEMATIC SITE PLAN OF
 RV PARK



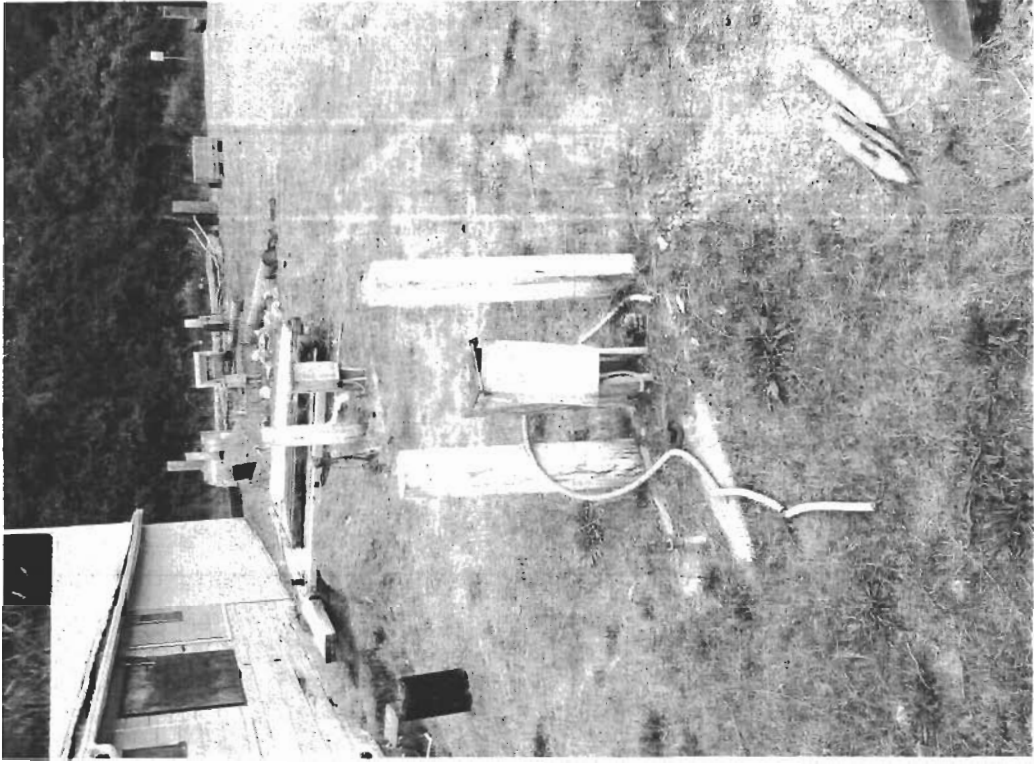


View of SPORTSMAN'S RV PARK
from Noyo BRIDGE

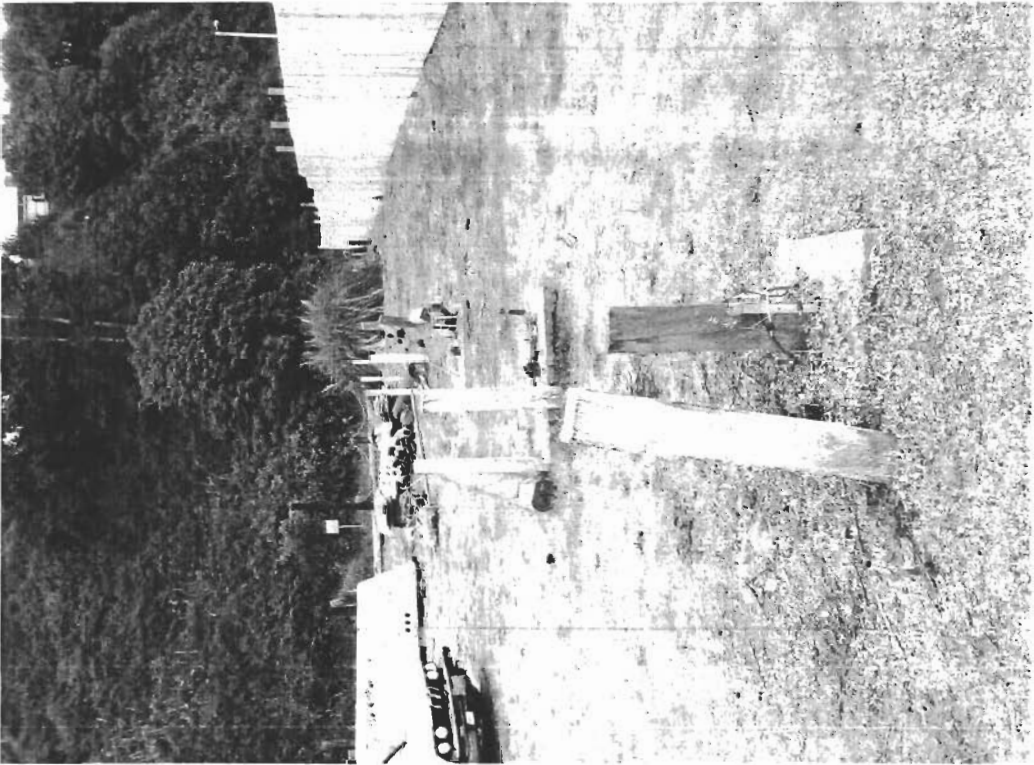


View of Dillion Trust property
Noyo

EXHIBIT NO. 6
APPLICATION NO.
1-08-034
DILLION
PHOTOS OF SITE (1 of 3)

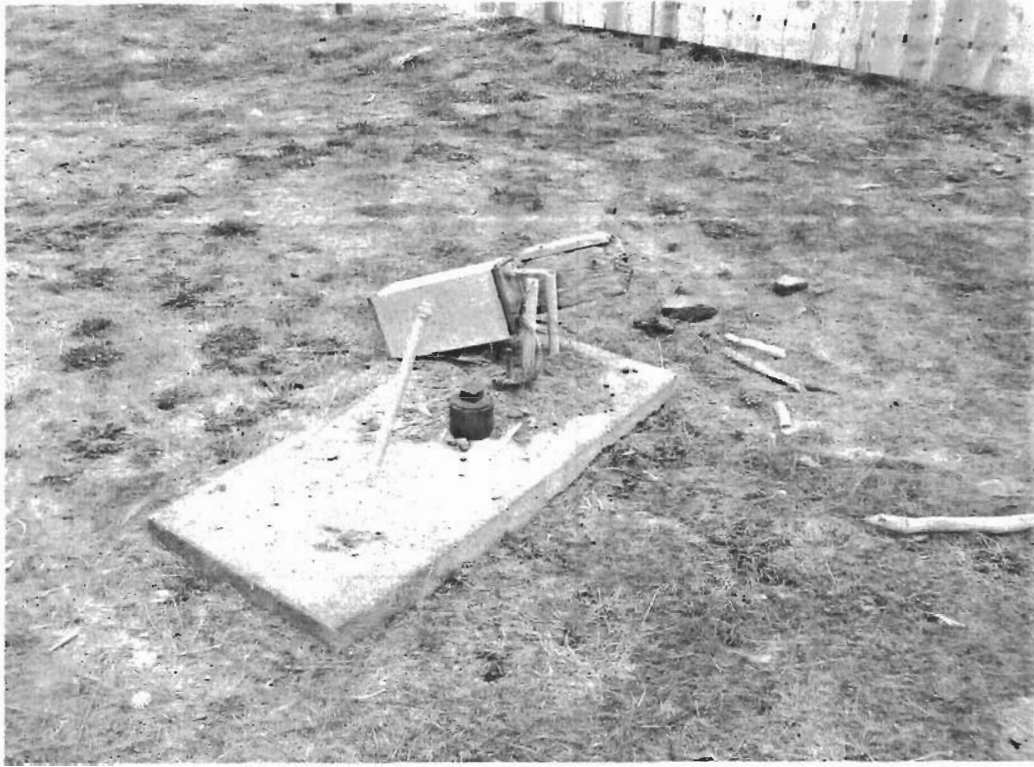


RV SPACES- NORTH SIDE



RV SPACES - SOUTH SIDE

203



View of Pedestals that need
to be replaced.



3 of 3