

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

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Filed: August 18, 1997
 49th Day: October 6, 1997
 180th Day: February 14, 1998
 Staff: Jo Ginsberg
 Staff Report: August 22, 1997
 Commission Hearing: September 11, 1997
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: **1-97-49**

APPLICANT: **RICHARD AND YVETTE SCHNAUBELT**

AGENT: Bud Kamb

PROJECT LOCATION: Along the Noyo River, at 32390 North Harbor Drive, in an unincorporated portion of Fort Bragg, APN 018-140-42.

PROJECT DESCRIPTION: Construct a 2,400-square-foot, 20-foot-high fish processing plant that produces a fish by-product for human consumption, to replace a similar facility destroyed by fire on an adjacent site.

Lot area: 31,900 square feet
 LCP designation: Fishing Village (FV)
 Zoning: FV

LOCAL APPROVALS RECEIVED: Mendocino County LCP Consistency Review; Noyo Harbor District approval.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; Mendocino County Use Permit Application #CDU 27-97.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions the coastal development permit application for the proposed project on the basis that it is consistent with the policies of the Coastal Act.

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STAFF NOTE

Mendocino County has a certified Local Coastal Program, and therefore has coastal permit authority within its coastal zone jurisdiction. However, the proposed project is located within the Commission's area of original jurisdiction, so the project is subject to the Coastal Commission's permit authority, and the Coastal Act is the standard of review.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

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

II. Standard Conditions: See attached.

III. Special Conditions:

1. Final Foundation and Drainage Plans:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering in the Geologic and Soils Investigation for Sea Pal, Inc., dated June 19, 1997, including but not limited to the recommendation that the entire structure be constructed on engineered fill approved by the engineer. The property shall be developed in accordance with the final plans approved by the Executive Director.

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2. Water and Sewer Service.

PRIOR TO OCCUPANCY of the site, the applicant shall submit for review and approval of the Executive Director evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project.

3. Local Approvals:

PRIOR TO CONSTRUCTION, the applicant shall submit for the review and approval of the Executive Director evidence that the Fort Bragg Fire Protection Authority has approved the building plans for the development.

4. Disposal of Construction Debris:

All construction debris shall be removed from the site upon completion of the project. Placement of any surplus material or debris in the coastal zone at a location other than a licensed landfill will require a coastal development permit.

IV. Findings and Declarations.

The Commission finds and declares the following:

1. Project and Site Description:

a. Site Description.

The subject site is a small lot adjacent to the Noyo River within Noyo Harbor in an unincorporated section of Fort Bragg. The site is currently developed with several commercial buildings and facilities that provide fish and seafood processing capabilities for Sea Pal, Inc. (the applicants' company). There is no sensitive habitat on the site.

b. Project History.

The proposed project consists of construction of a one-story, 20-foot-high, 2,400-square-foot fish processing plant that will produce a fish by-product for human consumption. The structure would be connected to the existing water and sewer lines at the site. The site already contains a number of commercial buildings associated with fish processing, such as an ice house and a smokehouse (see Exhibit No. 3). The proposed new structure would be located at the south end of the property, set back from the edge of the river and above the ordinary high water line.

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A similar plant on an adjacent parcel leased by the applicants was recently destroyed by fire. The owner of the adjacent parcel did not wish to rebuild the destroyed structure, so the applicants are applying for a permit to replace the plant with a new facility on a parcel in their ownership.

Mendocino County requires a County use permit for coastal-related industries, but does not require a use permit for coastal-dependent industries. The County has determined that fish processing of products for other than human consumption (such as fertilizer, soil amendments, etc.) is considered a coastal-related industrial use, and requires a use permit in the Fishing Village zoning district. Fish processing when the product is for human consumption is considered a coastal-dependent industrial use and is considered a principal permitted use not subject to a use permit in the Fishing Village zoning district.

In an effort to begin construction as soon as possible, the applicant has applied to the Coastal Commission for a coastal permit for a structure that would produce fish by-products only for human consumption, which would not require a use permit from the County. At the same time, the applicant has applied to the County for a use permit (CDU 27-97) to allow packing and processing of fish by-products for uses other than human consumption at the subject site. At such time as a use permit is obtained, the applicant may apply to the Coastal Commission for an amendment to this coastal permit to allow packing and processing of fish by-products for such other uses, if it is deemed necessary.

c. State Agency Approvals.

The California Regional Water Quality Control Board has indicated no concerns with the proposed project. The State Lands Commission indicates that State Lands has no direct role in reviewing the proposed project, as the land is part of an area that is administered by the Noyo Harbor District pursuant to a legislative grant. (The Noyo Harbor District has approved the project.)

2. Planning and Locating New Development:

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed project will be served by existing Fort Bragg City water and sewer lines, and will provide adequate parking (24 parking spaces). Because the City of Fort Bragg suffers from a water shortage, the City is requiring retrofitting of the existing two toilets on the site to ultra low-flow (1.6

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gallons per flush or less) to minimize water usage. The City has indicated that it has notified the County of Mendocino that the issuance of a building permit for the proposed project must be conditioned to require installation of ultra low-flow toilets to replace the two existing toilets on the subject property. The Commission has thus attached to this permit Special Condition No. 2, which requires that the applicant submit evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project.

The Commission thus finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30250(a) to the extent that services will be provided and the project will not have significant adverse effects on coastal resources such as groundwater.

3. Hazards:

Coastal Act Section 30253 states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, and shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

The proposed fish processing plant will be located adjacent to the Noyo River above the ordinary high water line, in Zone C, which is classified on the FEMA map for this area as an area of minimal flooding.

The fish processing plant will replace a plant located on an adjacent parcel which suffered extensive damage due to a fire. The proposed project will utilize potentially hazardous materials (additives for the fertilizer), necessitating additional fire protection measures, such as construction of a contained room within the building built to certain fire safety standards to house the hazardous materials. The Fort Bragg Fire Protection Authority has indicated that fire code requirements will be addressed when final plans are submitted to the building department for approval. To ensure consistency of the project with fire regulations and minimize the potential for fire hazard, the Commission has attached Special Condition No. 3, which requires that prior to construction, the applicant submit evidence that the Fort Bragg Fire Protection Authority has approved final building plans for the development.

Paoli Engineering surveyed the site and indicated that the development could be safely constructed at the site, but made recommendations regarding site drainage and grading. To ensure that the project will not result in any geologic hazard, the Commission attaches Special Condition No. 1, which requires that the applicant submit final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering in the Geologic and Soils Investigation for Sea Pal, Inc., dated June 19,

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1997, including but not limited to the recommendation that the entire structure be constructed on engineered fill approved by the engineer.

The Commission thus finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253, as it will minimize the potential for any hazards.

4. Public Access:

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

In its application of these policies, the Commission is 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 offset a project's adverse impact on existing or potential public access.

The proposed project consists of construction of a fish processing plant adjacent to the Noyo River. The project will not adversely affect existing public access within the harbor, the County's land use maps do not designate the subject parcel for public access, and there is no evidence of public prescriptive use of the site. Since the proposed development will not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act.

6. Protection of Coastal Waters:

Coastal Act Section 30233 states that the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to eight specific uses.

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Section 30231 of the Coastal Act states that 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.

The subject site is located adjacent to the Noyo River. However, the proposed project will be located inland of the ordinary high water line, and thus will not include any new fill in the river. In addition, no waste from the fish processing plant will be discharged into the river, so there will be no impacts to the water quality of the river. Further, to ensure that no construction debris pollutes the river, the Commission attaches Special Condition No. 4, which requires that all construction debris be removed from the site upon completion of the project.

The Commission thus finds that the proposed project, as conditioned, will have no adverse impacts to the Noyo River, consistent with Coastal Act Policies 30233 and 30231, as no fill is proposed and water quality of the river will not be impaired by discharges of waste and debris from the proposed development.

7. Mendocino County LCP:

As noted above, Mendocino County has a certified Local Coastal Program, and therefore issues its own coastal permits for those areas within its coastal zone jurisdiction. However, the proposed project is located within the Commission's area of original jurisdiction, so the project is subject to the Coastal Commission's permit authority, and the Coastal Act is the standard of review. The certified LCP is merely advisory. Nonetheless, the Commission finds the proposed project to be consistent with the policies of the LCP, as described below.

The subject site is designated Fishing Village (FV) in the Mendocino County LCP. The minimum lot area for Fishing Village districts is 6,000 square feet within water and sewer districts. The subject site, which is 31,900 square feet, is within the City of Fort Bragg water and sewer district, and is thus a legal conforming lot.

The proposed project is for a coastal-dependent industrial use, which is a principal permitted use in the Fishing Village designation, pursuant to Zoning Code Section 20.392.010.

Policy 3.9-1 of the LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage

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disposal when considering applications for Coastal Development Permits. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized. Policy 3.8-9 states that commercial developments and other potential major water users that could adversely affect existing surface or ground water supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies.

The subject site will be served by the City of Fort Bragg water and sewer. Due to a water shortage, the City is requiring that the applicant retrofit the existing toilets on the site for ultra low-flow, which will be a condition of the County building permit. As noted above, the Commission attaches to this permit Special Condition No. 2, requiring that the applicant submit evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project. The Commission thus finds that the proposed project, as conditioned, is consistent with LUP Policy 3.9-1, 3.8-1, and 3.8-9, as it will be located where services are available and it will have no adverse impacts on coastal resources such as surface or ground water supplies.

LUP Policy 4.9-3 states that development on the flat lands within the Noyo Harbor area shall be limited to uses which are directly related to coastal-dependent industries of fishing and boat-building. The Commission finds that the proposed project, which is for construction of a fish processing plant, is consistent with LUP Policy 4.9-3.

Zoning Code Section 20.500.010 states that new development in the coastal zone shall minimize risk to life and property in areas of high geologic, flood and fire hazard; assure structural integrity and stability; and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. As noted above, to ensure consistency of the project with local fire regulations and minimize the potential for fire hazard, the Commission has attached Special Condition No. 3, which requires that prior to construction, the applicant submit evidence that the Fort Bragg Fire Protection Authority has approved final building plans for the development. To ensure that the project will not result in any geologic hazard, the Commission attaches Special Condition No. 1, which requires that the applicant submit final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering. The Commission thus finds that the proposed project, as conditioned, is consistent with Zoning Code Section 20.500.010.

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The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement. LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval.

As noted above, the project will not adversely affect public access. Since the proposed development will not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the LCP.

Section 20.472.035(F) of the Zoning Code states that for manufacturing or industrial uses, one parking space is required for every employee working on the largest shift, plus ten customer or visitor parking spaces, plus parking for each of the vehicles operated from or on the site. The subject site provides 24 spaces to serve 5 workers, 10 visitors, and one vehicle, consistent with Section 20.472.035(F) of the County Zoning Code.

The Commission thus finds that the proposed project, as conditioned, is consistent with the Mendocino County LCP.

9. California Environmental Quality Act (CEQA).

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the policies of the Coastal Act and the Mendocino County LCP. Mitigation

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measures, including requirements that (1) final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering in the Geologic and Soils Investigation be submitted, and the property be developed in accordance with the final plans approved by the Executive Director; (2) the applicant submit evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project; (3) the applicant submit evidence of approval of building plans by the Fort Bragg Fire Protection Authority; and (4) all construction debris be removed from the site upon completion of the project, will minimize all adverse environmental impacts.

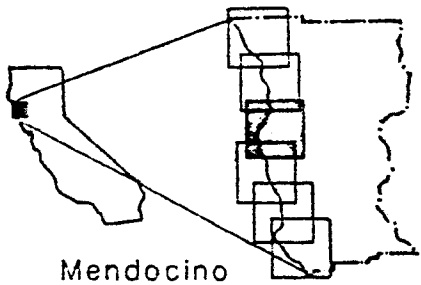
As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

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ATTACHMENT A

Standard Conditions

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




Mendocino

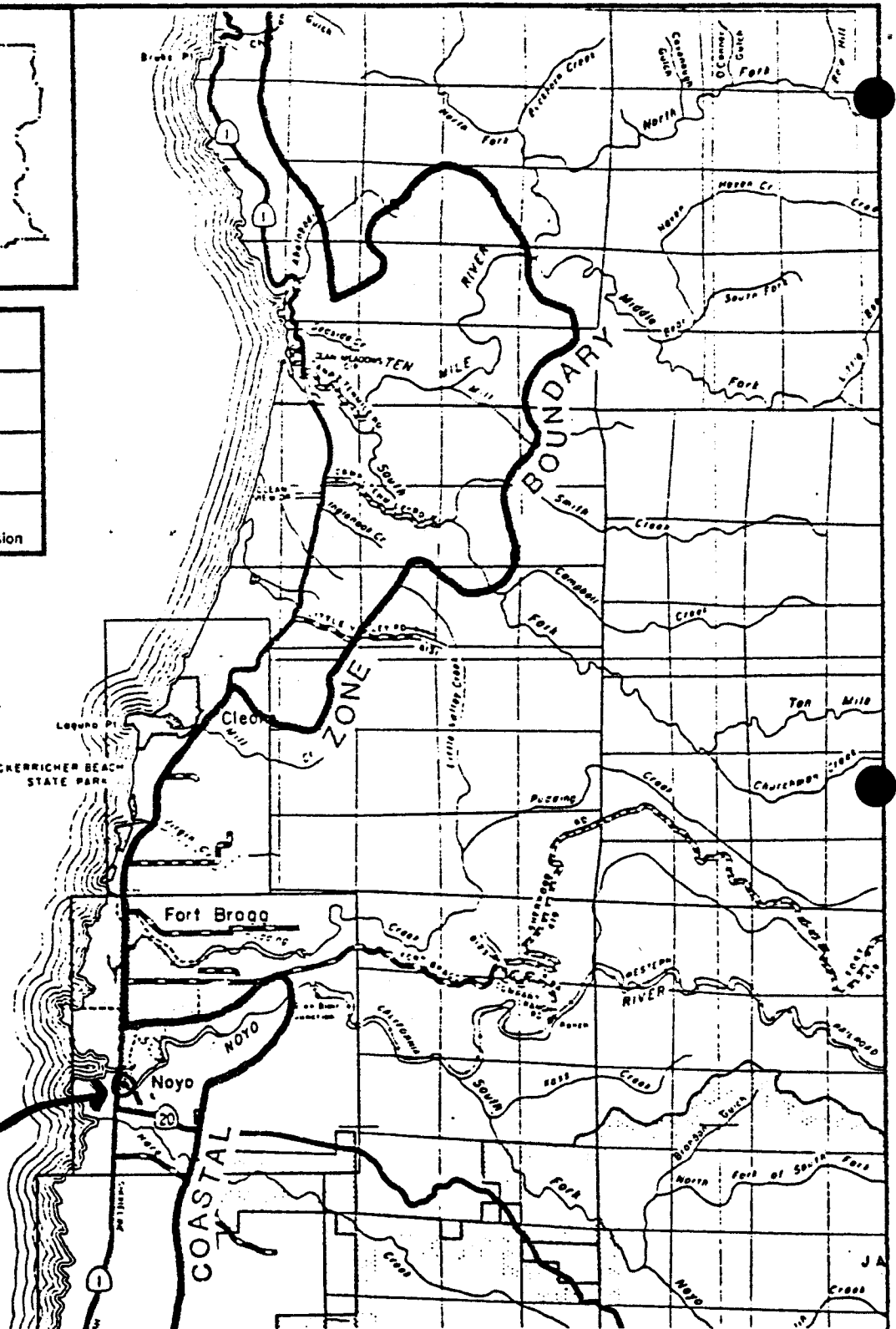
EXHIBIT NO. 1

APPLICATION NO.
1-97-49

SCHNAUBELT

 Location Map
California Coastal Commission

APPROXIMATE
LOCATION



 California Coastal Commission

LOCATION MAP



VICINITY MAP

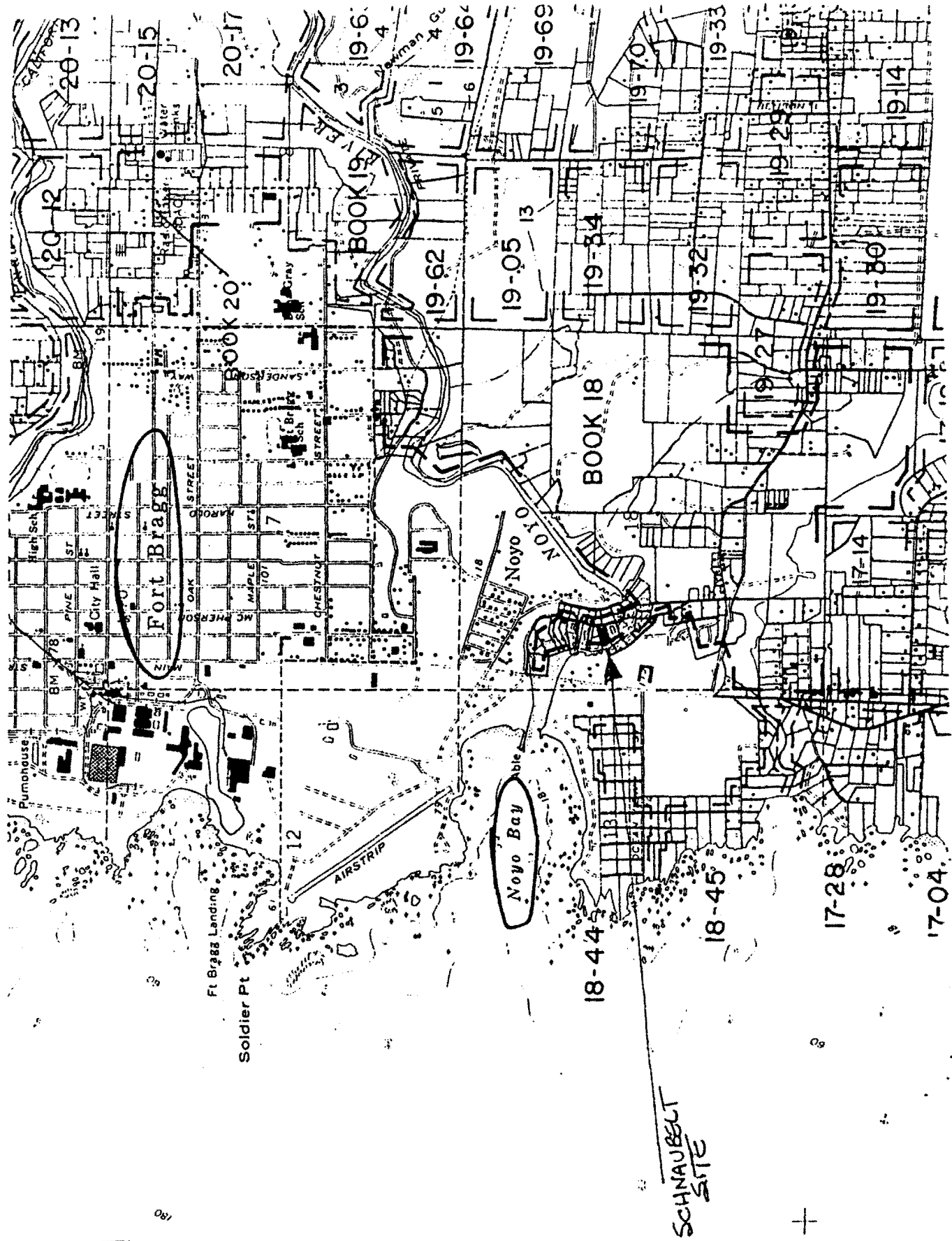


EXHIBIT NO. 2
APPLICATION NO. 1-97-49
SCHNAUBELT
Vicinity Map

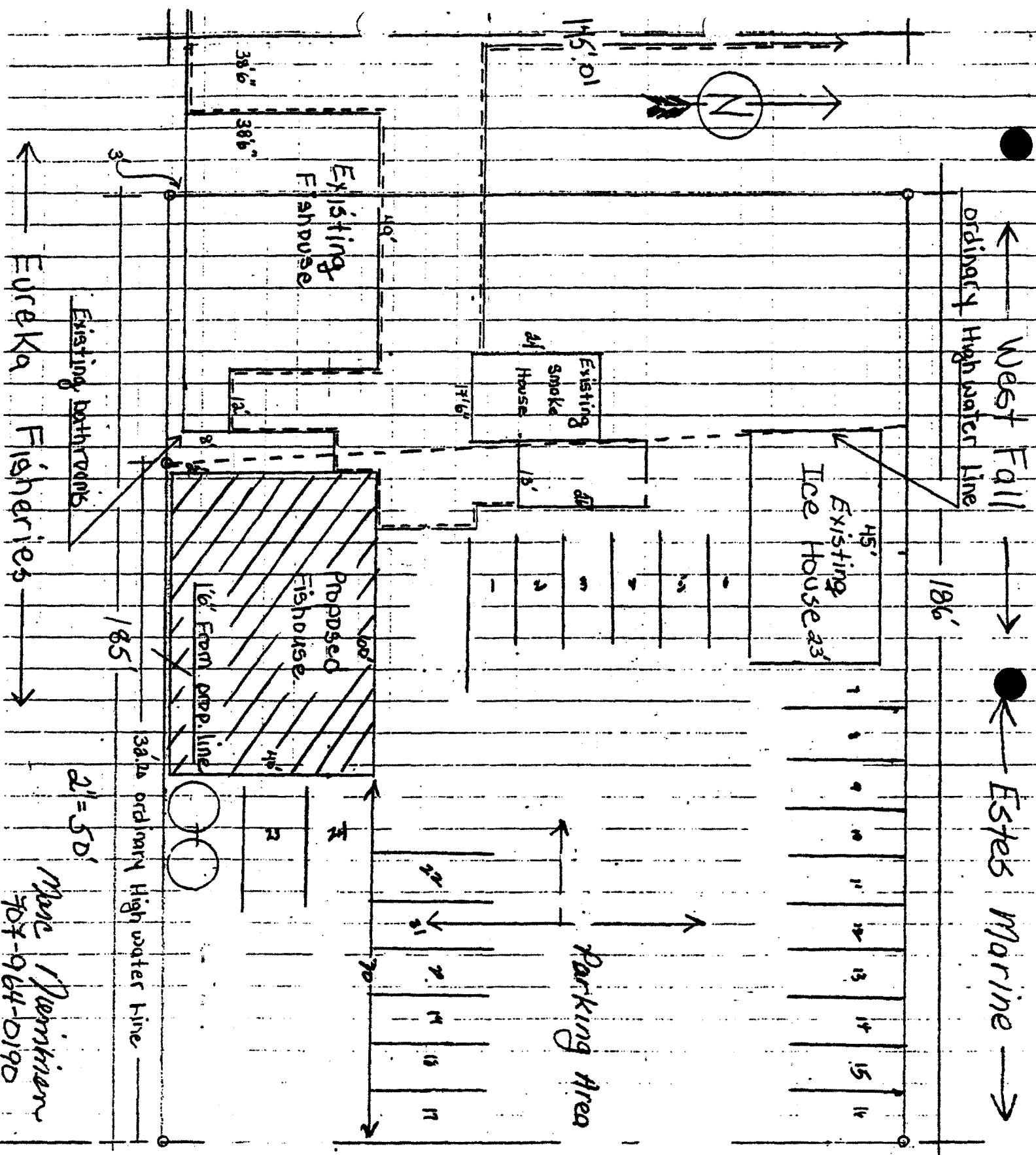


EXHIBIT NO.	3
APPLICATION NO.	1-97-49
SCHNAUBELT	
Site Plan	

North Harbor Drive

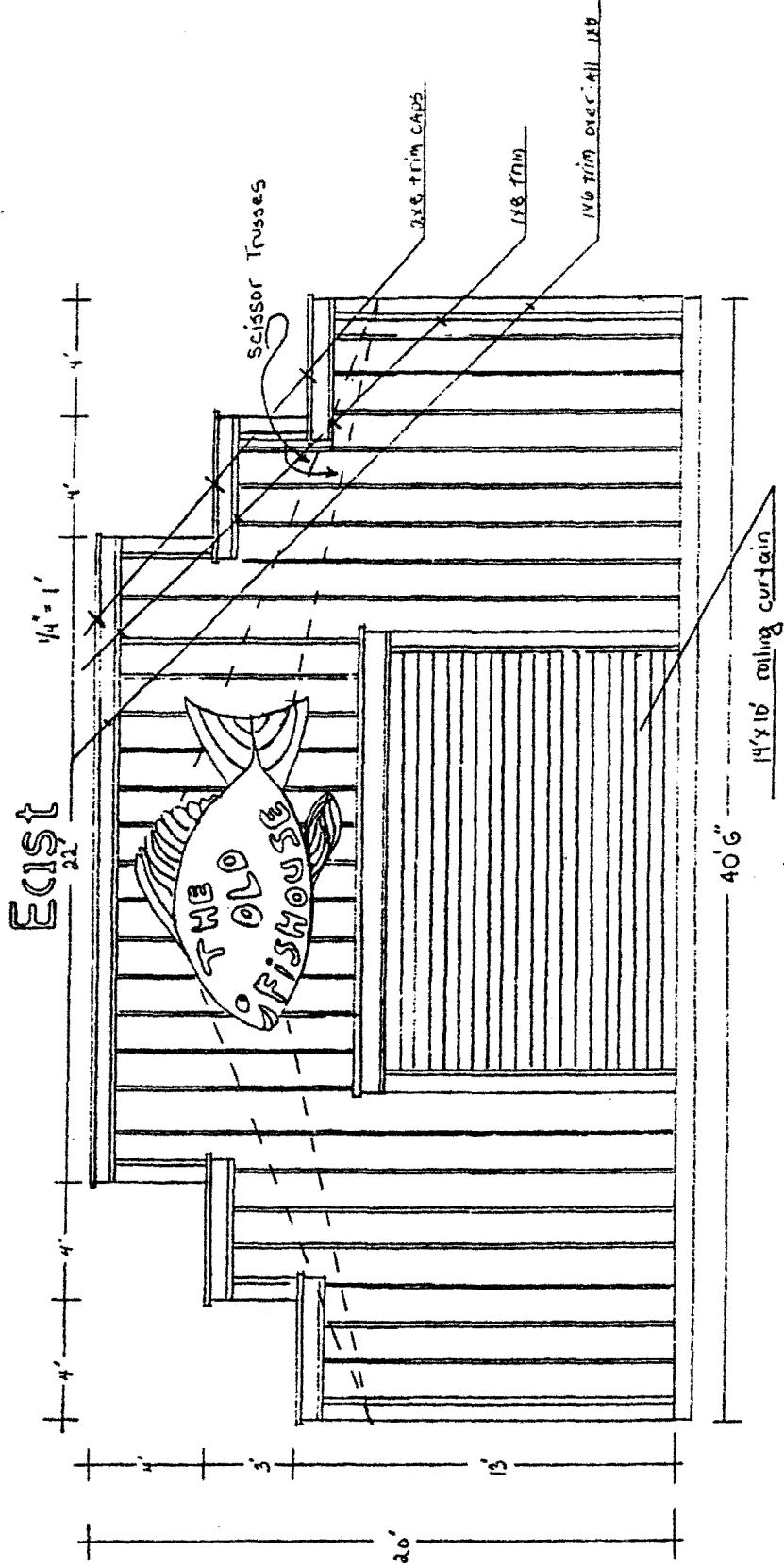


EXHIBIT NO. 4
APPLICATION NO. 97-49
SCHNAUBELT
Elevation Plans

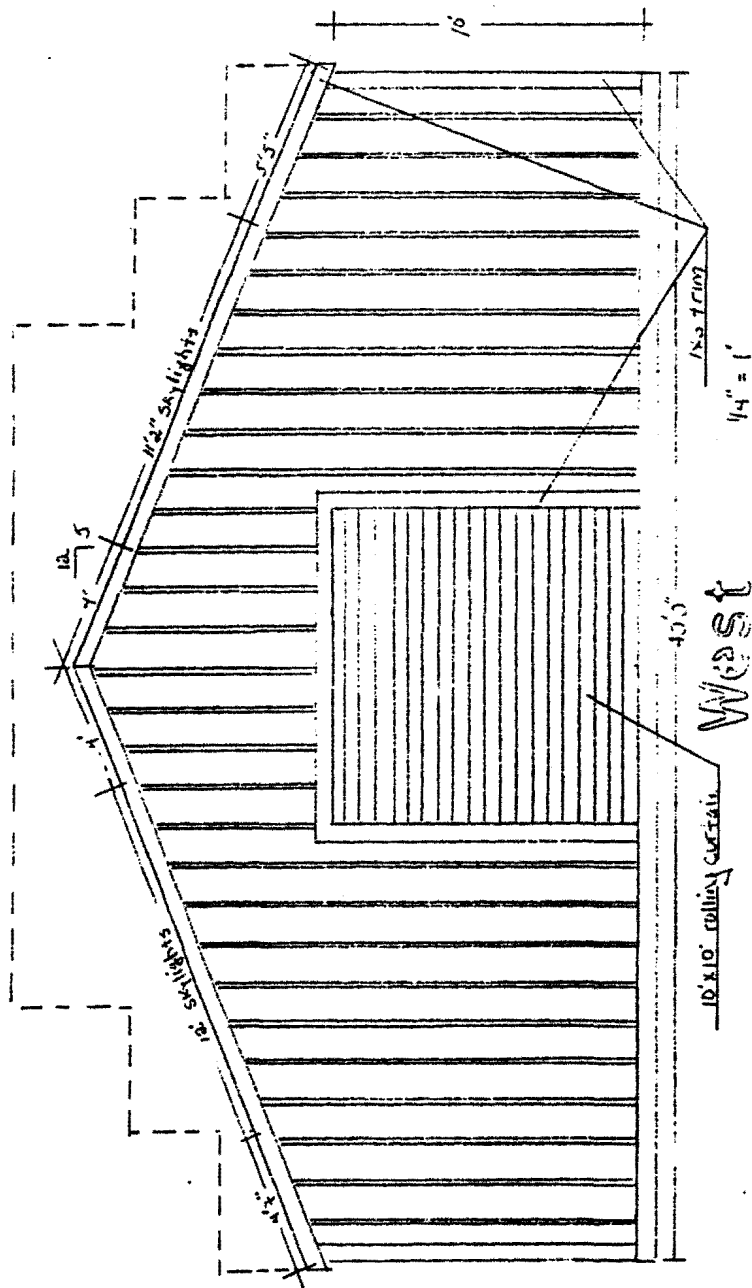
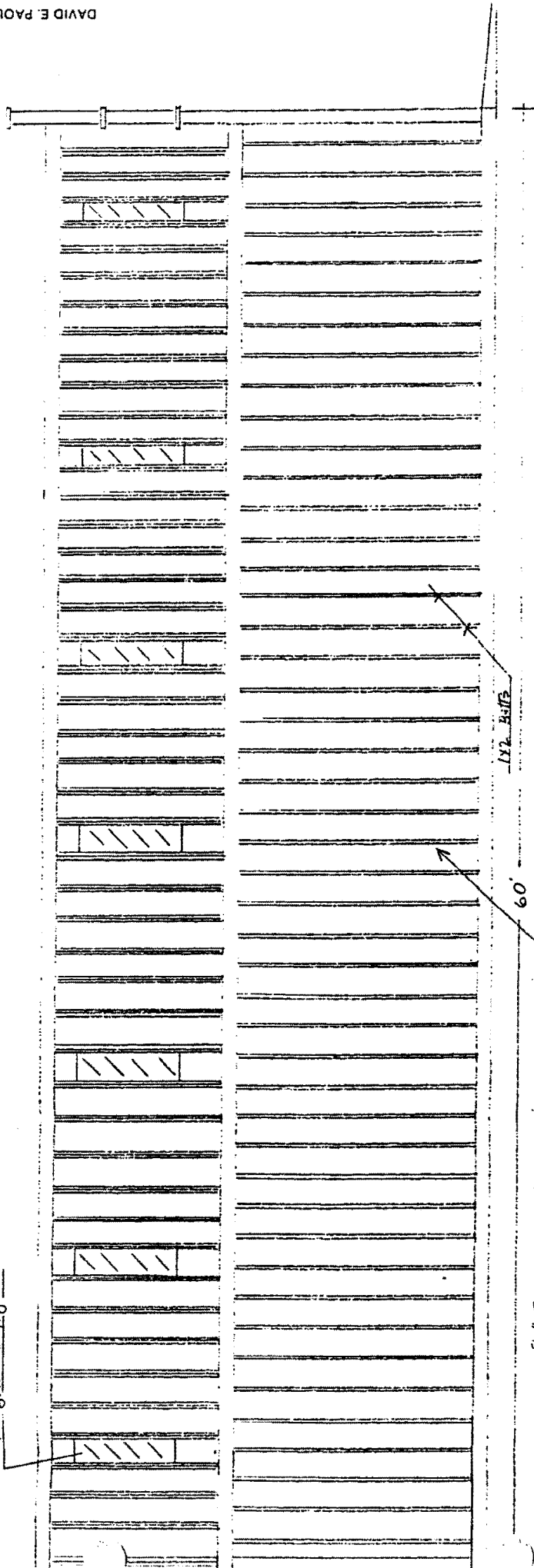


EXHIBIT NO.	4
APPLICATION NO.	1-97-49
SCHNAUBELT	
Elevation Plans	

South

1/4" = 1'

5/8" x 3/4" Studlights



5/8" Type X Sheetrock fire taped under 5/8" II-II this wall only

EXHIBIT NO.	4
APPLICATION NO.	1-97-49
SCHNAUBELT	
Elevation Plans	

