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STAFF REPORT: REGULAR CALENDAR

Application No:	1-16-0238
Applicant:	Humboldt County Dept. of Public Works
Location:	Mad River Beach County Park, approx. 4 miles northwest of Arcata, Humboldt County (APNs 506-341-01 & -15).
Project Description:	Disallow public parking available at Mad River Beach County Park from one hour after sunset to sunrise daily and install associated gates and signage.
Staff Recommendation:	Approval with Conditions (page 4)

SUMMARY OF STAFF RECOMMENDATION

The County of Humboldt Department of Public Works (DPW) proposes to disallow parking in the two public parking areas at Mad River Beach County Park ([Exhibits 1-3](#)). The two existing public parking areas, one adjacent to the Mad River and one adjacent to the beach and dunes, have a combined parking capacity of over 100 vehicles, including capacity for boat and horse trailers in the river parking lot. Though parking has been prohibited from 12:00 a.m. (midnight) to 5:00 a.m. daily since 2003, that change in the intensity of access to the beach and the water never received the requisite CDP. The County DPW now proposes to disallow parking daily from one hour after sunset to sunrise. Effectively, vehicles would not be able to park at the County Park during nighttime hours beginning at approximately 6:00 p.m. PST to 10:00 p.m. PDT (depending on season) until approximately 5:45 a.m. PDT to 7:30 a.m. PST (depending on season). The County DPW also proposes to install manually operated barrier gates, boulders, signage, and speed tables on the park access road as shown in [Exhibit 3](#) to control vehicular access to the parking lots during the proposed closure hours and to inform park visitors of park

rules and hours of available parking use (the closing time would be displayed on a park sign that can be adjusted).

The impetus for this CDP application request is public safety concerns arising from criminal incidents that largely occur during the nighttime hours at Mad River Beach County Park. The County Sheriff's Department documented over 400 "incidents" at the subject park from 2011 through 2016, with approximately 40% of the incidents occurring during nighttime hours (i.e., during the hours of proposed parking lot closure under this CDP application). Documented incidents commonly involve parties with heavy alcohol consumption; littering of glass bottles, often broken, on the beach; discharging of (often illegal) fireworks; shooting of firearms; unauthorized camping; dumping of garbage; large bonfires that include the burning of pallets and other wood products containing nails, which are left behind as litter on the beach; burning of garbage; burglary; assault; bathroom vandalism; and reckless driving.

Commission staff believes that the County DPW has provided sufficient documentation of public safety concerns in the area to substantiate their proposal to close the parking lots to vehicles commencing one hour after sunset. Further, the County DPW has proposed limiting the access restrictions to vehicles only, and the restrictions would not restrict the public's ability to access the beach and river areas at all hours of the day and night (though no camping is allowed), nor would the new restrictions apply to commercial fishermen or persons with disabilities who hold special permits for vehicular access to the waveslope. Also, additional public beach areas with sandy beaches similar to the subject park that would continue to be available for nighttime access are located approximately 6 miles west of Arcata (Manila), 9 miles north of Arcata (Clam Beach), and along Humboldt Bay (8 miles to the south of the subject park) and the Mad River (4 miles to the east of the park). Commission staff therefore agrees that closing the parking lots to vehicles beginning one hour after sunset (which varies seasonally from approximately 6:00 p.m. PST to 10:00 p.m. PDT) would protect public access consistent with public safety needs as required by the Coastal Act.

However, Commission staff does not believe that the proposed daily opening hour at sunrise would protect public access consistent with the access requirements of the Coastal Act. According to County DPW, the proposed opening hour at sunrise (which at the subject latitude varies seasonally between approximately 5:45 a.m. PDT and 7:30 a.m. PST) has been proposed only as an operational convenience. The majority of past Commission actions on parking lot restrictions in the North Coast District ([Appendix B](#)) have required an opening hour no later than one hour before sunrise. Furthermore, based on review of the crime report provided by the County, out of the 418 documented criminal incidents for the park from 2011 through 2016, less than 2% of incidents occurred during the 4:45 a.m. to 6:30 a.m. time period (which is the time that roughly coincides with one hour before sunrise, depending on season). Therefore, staff recommends [Special Condition 1](#) to require that the subject parking lots be reopened each day at least one hour before sunrise. In addition, staff recommends [Special Condition 2](#) to ensure that the few parking spaces available along the latter end of Mad River Road near the park entrance remain available for public use at all hours. If conditioned as recommended, staff believes that the project time-specific closure of the parking lots, as conditioned, is limited to the minimum restriction necessary to protect public access consistent with public safety needs as required by the public access and recreation policies of the Coastal Act.

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APPENDICES

[Appendix A – Substantive File Documents](#)

[Appendix B – Partial list of Commission actions regarding access restrictions](#)

EXHIBITS

[Exhibit 1 – Regional Location Map](#)

[Exhibit 2 – Vicinity Map](#)

[Exhibit 3 – Proposed plans](#)

[Exhibit 4 – Proposed resolution adopting new parking restrictions](#)

[Exhibit 5 – Resolution 16-28 to be rescinded](#)

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

*I move that the Commission **approve** Coastal Development Permit 1-16-0238 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. 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:

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

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 3. 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.
- 4. 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Hours of Gate Closure and Submittal of Final Plans.** PRIOR TO INSTALLATION OF THE AUTHORIZED DEVELOPMENT (new signs, gates, boulders, etc.), the Applicant shall submit final plans for vehicular access restrictions to the Executive Director for review and written approval. Said plans shall be in substantial conformance with the plans [attached as Exhibit 3 to this staff report](#) and the draft resolution dated May 12, 2017 ([Exhibit 4](#)), but shall be revised as follows and shall include the following:
 - A. A revised resolution adopted by the Humboldt County Board of Supervisors that supersedes and replaces Resolution 16-28 (which imposed a sunset to sunrise closure of all lands of Mad River Beach County Park, [Exhibit 5](#)) and that establishes that (i) any access restrictions at Mad River Beach County Park shall be no more restrictive than one hour after sunset to one hour before sunrise daily and shall only apply to vehicular access; and (ii) special accommodations shall be provided for commercial fisherman with vehicular waveslope access permits from the County to retain such vehicular access to the waveslope during daily gate closure periods;
 - B. Final signage plans for the project that substantially conform with the plans submitted with the CDP application in terms of size, design, and location of new signage, except the signage plans shall be revised to display the revised restricted access hours per subsection (A) above; and
 - C. Final barrier (gates and boulders) plans that substantially conform with the plans submitted with the CDP application and which demonstrate (i) gate style and design shall be similar to similar existing gates in the area (e.g., metal tubular) and (ii) barrier arrangement shall provide sufficient space for passage through/around barriers by pedestrians and bicyclists.

The permittee shall undertake development in conformance with the approved final plans and in accordance with the approved hours of operation, unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.
2. **Future Permit for Additional Parking Restrictions.** This permit is only for the development described in Coastal Development Permit (CDP) Application No. 1-16-0238. Any additional parking restrictions at Mad River Beach County Park or along the latter end of Mad River Road near the park entrance will require an amendment to CDP No. 1-16-0238. Such a permit amendment application shall be accompanied by written evidence and analysis demonstrating that the amended development will remain consistent with all applicable Chapter 3 policies of the Coastal Act, including, but not limited to, the public access and recreation policies of the Coastal Act.
3. **Archaeological Resources.** If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not re-commence until a qualified cultural resource specialist, in consultation with the Tribal Historic Preservation Officers of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria,

and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not de minimis, and the permittee has thereafter obtained an amendment to CDP 1-16-0238.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION AND BACKGROUND

Humboldt County Department of Public Works (County DPW) proposes to disallow public parking in the two public parking areas at Mad River Beach County Park during nighttime hours ([Exhibits 1-4](#)). The two existing public parking areas, one adjacent to the Mad River and one adjacent to the beach and dunes, have a combined parking capacity of over 100 vehicles, including capacity for boat and horse trailers in the river parking lot. Though currently, and since 2003, parking has been prohibited from 12:00 a.m. (midnight) to 5:00 a.m. daily, the County never obtained the requisite CDP.¹ The County DPW now proposes to disallow daily parking from one hour after sunset to sunrise. Effectively, vehicles would not be able to park at the County Park during nighttime hours beginning at approximately 6:00 p.m. PST to 10:00 p.m. PDT (depending on season) until approximately 5:45 a.m. PDT to 7:30 a.m. PST (depending on season).² The County DPW also proposes to install manually operated barrier gates, boulders, signage, and speed tables on the park access road as shown in Exhibit 3 to control vehicular access to the parking lots during the proposed closure hours and to inform park visitors of park rules and hours of available parking use (the closing time would be displayed on a park sign that can be adjusted).

The current proposal differs from the County DPW's original proposal, which would have imposed a blanket sunset to sunrise daily curfew of all park lands at Mad River Beach County Park, including public access restrictions in parking lots, beaches, dunes, riverine areas, etc. On March 1, 2016, the Humboldt County Board of Supervisors adopted Resolution No. 16-28 ([Exhibit 5](#)), so specifying that Mad River Beach County Park shall be closed to the public from sunset to sunrise daily. After the County DPW contacted Commission staff about applying for a CDP for new signage and gates to implement the new restricted hours of use at the subject park, Commission staff informed the County DPW that the access restrictions set forth in Resolution 16-28 also constitute a form of development as defined in Section 30106 of the Coastal Act that necessitates a CDP. After further discussions with Commission staff, the County DPW agreed to

¹ The closure hours of 12:00 a.m. to 5:00 a.m. are typical for County park facilities, intended to discourage overnight camping in the parking areas. The County instituted the current park hours in 2003, though neither the County nor the Commission issued the required CDP for the change in access to the beach and water at that time.

² At the subject site, sunset times range from 4:51 p.m. Pacific Standard Time (on winter solstice) to 8:51 p.m. Pacific Daylight Time (on summer solstice), and sunrise times range from 5:45 a.m. PDT (on summer solstice) to 7:37 a.m. PST (on winter solstice).

evaluate alternatives and modify its proposal to reduce public access impacts while still imposing limitations on vehicular access to parking lots during nighttime hours to protect public safety and property. County DPW plans to bring a revised resolution forward to its Board for adoption recommending that the previously adopted resolution (Resolution 16-28) be superseded and replaced with a new resolution limiting the park closure only to vehicles from one hour after sunset until sunrise, except that DPW shall take reasonable measures to accommodate exceptions for commercial fishermen, handicapped persons, and senior citizens.³

As currently proposed under this CDP application, there would be no change in the hours of non-motorized access to any of the park lands, including access to beaches, dunes, trails, the river boat launch ramp, and parking lot areas, for pedestrians, bicyclists, and other park visitors accessing the County park lands through non-motorized means.⁴ The County DPW proposes to leave sufficient space between proposed boulders and gates to allow for passage by bicyclists and pedestrians. Additionally, there would be no change in beach vehicular access available for park users with permits from the County DPW for vehicular access to the wave slope, including commercial fishermen, seniors, and persons with disabilities. Such users would continue to be able to access parking lots at all hours daily as currently allowed.

The impetus for this CDP application request is to protect public safety during the nighttime hours at Mad River Beach County Park. The County Sheriff's Department documented over 400 "incidents" at the subject park from 2011 through 2016 (e.g., disturbance, vandalism, robbery, shots heard, brandishing a weapon, etc.), with approximately 40% of the incidents occurring during nighttime hours (i.e., during the hours of proposed parking lot closure under this CDP application).

B. ENVIRONMENTAL SETTING

Mad River Beach County Park is one of seven coastal parks owned and managed by Humboldt County that provides public beach access. The park is approximately 100 acres in size and located on a small peninsula of land between the Mad River to the east and the Pacific Ocean to the west. The parklands include long stretches of sandy beaches that extend for several miles in both directions (northward and southward), extensive semi-stabilized (with European beach grass) sand dunes, and riparian and riverine areas accessible for public recreational use. Popular recreational uses of Mad River Beach County Park include beachcombing, sunbathing, picnicking, hiking, jogging, dog-walking, horseback riding, surfperch fishing, swimming, small bonfires, and river boating and fishing access.

The park is bordered by additional beach and dune areas to the north and rural agricultural grazing lands to the south and east. The community of "Tyee City," a small unincorporated residential neighborhood consisting of approximately 10 single-family homes, is located less than one-half mile south of the County park along Mad River Road in the river floodplain.

³ The existing LCP allows limited to ingress and egress to the waveslope for licensed commercial beach fishermen, emergency search and rescue, seniors, handicapped, and others by special permit.

⁴ An existing bicycle rack is located near the beach parking lot. No changes or improvements to the park's bicycle amenities are proposed.

The sole vehicular access route to Mad River Beach County Park is via Mad River Road, a narrow, two-lane (or narrower), paved County road that extends for approximately 3.5 miles from Arcata through the agricultural bottomlands northwest of the city. The road lacks shoulders along much of its length, and as such, there is limited capacity for roadside parking off the public roadway. Outside of Mad River Beach County Park, the next closest public parking area is one-half mile to the south, adjacent to the Hammond Trail bridge over the Mad River (the Hammond Trail is a designated segment of the California Coastal Trail).

Existing park rules, which are posted at the beach parking lot, prohibit camping, overnight parking, fireworks, beach fires larger than 30-inches in diameter, and the burning of pallets. Prior to 2003, park rules did not specify hours of use. The current park hours, instituted by the County in 2003 without the benefit of a CDP, are 5:00 a.m. to midnight daily. The closure hours of midnight to 5:00 a.m. daily are typical for County park facilities, intended to discourage overnight camping in the parking areas.

C. STANDARD OF REVIEW

The property is bisected by the boundary between the retained CDP jurisdiction of the Commission and the CDP jurisdiction delegated to Humboldt County by the Commission through the County's LCP. The portions of the property within the Commission's retained jurisdiction include the boat ramp parking area and a small portion of the beach parking area adjacent to the riparian habitat. The remainder of the project area, including the majority of the beach parking area and the public roadway adjacent to the parking areas, is within the CDP jurisdiction of Humboldt County.

Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application when requested by the local government and the applicant and approved by the Executive Director for projects that would otherwise require coastal development permits from both the Commission and from a local government with a certified LCP. In this case, the Humboldt County Board of Supervisors adopted a resolution, and both the Applicants and the County submitted letters requesting consolidated processing of the CDP application by the Commission for the subject project, which was approved by the Executive Director. The policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3. The local government's certified LCP may be used as guidance.

D. OTHER AGENCY APPROVALS

This project requires no other agency approvals.

E. PUBLIC ACCESS AND RECREATION

Coastal Act Sections 30210 through 30214, 30221, and 30223 specifically protect public access and recreation as follows (in applicable part, emphasis added):

Section 30210: *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.

Section 30211: 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 (a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214(a): The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics;
- (2) The capacity of the site to sustain use and at what level of intensity;
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses; and
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter...

Section 30220: Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222: 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.

Section 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Mad River Beach County Park is a rural park, separated from the populated residential and commercial centers of Arcata (population approximately 17,000) and McKinleyville (population approximately 15,000) by open grazing lands and/or by the Mad River. As previously discussed, popular recreational uses of this park include beachcombing, sunbathing, picnicking, hiking, jogging, dog-walking, horseback riding, surfperch fishing, swimming, small bonfires, and river boating and fishing access. While located outside of urban limits, the park is especially popular among local and regional high school students and young adults due to its proximity to Arcata and McKinleyville (less than five driving miles), its vehicular access via rural backroads rather than driving on a state highway or major thoroughfare, and its allowance of beach bonfires (fires smaller than 30-inches in diameter are allowed). Park users also include visitors from outside of the region.⁵ The beach park is one of the more accessible beaches for bicyclists due to the paved trails and rural roads with little traffic that provide access to the site. A bike ride to the County beach park from the northwestern end of Arcata is less than 4 miles distance over flat, lightly-traveled roads that wind through scenic pasturelands, and the bike route from the western side of McKinleyville can be accommodated, for the majority of the route, by the Hammond Trail, a segment of the California Coastal Trail that runs the length of the community and bridges the Mad River about a half mile southeast of Mad River Beach County Park.

As summarized in the cited policies above, public access and recreation are among the Coastal Act's highest priorities. Limiting such uses must be very carefully considered, including for public safety needs. For example, in the City of Coronado, the Commission approved a beach curfew for a portion of beach where fire rings were located. The City had requested a much broader curfew area, but the Commission authorized the more limited area, as that was the area where public safety issues had been demonstrated, and allowed for removal of some fire rings from a particularly problematic area.⁶ The restriction was also only allowed to be in place for a pilot period, after which time the need for the ongoing access restriction would be reviewed. Another example from the City of Coronado occurred when the City approved the imposition of a beach curfew at a particular beach with restricted hours of access between 9 p.m. and 6 a.m. The City's permit was appealed to the Commission, which, in its de novo action on the permit, found that a curfew at the subject site was appropriate to help curtail criminal problems and to protect the privacy of adjacent property owners. However, the Commission approved a more limited curfew (11 p.m. to 5 a.m.), finding that the hours of closure approved by the City would prevent people from using the public park during the early nighttime hours, would severely diminish the quality and functionality of the facility, and would interfere with the public's right of access to the shoreline.⁷ As summarized in [Appendix B](#), where it has allowed beach accessways to be closed, the Commission generally has limited closures to a period beginning in the late evening (e.g. 10 p.m. to 12 a.m.) and ending in the early morning (e.g. 4 a.m., 5 a.m., or one hour before sunrise). In addition, past actions by the Commission to approve beach curfews and coastal access parking restrictions have been supported by documentation of a significant

⁵ E.g., see https://www.tripadvisor.com/Attraction_Review-g29106-d6833186-Reviews-Mad_River_Beach_County_Park-Arcata_Humboldt_County_California.html.

⁶ Approved on 2/16/94 for two years and again on 4/11/96 for five years; see [CDPs 6-93-160 and 6-96-022](#).

⁷ [Approved on 11/14/06 under CDP No. A-6-COR-06-86](#).

crime problem in the area and have been limited in scope and extent to only what is needed to address the public safety issue. Restricting vehicle entry to the area has often been considered sufficient.

In the case of Mad River Beach County Park, the County DPW has provided a report from the County Sheriff's office documenting 418 incidents at the subject site from January 2011 through October 2016. Documented incidents include, but are not limited to, shooting, disturbance, vandalism, robbery, burglary, brandishing a weapon, and fireworks. Incidents commonly involve parties with heavy alcohol consumption; littering of glass bottles, often broken, on the beach; discharging of (often illegal) fireworks; shooting of firearms; unauthorized camping; dumping of garbage; large bonfires that include the burning of pallets and other wood products containing nails, which are left behind as litter on the beach; burning of garbage; burglary; assault; bathroom vandalism; and reckless driving. In addition to the Sheriff's report, the CDP application included a copy of a letter to the County from a resident of the area written "on behalf of the entire community of Tyee City and the surrounding Ranchers and neighbors" (signed by 22 residents of the area) describing "the continuous, worsening, and ongoing problems that a gate at the corner before the Boat Ramp could minimize" including damage to property, car break-ins, destruction of property (e.g., private fences, public signs), illegal camping, removal of vegetation, and other problems. The letter suggests that the County DPW should install a gate to block vehicular access to the park between 11:00 p.m. and 6:00 a.m. to curtail the criminal problems.

Due to the size and terrain of the parklands, County DPW indicates that Mad River Beach County Park is difficult, and potentially unsafe, for law enforcement and County Parks staff to patrol at night. Although County Parks staff has improved park signage to provide more specific information on allowable and non-allowable activities, the County DPW also indicates that park rules continue to be routinely violated with illegal incidents of dumping, overnight camping, large bonfires that include pallets with nails, discharging of fireworks and firearms, etc. In addition, according to the DPW, County Parks staff has increased the frequency of its patrols, including more early-morning patrols, and the Sheriff's office has continued to respond to reported incidents. Nevertheless, the level of patrol resources that the County is able to devote to the subject site (both from the Parks Department and the Sheriff's office) is insufficient to significantly reduce the criminal activity that occurs in the area due to increased crime and the competing patrol needs throughout the County (the second largest coastal county in the state).

On average, approximately 40% of the incidents documented by law enforcement occurred during nighttime hours, during the timeframe that vehicular access is proposed to be restricted under this CDP application. Although there were a higher number of incidents documented during summer months, criminal incidents occurred with steady regularity throughout all seasons. The County DPW believes that among other issues, such persistent criminal problems at the park diminish public safety and the quality of recreational experiences at the site, and damage coastal resources. County DPW believes that restrictions on nighttime vehicle use will deter perpetrators from bringing garbage, pallets, guns, fireworks, coolers, and camping supplies into secluded areas of the park and will reduce criminal incidents. There would be no change in the hours of non-motorized access to any of the park lands, including access to beaches, dunes, trails, the river boat launch ramp, and parking lot areas, for pedestrians, bicyclists, and other park

visitors accessing the County Park lands through non-motorized means. County DPW proposes to leave sufficient space between proposed boulders and gates to allow for passage by bicyclists and pedestrians. Additionally, there would be no change in beach vehicular access available for park users with permits from the County DPW for vehicular access to the wave slope, including commercial fishermen, seniors, and persons with disabilities. Such users would continue to be able to access parking lots for beach and river access at daily hours currently allowed (all hours except from midnight to 5:00 a.m.).

County DPW believes that the severe problems at the subject park likely are associated with several unique factors, including (1) proximity to Humboldt State University and two urban centers with relatively large populations of teenagers and young adults; (2) location of the park at the end of a low-traffic rural road, with no formal park entrance; (3) seclusion of the park's use areas, which are beyond direct observation from a public road, parking area, or residential area; (4) the difficulty of easily patrolling the site by law enforcement due to the size and terrain of the park; and (5) the park's reputation as a "party spot" due to historical use patterns. County DPW has also provided a comparison of the subject site to other County coastal parks. For example, Table Bluff and Crab County Parks benefit from increased patrol presence in the area by wardens from the California Department of Fish and Wildlife, which owns and manages land adjacent to the parks. Centerville and Moonstone County Parks have greater visibility from residential areas and from more highly travelled roadways, which is a key factor in limiting the extent nuisance and criminal activity. Clam Beach and Big Lagoon County Parks include on-site campground hosts during nighttime hours, which may be a factor in reducing the frequency and severity of criminal incidents.

As previously stated, the park closure applies only to vehicles, while people accessing the park through non-motorized means will maintain the ability to access all of the park lands at any time. Also, as explained above, the park is one of the more accessible beaches for bicyclists due to proximity to Arcata and McKinleyville coupled with relatively safe, low-exertion riding routes. Furthermore, while parking along Mad River Road near the park is extremely limited due to the narrowness of the road and lack of shoulders, there is some space off the paved roadway in a grassy area adjacent to the river near the park entrance where unrestricted parking for two to four vehicles is available. This parking will be unaffected by the proposed project and could be used by a limited number of park visitors accessing park lands during the proposed closure hours, while the gates are locked. The next closest public parking area, with room for approximately five vehicles, is available at the Hammond Trail bridge a half mile southeast of Mad River Beach County Park (though parking at this location is signed for No Parking from 10:00 p.m. to 5:00 a.m. daily). Additional public beach areas with sandy beaches similar to Mad River Beach County Park that would continue to be available for nighttime access are located approximately 6 miles west of Arcata (Manila), 9 miles north of Arcata (Clam Beach), and along Humboldt Bay (8 miles to the south of the subject park) and the Mad River (4 miles to the east of the park). Therefore, for all of these reasons, the Commission finds that the parking lot restrictions beginning at the proposed daily closure time of one hour after sunset are consistent with the public access and recreation policies of the Coastal Act cited above. The proposed closure time (one hour after sunset) also is consistent with the majority of past Commission actions on parking lot closures in the North Coast District ([Appendix B](#)).

Although the Commission finds the proposed parking lot closure time at the end of each day consistent with the access and recreation policies of the Coastal Act, it does not so find the proposed daily opening hour at sunrise, which, at the subject latitude, varies seasonally between approximately 5:45 a.m. PDT and 7:30 a.m. PST. According to County DPW, the proposed opening time has been proposed as such only as an operational convenience. The Commission does not find this to be a sufficient reason for denying the public access to the beach and river parking facilities for an additional hour per day, particularly as sport fisherman often prefer the early morning (pre-dawn) hours (as proposed, the vehicular access restrictions will not apply to commercial fishermen with permits from the County for vehicular access to the waveslope). Furthermore, based on review of the crime report provided by the County, out of the 418 documented criminal incidents for the park from 2011 through 2016, less than 2% of incidents occurred during the 4:45 a.m. to 6:30 a.m. time period (which is the time that roughly coincides with one hour before sunrise, depending on season). Moreover, extending the gate opening time to one hour before sunrise is consistent with most past Commission actions on parking restrictions in the North Coast District ([Appendix B](#)). Therefore, the Commission has modified the County's request through **Special Condition 1**, which requires that the parking lots be reopened at least one hour before sunrise rather than at sunrise. The condition also requires submittal of final plans for the barriers (gates and boulders) demonstrating that barrier arrangement shall provide sufficient space for passage through/around barriers by pedestrians and bicyclists. As conditioned to reduce the parking curfew's hours of effectiveness, the development will ensure that recreational opportunities will continue to be maximized for the public consistent with public safety needs, and will preserve existing public recreational facilities for public use as required by the public access and recreation policies of the Coastal Act.

In addition, to ensure that the few parking spaces available along the latter end of Mad River Road near the park entrance remain available for public use at all hours as currently allowed, the Commission attaches **Special Condition 2**. This condition requires that any additional parking restrictions at Mad River Beach County Park or along the latter end of Mad River Road near the park will require an amendment to CDP 1-16-0238. Such a permit amendment application shall be accompanied by written evidence and analysis demonstrating that the amended development will remain consistent with all applicable Chapter 3 policies of the Coastal Act, including but not limited to the public access and recreation policies of the Coastal Act.

Finally, the Commission finds that in this particular case, County DPW's proposal to restrict vehicular parking on a permanent rather than temporary basis is consistent with the public access and recreation policies of the Coastal Act cited above, because the restriction, as conditioned, is limited to the minimum restriction needed to protect public access consistent with public safety and the access and recreation policies of the Coastal Act. The County has limited the access restrictions to vehicles only, and the restrictions do not restrict the public's ability to access the beach and river areas at all hours of the day and night, nor do they apply to vehicular access to the waveslope by commercial fishermen. Further, the majority of the park lands, including areas where criminal activity occurs, are beyond direct observation from a public road, parking area, or residential area. Due to the large size (over 100 acres) and complex terrain of the parklands (i.e., steep dunes and in some cases densely vegetated and wet terrain, e.g., along the river), Mad River Beach County Park is difficult and unsafe for law enforcement and County Parks staff to patrol at night on foot. These conditions relating to park size and terrain, the park's location at

the end of a dead-end rural road, and the seclusion of park use areas from public roads and parking lots will not change over time. Also, given the site's location in a rural remote area surrounded by agriculture and open space, in contrast to urban settings with greater development pressures, the site is not likely to experience increased public access demand at night, or be as likely to experience changing use and crime rates.

In summary, the County DPW has demonstrated a significant public concern that would be addressed through the proposed hours of operation. Thus, the Commission finds it appropriate, in this particular case, to place some limits on the hours of operation of parking lots at this public beach. **Special Condition 1** formalizes the one-hour-after-sunset closing time and also requires that the vehicular access not extend past one-hour-before-sunrise for daily opening time. **Special Condition 2** protects the existing public parking available near the end of Mad River Road near the park entrance. As conditioned to minimize the hours of restricted vehicular access to the parking lots, the Commission finds the development consistent with the Coastal Act access and recreation policies cited above.

F. VISUAL RESOURCES

Section 30251 of the Coastal Act provides in applicable part that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be (a) sited and designed to protect views to and along the ocean and scenic coastal areas, and (b) visually compatible with the character of surrounding areas.

The proposed new signage and gates will be visible from public vantage points, including County park lands and a public road. The character of the area is open, natural, and pastoral, without significant lighting or visually prominent signage or gates. The preliminary plans for the proposed gates and signage depict gates and signage similar to existing gates and signage in the area. The new structures, as proposed to be sited, will not block public views to the ocean. As discussed above, **Special Condition 1** requires submittal of final signage and barrier plans for the project that substantially conform with the plans submitted in the CDP application in terms of size, design, and location. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with the visual resource policies of Section 30251 of the Coastal Act, as the project is compatible with the visual character of the surrounding area and will protect views to and along the coast.

G. ARCHAEOLOGICAL RESOURCES

Section 30244 of the Coastal Act states:

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

The project area lies within the traditional territory of the Wiyot tribe. At the time that Euro-Americans first made contact in this region, the Wiyot lived almost exclusively in villages along the protected shores of Humboldt Bay and near the mouths of the Eel and Mad Rivers. Today,

representatives of the Wiyot Tribe are the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria.

Commission staff referred the CDP application to the three Wiyot area Tribal Heritage Preservation Officers (THPOs) for comment. Due to ground disturbance associated with the proposed gate and sign post installation, all three THPOs recommended that a condition be included on the CDP to ensure protection of any cultural resources that may be inadvertently discovered at the site during construction. **Special Condition 3** requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist, in conjunction with the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria THPOs, must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the permittee is required to submit a supplementary archaeological plan for the review and approval of the Executive Director, who determines whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required. Therefore, the Commission finds that the development, as conditioned, is consistent with Coastal Act Section 30244.

H. VIOLATION

Violations of the Coastal Act exist on the subject property including, a daily prohibition on nighttime parking (midnight to 5:00 a.m. to discourage overnight camping) that has been in effect since 2003. Issuance of the CDP and compliance with all of the terms and conditions of this permit will result in resolution of the aforementioned violations of the Coastal Act on the subject property.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit. In fact, approval of this permit is possible only because of the conditions included herein and failure to comply with these conditions would also constitute a violation of this permit and of the Coastal Act. Accordingly, the Applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied.

Failure to comply with the terms and conditions of this permit may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act. Only as conditioned is the proposed development consistent with the Coastal Act.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13906 of the Commission's administrative regulations requires Coastal 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 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 significantly lessen any significant effect that the activity may have on the environment.

The Coastal Commission's review and analysis of CDP applications has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. As a responsible agency, the Commission conducted its analysis of the potential impacts of the proposed development that the Commission is authorized by the Coastal Act to review. The Commission has reviewed the relevant coastal resource issues associated with the proposed project and has identified appropriate and necessary conditions to assure protection of coastal resources consistent with the requirements of the Coastal Act. The staff report discusses the relevant coastal resource issues with the proposed development. All public comments received to date have been addressed in the staff report, including staff's oral presentation and the findings adopted by the Commission. The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As conditioned, there are no additional feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse environmental effect that approval of the proposed project, as modified, would have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the Coastal Act and CEQA Section 21080.5(d)(2)(A).

APPENDIX A
SUBSTANTIVE FILE DOCUMENTS

Application File for Coastal Development Permit No. 1-16-0238.

Commission File Nos./Adopted Findings for ND-113-94; CD-052-02; CD-069-06; CD-066-06; 3-11-027-A1; A-3-SCO-95-001; A-5-DPT-10-082; A-6-COR-06-86; 6-93-160; 6-96-022; 6-02-90; 6-91-146; 6-91-146-A1; 6-91-146-A2; 6-89-359; 6-88-545; 6-88-366; 6-85-404; and 6-88-374

Websites:

- Mad River Fishing Reports:
<http://www.northcoastweb.com/fishing/Rivers/MAD/index.htm?CFID=623413&CFTOKEN=16300828>
- Beaches & Dunes brochure:
<http://www.redwoods.info/media/4154Mfriendsofthedunesmap2010.pdf>

Humboldt County certified Local Coastal Program.

APPENDIX B**PARTIAL SUMMARY OF COMMISSION ACTIONS ON ACCESS RESTRICTIONS**

Jurisdiction	Commission File No.	Description of Access Restrictions	Commission action (via hyperlinked text where available)
North Coast District			
BLM (Samoa Dunes Rec. Area) Humboldt Co.	ND-113-94	Vehicle barrier gates to restrict vehicular access from ½-hour after sunset to 1 hour before sunrise	Approved 1/10/95 and justified as necessary to reduce significant criminal activity (including drug-related incidents and illegal residential uses) and to protect fragile coastal resources and public safety
BLM (South Spit Mgmt. Plan) Humboldt Co.	CD-052-02	Vehicle barrier gates to restrict vehicular access from 1 hour after sunset to 1 hour before sunrise	Approved 10/9/02 and justified as necessary to reduce significant criminal activity (including murders, drug-related incidents, and illegal residential uses) and to protect public health and safety, natural resources, and cultural resources. Hours extended during waterfowl hunting season (Oct.-Jan.) and special accommodations for commercial fishing
BLM & FWS (Male'l Dunes) Humboldt Co.	CD-069-06	Vehicle barrier gates to restrict parking access from 1 hour after sunset to 1 hour before sunrise	Approved 11/14/06 and justified as necessary to protect public safety, fragile coastal resources (including intact coastal dunes and endangered species), and cultural resources
BLM (Stornetta Public Lands) Mendocino Co.	CD-066-06	Vehicle barrier gates to restrict access from ½ hour after sunset to ½ hour before sunrise	Approved 9/15/06 and justified due to public safety concerns arising from seacliffs, sinkholes, and blowholes and the need to avoid the alternative of erecting safety fencing along miles of bluffs in ESHA
Other districts (partial list)			
City of Santa Cruz	3-11-027-A1	Beach curfew from 12 a.m. to one hour before sunrise for a period of five years.	Approved 11/14/13 for a 5-year time period. Curfew applied to dry sand areas of Cowell Beach. Justified as necessary to address criminal problems and protect public safety.
County of Santa Cruz	A-3-SCO-95-001	Chain-link gate at bluff-top stairway to restrict pedestrian beach access from 10 p.m.-6 a.m.	Denied 4/13/95 . Gate was proposed to reduce instances of beach parties and criminal problems in the neighborhood, but the Commission found that substantiating evidence of criminal activity was lacking, there

Jurisdiction	Commission File No.	Description of Access Restrictions	Commission action (via hyperlinked text where available)
			was a long pattern of historic public use at this site, and there were no access alternatives in the area.
City of Dana Point	A-5-DPT-10-082	Pedestrian barrier gates erected to restrict beach access from 7 p.m.-8 a.m.; City declared public nuisance (claiming no CDP was needed)	Commission appealed the City's exemption claim and denied the gates. After a 5-yr. legal battle, court ruling resulted in the required removal of the gates and maximum public access restored to the area.
City of Coronado	A-6-COR-06-86	Beach curfew approved by City from 9 p.m.-6 a.m. City's permit was appealed to CCC.	Approved 11/14/06 less restrictive curfew from 11 p.m.-5 a.m. to curtail criminal problems and protect the privacy of adjacent property owners
City of Coronado	6-93-160; 6-96-022	Parking curfew on portion of public roadway (11 p.m.-4 a.m.), beach curfew (11 p.m. to 4 a.m.), and removal of 8 (out of 18) fire rings	Approved 2/16/94 for two years and again on 4/11/96 for five years; justified as necessary to reduce criminal activity and disruptive behavior. Restrictions applied to smallest possible area of beach (~500 feet of beach) and smallest possible parking area (~500 feet of roadway and cul-de-sac), with alternate beach and parking areas remaining available for public use during all hours.
City of San Diego	6-02-090	Vehicle barrier gates ("exit-only" gates) to restrict parking access (729 spaces) from 10 p.m.-4 a.m.	Approved 8/7/02 less restrictive closure hours of 12 a.m.-4 a.m. due to lack of alternative parking in the area, popular nighttime recreational uses of the area, and lack of evidence of crime problem in the area.
City of San Diego	6-91-146; 6-91-146-A1; 6-91-146-A2	Vehicle barrier gates to restrict parking access (1077 spaces) from 10 p.m.-6:30 a.m.	Approved 7/16/91 less restrictive closure hours from 10 p.m.-4 a.m. for two years; justified as needed to reduce criminal activity and disruptive behavior. Permit conditioned in part on the City agreeing not to reduce the hours of certain other beach parking lots. Each amendment approved restrictions for an additional five years.

Jurisdiction	Commission File No.	Description of Access Restrictions	Commission action (via hyperlinked text where available)
City of San Diego	6-89-359	Vehicle barrier gates to restrict access to Fiesta Island from 10 p.m.-4 a.m. on Fri-Sat from Oct. 1-May 31 and from 10 p.m.-4 a.m. daily from June 1-Sept. 30	<u>Approved 2/14/90</u> with no special conditions (administrative permit) with the expectation that a Master Plan for the area would be forthcoming to the Commission for action, which would further address the issue, including justifying the need for the access restrictions
City of San Diego	6-88-545;	Vehicle barrier gates to restrict parking access (414 spaces) from 8 p.m.-5 a.m.	<u>Approved 4/11/89 less restrictive</u> closure from 8 p.m.-4 a.m. (winter) and 10 p.m.-4 a.m. (summer)
City of San Diego	6-88-366	Vehicle barrier gates to restrict vehicular access from portion of Mariners Point from 10 p.m.-4 a.m. nightly from May 1-Oct. 31 and every Fri-Sat, and every Sunday before a holiday from Nov. 1-April 30.	Approved 9/15/88 with no special conditions (administrative permit); justified as necessary to reduce criminal problems (parties) and protect public safety
City of Carlsbad	6-85-404 and 6-88-374	Pedestrian barrier gates (time-locked for entry) to restrict beach access from 10 p.m.-5 a.m.	<u>Approved 10/24/85</u> for one year and again on 10/14/88 with no time limit; justified as necessary to curtail criminal problems and noted that alternative accessways exist nearby.