

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

FREMONT, SUITE 2000
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Filed:	September 24, 1996
49th Day:	November 12, 1996
180th Day:	March 23, 1997
Staff:	Robert Merrill-E
Staff Report:	October 25, 1996
Hearing Date:	November 12, 1996
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-96-51**

APPLICANT: **GLADYS BERGHAGEN**

PROJECT LOCATION: At 61 Sole Street, in the unincorporated community of King Salmon, along Humboldt Bay, Humboldt County. APN 305-082-16X.

PROJECT DESCRIPTION: Merge two 25-foot-wide lots.

Lot Areas: Existing: Lot 51: 2,950 sq. ft (.07 acres)
Lot 52: 2,950 sq. ft (.07 acres)

Proposed: 5,900 sq. ft (.14 acres)

Plan Designation: Residential/Low Density (3 units/acre)

Zoning: Residential Single Family

LOCAL APPROVALS RECEIVED: Humboldt County Parcel Merger approved July 31, 1996.

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program.

STAFF NOTES1. Standard of Review.

The proposed project is located within the King Salmon area of Humboldt County. Humboldt County has a certified LCP, but the King Salmon area is within the Commission's retained jurisdictional area. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

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SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed lot merger. The proposed project is within an existing developed residential subdivision served by community sewer and water systems. As the proposed lot merger will reduce the potential density of development on the property in half, the project will result in less demand on coastal resources than allowable under the LCP. Therefore, staff believes the proposed project is consistent with the Coastal Act and recommends approval.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will be in conformity with the Humboldt 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: None.

IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Project and Site Description:

The applicant proposes to merge two adjacent 25-foot-wide parcels to create one 5,900-square-foot parcel that is 50 feet wide by 118 feet long. The subject property is located at 61 Sole Street in the unincorporated community of King Salmon on Humboldt Bay, approximately two miles south of Eureka (see Exhibits 1-3).

The King Salmon subdivision consists of former tidelands filled during the mid-1900s and later subdivided (see Exhibit 3). The rear of the two identical flat rectangular parcels back on to an arm of Fisherman's Channel, a tidal channel or slough that connects to Humboldt Bay (see Exhibit 3-5). A 480-square-foot mobile home straddles the boundary between the two parcels and a 20-foot-wide deck extends along the entire 50-foot length of the top of the shoreline embankment of the property (see Exhibit 5). Lot 52, the easterly

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parcel, also contains a 448-square-foot shop building. Most of the surrounding lots in the residentially zoned neighborhood have been developed with single family residences. Apart from small amounts of marsh vegetation along the bank of the arm of Fisherman's Channel and the tidelands of the channel itself, the two parcels contain no environmentally sensitive habitat.

The two parcels to be merged are separate legal parcels that share the same Assessor's Parcel Number (APN 305-082-16x). The parcels are known as Lots 51 and 52 of Block 4 of the King Salmon Resort as per the map recorded in Book 12, Page 57, 58, and 59, in the County Recorder's Office (see Exhibit 4).

2. New Development:

Section 30250(a) of the Coastal Act states that new development shall be located in or near existing developed areas able to accommodate it and where it will not have significant adverse effects on coastal resources.

The proposed lot merger will combine two existing parcels into one. The subject parcels are located in a developed subdivision served by community water and sewer systems. The area is zoned as Residential Single Family with a 5,000-square-foot minimum parcel size. Secondary dwelling units are allowed by special permit within this zoning district.

The proposed lot merger will take two legal nonconforming lots with respect to lot size and form one 5,900-square-foot parcel that conforms with the 5,000-square-foot minimum parcel size.

As currently configured, the two subject parcels contain the potential for two primary residential units and two secondary dwelling units. As merged, there will only be one parcel with one primary residence and the potential for one secondary residence. Therefore, the parcel merger will not result in an increase in the potential residential development allowable, and, in fact, will reduce the number of parcels by one and the potential number of residential units (including both primary and secondary) by two.

As the proposed lot merger will not allow for increased density, the project will not result in a greater demand on coastal resources. As discussed in the findings below, the project will also not adversely affect coastal access. Therefore, as the development will be located in an existing developed area able to accommodate it and will have no impact on coastal resources, the Commission finds the proposed project to be consistent with Coastal Act Section 30250(a).

3. Public Access.

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section

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30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e. potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety.

In applying Sections 30210, 30211, and 30212, the Commission is limited by the need to show that any denial of a permit application based on those 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 public access.

The proposed project will not adversely affect public access. The project site does not front on Humboldt Bay, as it is separated from the Bay tidelands by other parts of the King Salmon subdivision. The entire bayfront of the subdivision, along the west side of Buhne Drive, is open and available for public access use. Although the back side of the property lies adjacent to Fisherman's Channel, a tidal slough or channel that connects to Humboldt Bay, no evidence has been presented to suggest that an implied dedication of a public access easement to or along the 50-foot-wide Fisherman's Channel shoreline of the property has occurred. Therefore, the proposed project will not adversely affect any existing rights of access that may have been acquired through use. In addition, the project will not otherwise adversely affect public access as no existing public access will be blocked and as the development includes no new residences or other structures that would locate additional people in the area and potentially increase the demand for access facilities.

Therefore, the Commission finds that public access is not warranted for the proposed development and the project, which does not include public access, is consistent with the public access policies of the Coastal Act.

4. Humboldt County LCP.

Although Humboldt County has a certified LCP, the King Salmon area is within the Commission's retained coastal development permit jurisdiction. Therefore, the standard of review that the Commission is applying in its consideration of the application is the Coastal Act. The Humboldt County LCP policies are considered advisory and are not binding in this case.

As noted above, the Humboldt Bay Area Plan segment of the Humboldt County LUP designates the project site as Residential Low Density (RL) and the site is zoned as Residential Single Family 5,000-square-foot minimum parcel size with possible flood hazard (RS-5/F). The proposed consolidation of the two existing legal nonconforming lots (with respect to lot size) into one 5,900-square-foot lot is consistent with the RL designation and the RS zoning. In granting Parcel Merger No. NOM-17-95 for the project on July 31,

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1996, the Humboldt County Director of Planning and Building determined that the proposed project meets Humboldt County LCP requirements.

Coastal Act Section 30604(a) authorizes permit issuance if the Commission finds that the proposed development is in conformity with the provisions of Chapter 3 of the Coastal Act and if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare or implement a local coastal program that is in conformance with Chapter 3 of the Coastal Act. As discussed above, approval of the project, as conditioned, is consistent with Chapter 3 of the Coastal Act, and thus will not prejudice local government's ability to implement a certifiable LCP for this area.

5. 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 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 project does not have a significant adverse effect on the environment, within the meaning of CEQA, as it is located in an area able to accommodate it, and as there will be no significant adverse impacts on coastal resources.

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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.

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

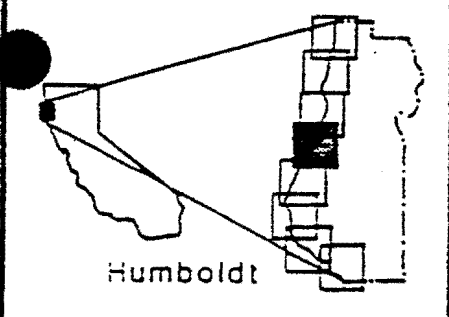
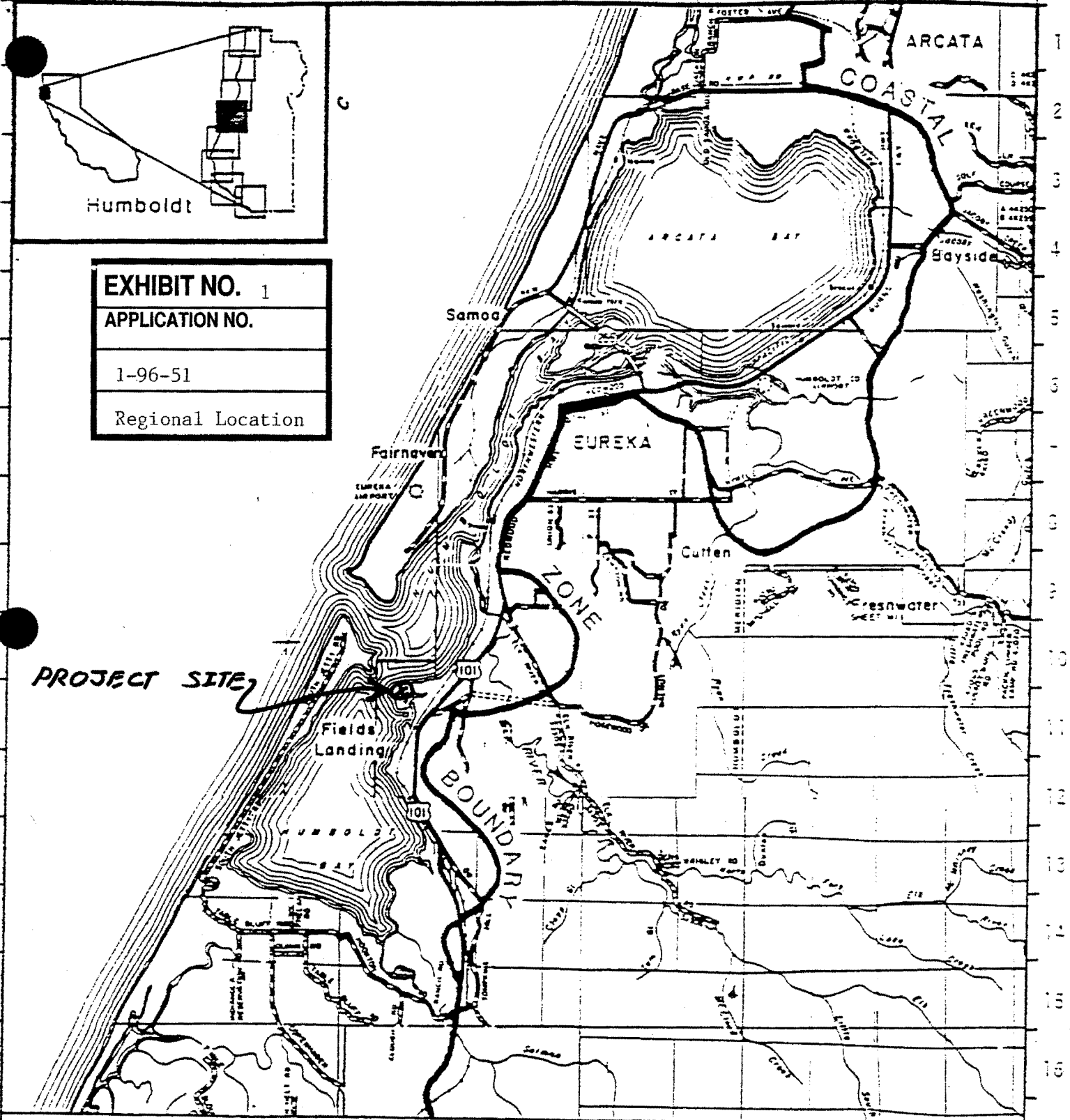


EXHIBIT NO. 1
APPLICATION NO.
1-96-51
Regional Location

PROJECT SITE

LOCATION MAP



California Coastal Commission

PROJECT LOCATION

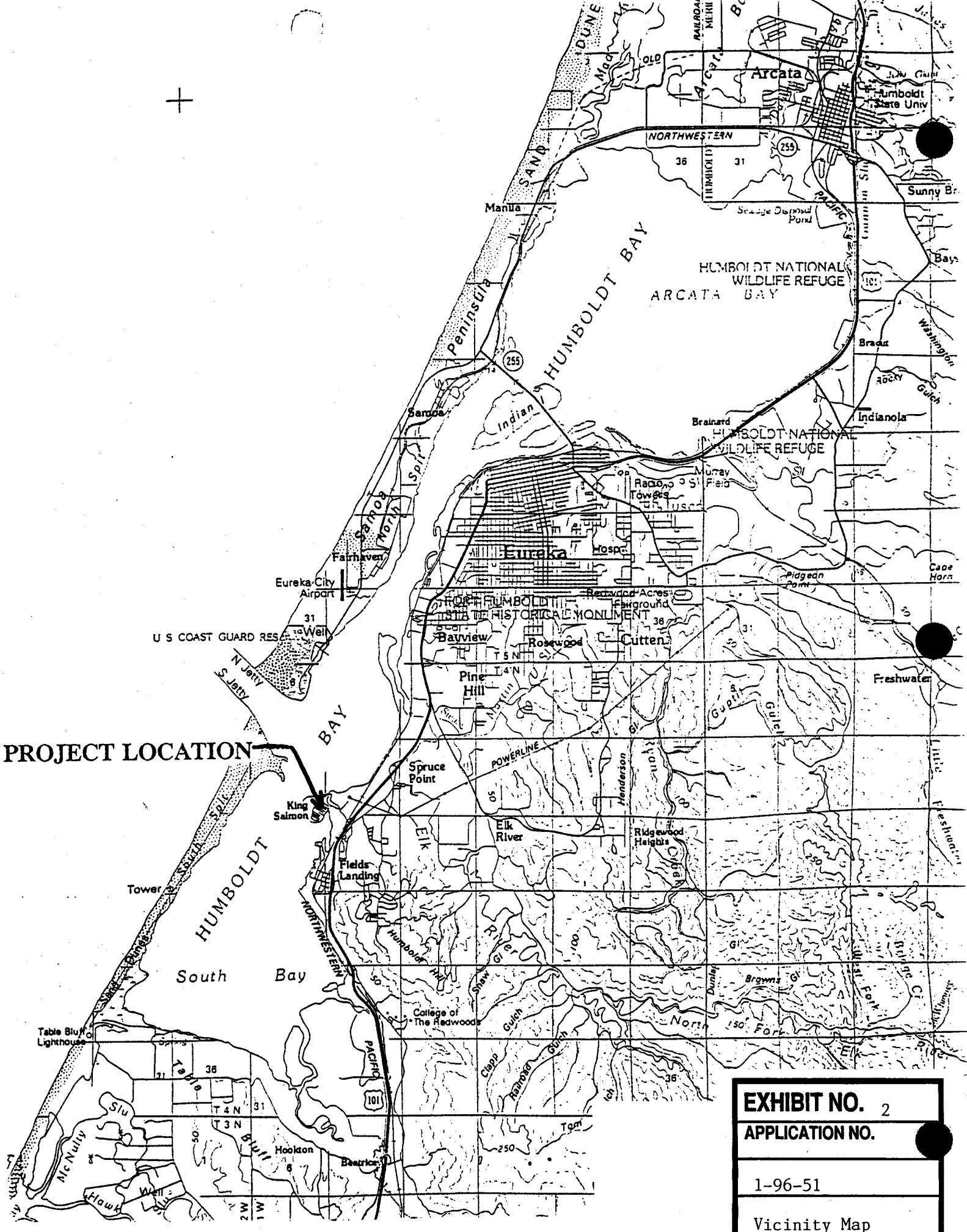
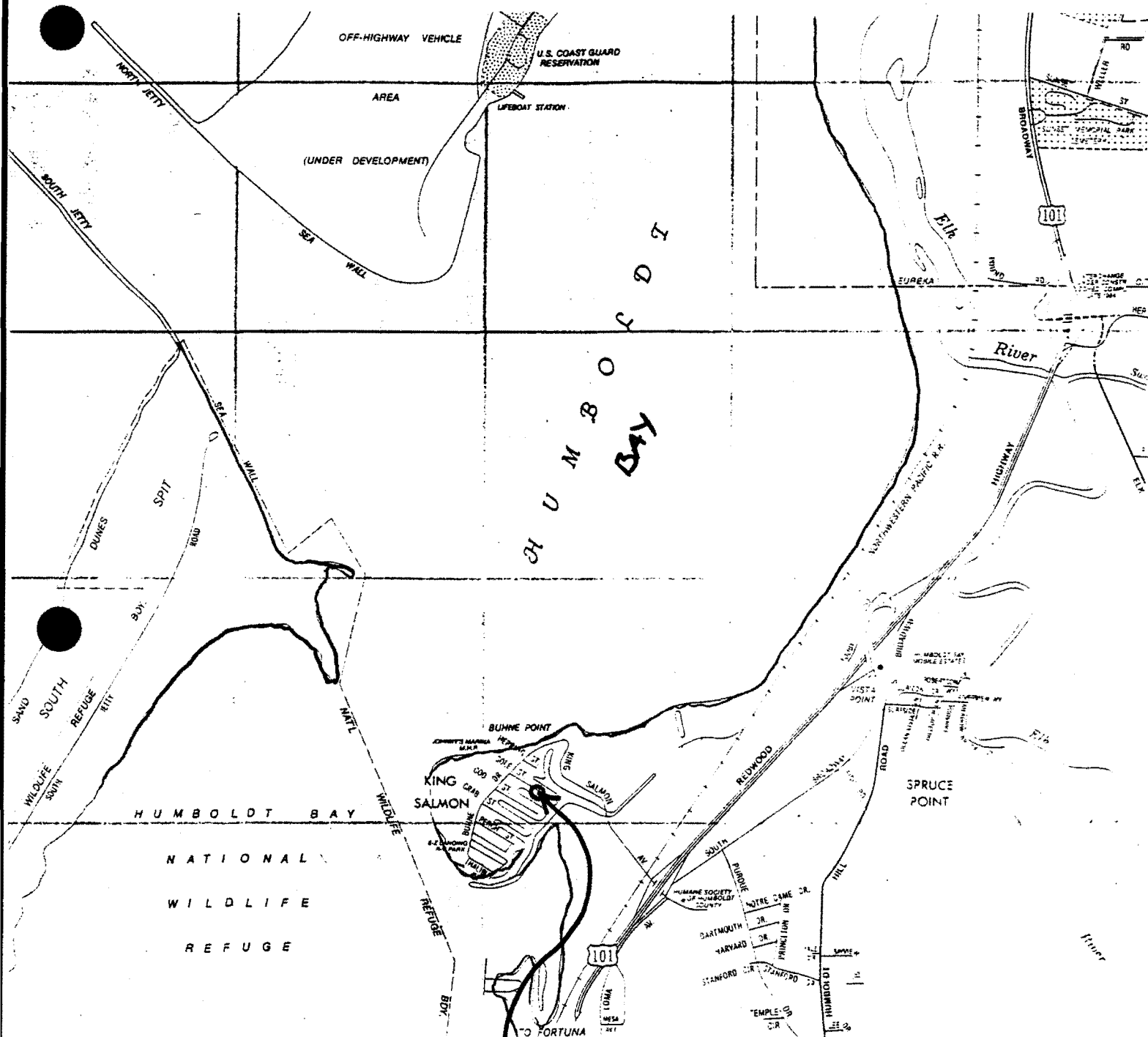


EXHIBIT NO. 2
APPLICATION NO.
1-96-51
Vicinity Map



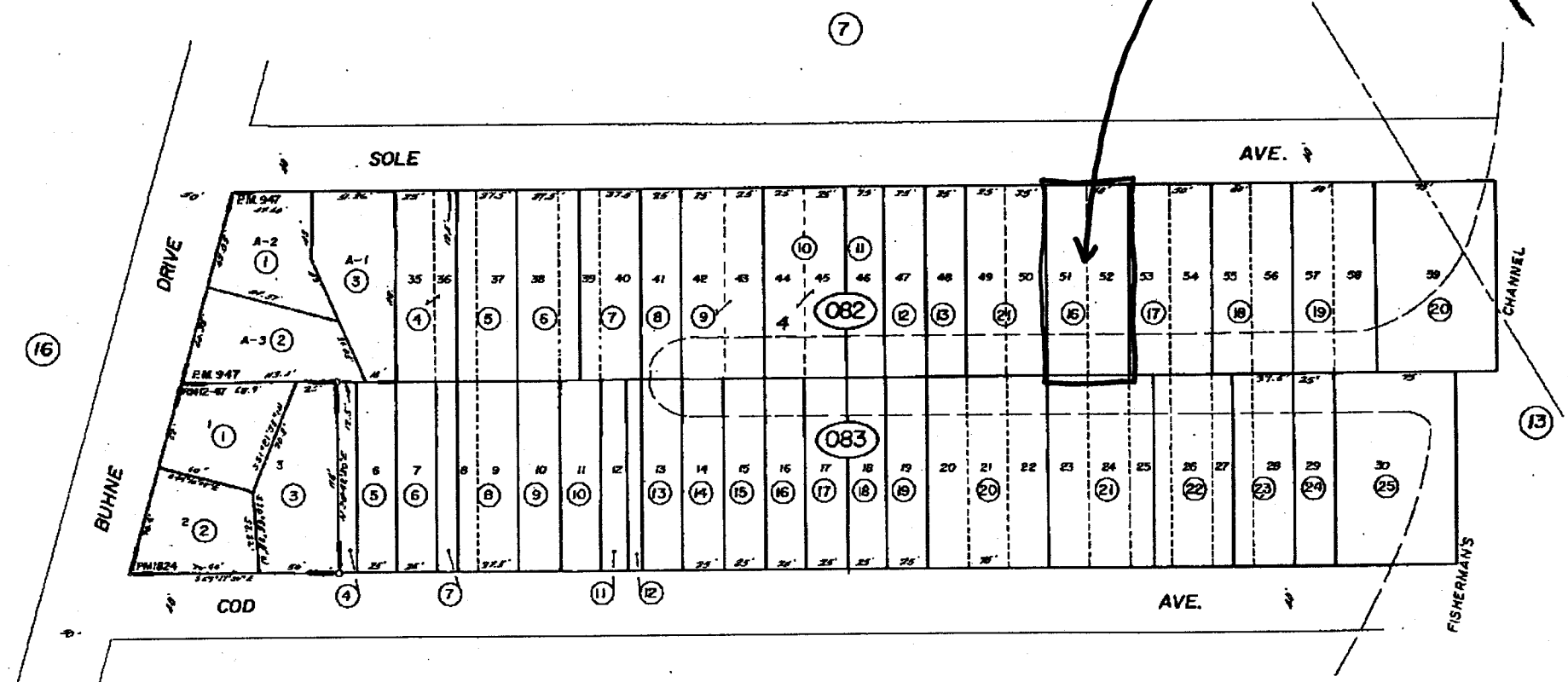
PROJECT SITE

EXHIBIT NO. 3
APPLICATION NO.
1-96-51
Site Location

FOR SEC. 7 & 8, T. 4 N., R. 1 W., H. B. & M.
(KING SALMON)

305-08

EXISTING
PARCELS



Por. King Salmon Resort Sub., R.M. Bk. 12, Pg. 57, 58, & 59
R.S. Bk. 14, Pg. 32
P.M. No. 947 of P.M. Bk. 8, Pg. 80
P.M. No. 1824 of P.M. Bk. 16, Pg. 22

Assessors Map Bk. 305 - Pg. 08
County of Humboldt, Calif.

EXHIBIT NO. 4
APPLICATION NO.
1-96-51
Existing Parcels

EXHIBIT NO. 5

APPLICATION NO.

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Site Plan

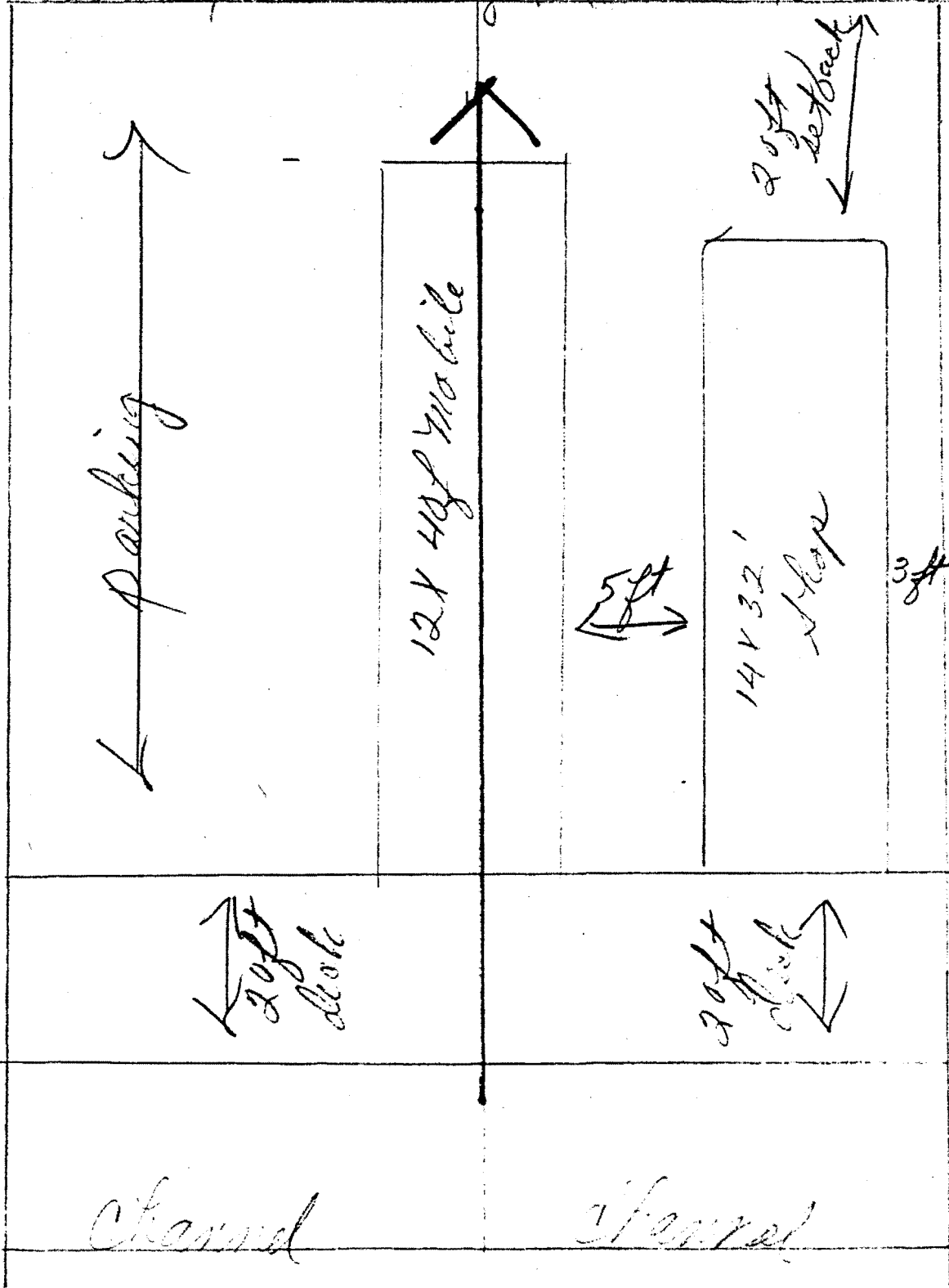
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Sub St

Lot 51

County Rd

Lot 52



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to

NOT TO SCALE

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