

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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Th6a

Page: Page 1 of 9
Date: December 23, 2011
Permit Application: **CDP No. 1-11-022**

ADMINISTRATIVE PERMIT

APPLICANT(S): Robert & Kathryn Figas

PROJECT DESCRIPTION: Removal of approximately two tons of trash, spoils, and other solid material placed without the benefit of a coastal development permit adjacent to coastal waters on an undeveloped residential lot.

PROJECT LOCATION: On lot "L36" on the west side of King Salmon Drive in the unincorporated community of King Salmon, Humboldt County (APN 305-073-012).

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination and for any special conditions appear beginning on page 3.

NOTE: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

THIS PERMIT WILL BE REPORTED TO THE COMMISSION AT THE FOLLOWING TIME AND PLACE:

January 12, 2012 9:00 a.m.
Annenberg Community Beach House
415 Pacific Coast Highway
Santa Monica, CA 90402

IMPORTANT: Before you may proceed with development, the following must occur:

Pursuant to Title 14, California Administrative Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

CHARLES LESTER
Executive Director

By: _____
MELISSA B. KRAEMER
Coastal Program Analyst

I. 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 is not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

II. EXECUTIVE DIRECTOR'S DETERMINATION:

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit.

Subject to Standard and Special Conditions as attached, said development is in conformity with the policies of Chapter 3 of the California Coastal Act, including those policies regarding public access and coastal recreation opportunities, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

III. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. Project Location & Site Description

The project site is located on a vacant, undeveloped, residentially zoned lot on King Salmon Avenue in the King Salmon area of Humboldt County, just south of Eureka (APN 305-073-012) (Exhibit Nos. 1-2). The King Salmon subdivision consists of former tidelands that were partially filled during the mid-1900's and later subdivided, mostly into 25-foot-wide lots that were originally used for resort cabins. The tidelands were filled in a manner that created interior tidal channels within the subdivision, all of which connect to Fisherman's Channel, which ultimately leads to the open waters of Humboldt Bay. Many of the lots within the subdivision, including the subject lot, include shoreline along the tidal channels. Most of the lots in the residentially zoned neighborhood have been developed with single-family residences of varying sizes that display a variety of architectural styles.

The main road serving the King Salmon subdivision is King Salmon Avenue, which turns into Buhne Drive. Buhne Drive flanks the northwest and western sides of the subdivision, separating the subdivision from a mudflat and dune area that borders the open waters of Humboldt Bay. This dune and Humboldt Bay shoreline area is accessible to the public. Very little public access is available to the tidal channels within the interior of the subdivision.

The subject property is located on the west side of King Salmon Avenue, at a point where the road bends eastward before its westward hairpin turn to Buhne Drive. The subject lot is vacant and undeveloped, with developed residential structures on the lots on either side of it. Although only approximately 0.20-acre in size, the rear end of the subject lot, which abuts one of the interior boating canals of the subdivision, is over three times as wide as most of the lots in the subdivision due to its juxtaposition to a bend in the canal at the lot's western end (see Exhibit Nos. 2 and 3). The subject lot is approximately 155 feet deep from its front (eastern) end at the road to its back (western) end, which extends to the middle of the canal. Thus, the western portion of the subject property includes the

channel itself and the channel banks and is composed of an area of open water and adjoining wetland that is inundated by the tides to varying degrees. Although an intertidal waterway, the channel at the rear of the subject property is quite a distance away from the open waters of Humboldt Bay, and it generally has a denuded bottom and sparse ruderal vegetation along its upper tidal reach. The land area of the subject property does not contain any ESHA. Fisherman's Channel, located several hundred feet to the southeast, contains intertidal salt marsh vegetation and estuarine wetland habitat areas.

No public views of the bay or shoreline are afforded through the vacant and undeveloped property because of intervening development and vegetation. Expansive public views of Humboldt Bay are available for motorists approximately 300 feet down the road from near the intersection of King Salmon Avenue and Buhne Drive where the view of the bay is unobstructed by any intervening development. In addition, one can park along the Buhne Drive and walk out onto the adjoining dunes to view the bay. The dunes are open and available for public access use.

B. Project Background & Description

The Commission's enforcement staff was notified of an alleged violation at the subject property in December of 2010. Allegedly, debris had been dumped and stockpiled on the vacant lot over several years, including as recently as the fall of 2010. Materials such as vegetative and soil spoils, broken concrete, wooden boards, trash, and other solid material allegedly were dumped and stockpiled near the canal-end of the subject property without the benefit of coastal development permit authorization.

Commission enforcement staff first contacted the applicants regarding the alleged unpermitted development in January of 2011. Commission enforcement and North Coast district staff visited the site to confirm the alleged unpermitted development in February of 2011. Commission enforcement staff wrote letters to the applicants in March and May of 2011 requesting that they submit a coastal development permit application to remove the unpermitted stockpiles to resolve the alleged violation. The applicants indicate that they subsequently removed a small pile of concrete and disposed of it at the Mercer Fraser Recycling Yard east of Arcata (outside of the coastal zone) prior to submitting the permit application in June of 2011.

The applicants propose to remove approximately two tons of trash, spoils, and other solid material placed without the benefit of a coastal development permit adjacent to coastal waters on the subject lot and which remains on the property (Exhibit No. 4). A small bobcat would be used to lift the approximately 2 tons of stockpiled debris and load it onto a truck for transport to the proposed disposal site at the Mercer-Fraser recycling yard located east of Arcata (outside of the coastal zone). The applicant proposes to conduct the work during a non-rainy period and to use "best practices" such as silt fencing or waddles as necessary to prevent sediment-laden runoff from discharging to coastal waters.

C. Protection of Water Quality

Section 30231 of the Coastal Act addresses the protection of coastal water quality in conjunction with development and other land use activities. Section 30231 reads as follows:

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

A portion of the property extends into the interior canal that is connected to Fisherman's Channel and the open waters of Humboldt Bay, where intertidal vegetation such as eelgrass and estuarine wetland environmentally sensitive habitat areas are located. The proposed debris removal area is located immediately adjacent to the top of the canal bank.

The proposed development involves removal of solid material from an area immediately adjacent to coastal waters. The proposed work has the potential to result in soil disturbance, which, if not properly restored, could lead to the discharge of sediment-laden stormwater runoff into coastal waters. Sediment is considered a pollutant with the potential to adversely impact habitat of fish and other aquatic species. The applicant has proposed using silt fences or other similar sediment-control devices to minimize this risk.

Special Condition No. 1 is attached to require that certain measures are implemented through the course of the authorized work to ensure the protection of coastal water quality and adjacent environmentally sensitive habitat areas. These measures include: (a) installing silt screens, straw wattles, and/or other appropriate erosion and sediment-control devices between the subject debris removal areas and the canal top-of-bank prior to the initiation of debris removal activities; (b) promptly mulching or covering with plastic sheeting and securing with sand bagging or other appropriate materials any exposed soil areas before the onset of precipitation if rainfall is forecast during the time that debris removal activities are being performed; (c) prohibiting the placement of rip-rap or rock revetment to stabilize the channel bank on the subject property as part of the project; (d) removing any and all unpermitted stockpiles of debris on the subject property and disposing of the debris at an authorized disposal location outside of the coastal zone as proposed in the coastal development permit application; and (e) using only native species in seed mix applications if erosion-control seeding is applied for soil-stabilization measures following the authorized removal of debris stockpiles. In addition, **Special Condition No. 2** requires submittal to the Executive Director, within 10 days of completion of the authorized work, evidence (e.g., site photographs) that all unpermitted stockpiles on the subject property have been removed from the property and disposed of

at an authorized disposal location outside of the coastal zone as proposed in the coastal development permit application.

With the mitigation measures discussed above, the project as conditioned will protect water quality and minimize any potential impacts to adjacent habitat areas. Therefore, the Executive Director finds that the project as conditioned is consistent with Section 30231 of the Coastal Act.

D. 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.

As described above, the project site is a vacant residential lot in King Salmon with waterfront access at the rear of the property. No dock or boat ramp is located on the property, and there are no public trails or boating access on or through the property. Public access to the shoreline is available at Buhne Drive, a few hundred feet from the subject site. The proposed project will not adversely affect public access, will not block any existing access, and will not affect any existing rights of access that may have been acquired through use. Therefore, the Executive Director finds that the proposed project does not have any significant adverse effect on public access, and the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

E. Alleged Violation

Although certain development has taken place at the project site without the benefit of a coastal development permit, including stockpiling of and removal of debris, trash, and other materials, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

F. California Environmental Quality Act (CEQA)

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

The Executive Director incorporates its findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the development has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been required as permit special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Executive Director finds that the development as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

IV. SPECIAL CONDITIONS:

1. Construction Responsibilities

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

- A. Silt screens, straw wattles, and/or other appropriate erosion and sediment-control devices shall be installed between the subject debris removal areas and the canal top-of-bank prior to the initiation of debris removal activities;
- B. If rainfall is forecast during the time construction activities are being performed, any exposed soil areas shall be promptly mulched or covered with plastic sheeting and secured with sand bagging or other appropriate materials before the onset of precipitation;
- C. Placement of rip-rap or rock revetment to stabilize the channel bank on the subject property is prohibited under this coastal development permit;
- D. Any and all unpermitted stockpiles of debris on the subject property shall be removed from the property and disposed of at an authorized disposal location outside of the coastal zone as proposed in the coastal development permit application;

- E. If erosion-control seeding is applied for soil-stabilization measures following the authorized removal of debris stockpiles, only native species shall be used in seed mix applications. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the bounds of the property;

2. Confirmation of Debris Removal

Within ten (10) days of completion of the authorized work, the permittee shall submit to the Executive Director evidence (e.g., site photographs) that all unpermitted stockpiles on the subject property have been removed from the property and disposed of at an authorized disposal location outside of the coastal zone as proposed in the coastal development permit application. The permittee shall grant Commission staff, within 72 hours of written or oral request to the property owner or authorized agent, permission to conduct a site inspection of the property to confirm compliance with the special conditions of CDP No. 1-11-022.

V. EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Assessors Parcel Map
4. Site Plan

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

Applicant's Signature

Date of Signing

A B C D E F G H I J K L M N O

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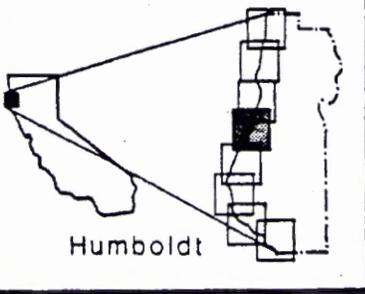
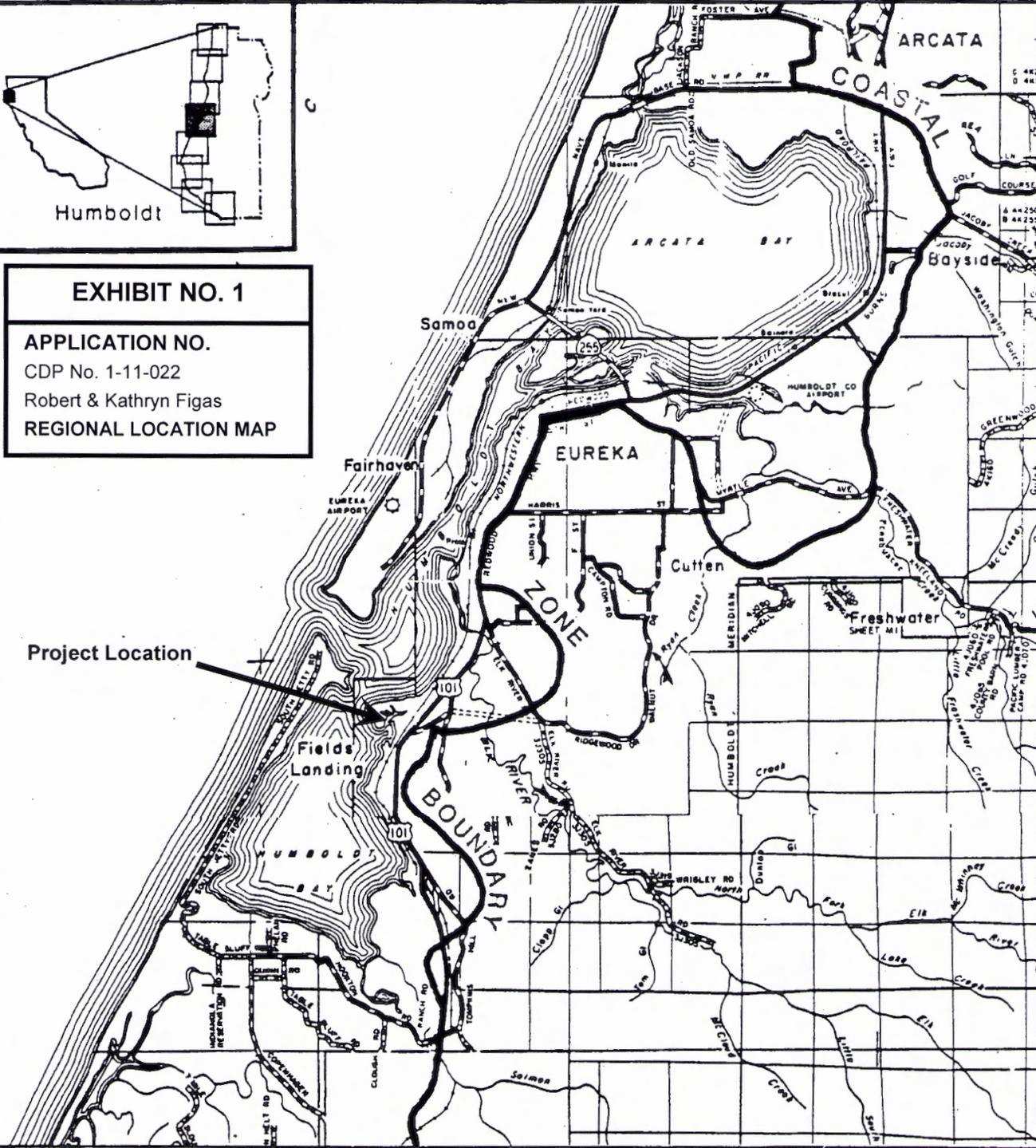
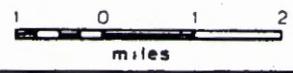


EXHIBIT NO. 1
APPLICATION NO.
CDP No. 1-11-022
Robert & Kathryn Figas
REGIONAL LOCATION MAP

Project Location



LOCATION MAP

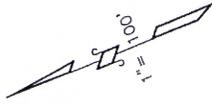


County of Humboldt

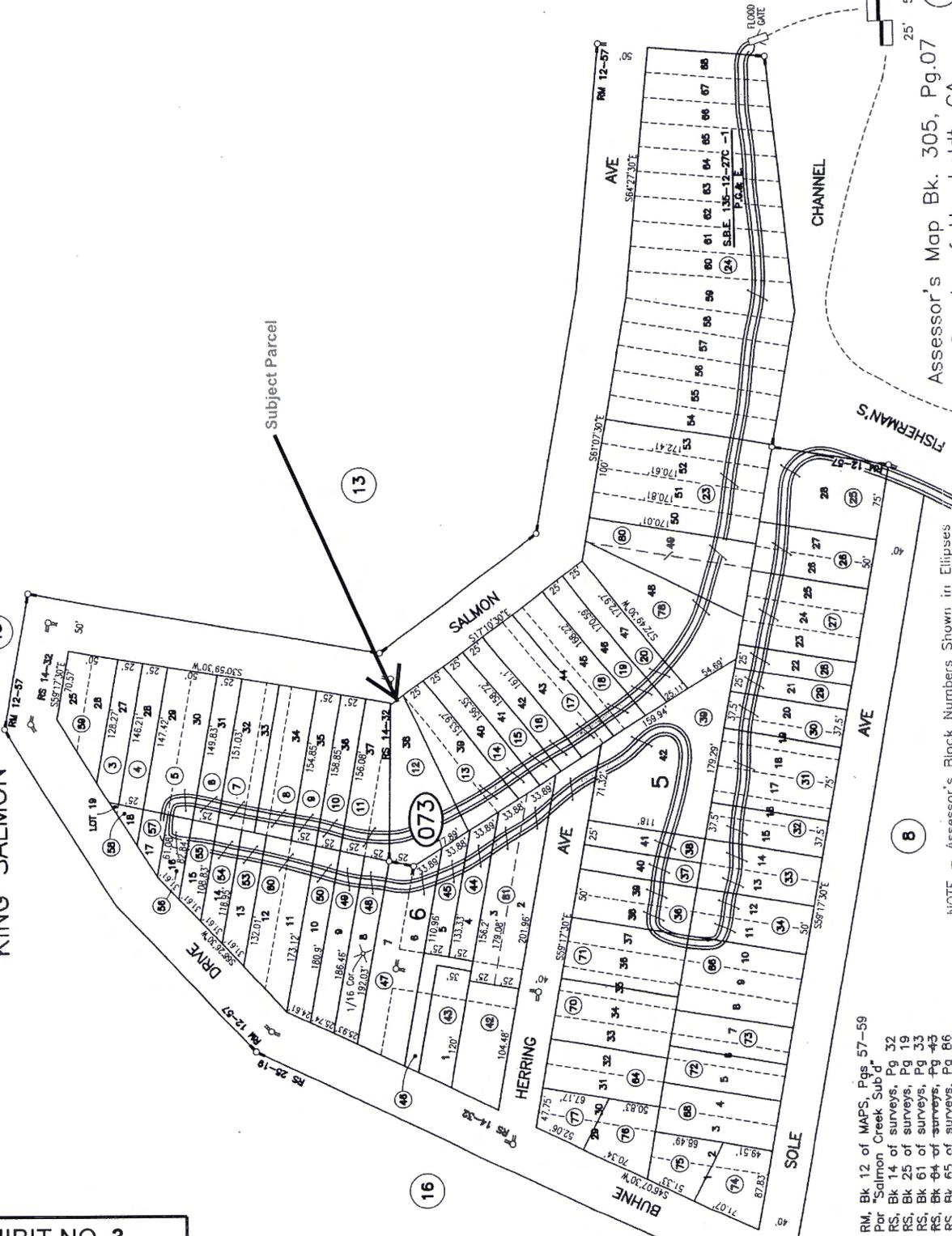


EXHIBIT NO. 2
APPLICATION NO.
1-11-022
ROBERT & KATHRYN FIGAS
VICINITY MAP

305-07



PTN SECS 7 & 8, T4N, R1W
KING SALMON (13)
H.B. & M.



Assessor's Map Bk. 305, Pg.07
County of Humboldt, CA.

RM, Bk 12 of MAPS, Pgs 57-59
Par Salmon Creek Subd

- ASSASSOR'S PARCEL MAP
1. THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY.
 2. NO WARRANTY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN.
 3. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL ORDINANCES OR BUILDING SITE ORDINANCES.

EXHIBIT NO. 3
APPLICATION NO.
 1-11-022
ROBERT & KATHRYN FIGAS
APN MAP

JUN 9 2011

100'

25' 50'

May 23, 2010

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles.



EXHIBIT NO. 4
APPLICATION NO.
1-11-022
ROBERT & KATHRYN FIGAS
SITE PLAN

RECEIVED

NOV 15 2011

CALIFORNIA
COASTAL COMMISSION

APN 305-073-012

Kinco Salmon L36/Kinco Salmon Res Loc, 753 N 1st St, TBR.