

## CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA  
 45 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 (415) 904-5260



W 19a

Filed: August 20, 1996  
 49th Day: October 8, 1996  
 180th Day: February 16, 1996  
 Staff: Jo Ginsberg  
 Staff Report: August 23, 1996  
 Hearing Date: Sept. 11, 1996  
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 1-92-201-A  
 APPLICANT: JOHN ZUCKER  
 AGENT: Stephen Hale  
 PROJECT LOCATION: 3401 Highway One, approximately two miles north of Elk, Mendocino County, APN 127-040-03x

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 2,040-square-foot, 18-foot-high, one-story single-family residence with a driveway, well, and septic system.

DESCRIPTION OF AMENDMENT: Enlarge the proposed house by (1) adding 653 square feet to the footprint, extending it 12 feet to the northwest; (2) adding a 198-square-foot basement; and (3) adding a second-story master bedroom loft, resulting in a house that remains at no higher than 18 feet in height.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County LCP; Certificate of Compliance #10-91.

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1. PROCEDURAL AND BACKGROUND NOTE: Pursuant to Section 13166 of the California Code of Regulations, the Executive Director has determined that this amendment is material and therefore is bringing it to the Commission for their review. If the applicants or objector so request, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code Reg. 13166.

Section 13166 of the Regulations also states that the Executive Director shall reject an amendment request if it lessens or avoids the intent of the approved permit unless the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

Coastal Permit No. 1-92-201 (Stewart) was approved by the Commission on March 18, 1993 with a number of special conditions intended to address visual and geologic concerns, and to ensure that the development would be subordinate to the visual character of the highly scenic area where it will be constructed. Special Condition No. 1 required that prior to issuance of the coastal permit, the applicant shall record a future development deed restriction over the entire property stating that any future additions or other development as defined in Public Resources Code section 30106 will require an amendment to Permit No. 1-92-201 or a new coastal permit. Special Condition No. 2 required submittal of final foundation and site drainage plans consistent with the recommendations of the geotechnical report. Special Condition No. 3 required submittal of a landscaping/tree maintenance plan that included the planting of at least 16 native trees for screening purposes. Special Condition No. 4 imposed various design restrictions, such as requiring earthtone colors for the structure to ensure that the development has no adverse impacts on visual resources.

The conditions of the permit were met, and remain in effect. The coastal permit was issued on May 31, 1996. The permit has been extended, and assigned from the original applicant, John Stewart, to the current property owner and applicant, John Zucker. Site development has begun, but the house itself has not been built.

This amendment request seeks to reconfigure and expand the footprint of the previously approved residence to accommodate the needs of the new property owner. As conditioned, these proposed changes keep the development visually subordinate to the character of the area, and the changes do not conflict with the recommendations of the previously prepared geologic report to keep the project from contributing to a geologic hazard. Therefore, the Executive Director found that the proposed amendment will not conflict with the intent of the conditions attached to Coastal Permit No. 1-92-201. Since this amendment request would not result in a lessening or avoidance of the intent of the approved permit, the Executive Director accepted the amendment request for processing.

2. STANDARD OF REVIEW: The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Therefore, the LCP, not the Coastal Act, is the standard of review for this amended project.

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STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, for the proposed development on the grounds that the development as amended is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976, is consistent with the provisions of the Mendocino 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:

Special Conditions 1 and 4 of the original permit remain in effect. The following two new special conditions regarding site, foundation, drainage, and landscaping plans supercede Special Conditions 2 and 3 of the original permit.

1. Final Site, Foundation, and Drainage Plans.

The applicant shall construct the residence in accordance with the final site and foundation plans dated April 1996 prepared by G & G Design, submitted with the amendment request, and with the final site drainage plans dated May 1996, prepared by Stephen Hale, in accordance with the recommendations of the geotechnical report dated 15 February 1996. Any deviation from the approved plans will require an amendment of the permit.

2. Landscaping Plan.

The applicant shall landscape the property in accordance with the revised landscaping plan dated 26 July 1996 and prepared by Stephen Hale, which was submitted with the amendment request (see Exhibit No. 3). As provided in the plan, a total of 27 Douglas fir trees and shore pines shall be planted in the approximate locations shown on the landscaping plan for the purpose of screening the house from view along Highway One. The trees to be planted shall be a minimum of five feet high when planted, and must reach a mature height of at least 20 feet. The trees shall be watered by drip irrigation during the summer months, with 100% replacement of dead trees for the life of the project.

The trees shall be planted within 60 days of completion of the project. The applicant shall notify the Executive Director in writing when the trees have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant. Any deviation from the approved plans will require an amendment to the permit.

**IV. Findings and Declarations.**

The Commission hereby finds and declares:

**1. Project and Site Description:**

The original project approved by the Commission is for the construction of an 18-foot-high, 2,040-square-foot, single-family residence with a driveway, well, and septic system on a blufftop lot located west of Highway One approximately two miles north of the town of Elk. The proposed amendment request seeks to enlarge the proposed house by: (1) adding 653 square feet to the footprint, extending it 12 feet to the northwest; (2) adding a 198-square-foot basement; and (3) adding a second-story master bedroom loft. The reconfigured and expanded structure will be no higher than 18 feet, with the extended portion being 14-16 feet in height.

The elongated property is situated on a finger-like extension of coastal terrace. The site is near-level, sloping slightly to the north. Steep to very steep coastal bluffs approximately 200 feet high extend along the south, west, and part of the north sides of the property. The heavily brush-covered slope along the north side of the terrace is relatively gentle. North of the property line, the slope descends moderately steeply into a natural, brush-covered drainage ravine. The south and west portions of the property drop off relatively steeply down to the shoreline. The top of slope to the southwest is the top of an overgrown landslide headscarp.

The subject parcel is not shown as a legal lot on the County's LUP maps or the County's assessor parcel maps. However, an investigation by Commission staff revealed that the parcel was created by a land patent in the 1800's, and that a Certificate of Compliance (#10-91) was issued by the County for the subject parcel, establishing that it is a legal lot. The Certificate of Compliance was issued under subdivision (a) of Government Code Section 66499.35, meaning that the parcel met local government requirements at the time it was created, and therefore a coastal permit for a land division is not necessary.

The subject parcel is designated in the Land Use Plan as Rangeland-160 (RL-160), meaning that there may be one parcel for every 160 acres. The subject parcel is approximately four acres in size, and is therefore a legal, non-conforming lot.

2. Geologic Hazards:

Mendocino County LUP Policy 3.4-7 states that new structures shall be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic lifespans (75 years). Section 20.500.020(B) of the Zoning Code reiterates this language, and states that construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

Policy 3.4-9 states that any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself.

Zoning Code Section 20.500.010 requires that 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.

As noted above, the subject property is located atop a very high, steeply-sloped coastal terrace. The slope to the southwest contains an overgrown landslide headscarp. The proposed building site is approximately 75 feet from the south-facing bluff edge. A geotechnical report and addendum prepared for the site in 1992 made a number of recommendations regarding site grading, drainage, building setback, and foundation design intended to minimize erosion and eliminate any potential geologic hazards, and established a recommended footprint for all development. Special Condition No. 2 of the original permit required submission of final foundation and site drainage plans that are consistent with the geotechnical report's recommendations. The applicant submitted plans for the original house design in 1996 that were approved by the Executive Director as complying with the recommendations of the geotechnical report and conforming with Special Condition No. 2 of the original permit.

The proposed revised design for the expanded and reconfigured residence locates the entire structure within the footprint recommended in the original geotechnical report (see Exhibit No. 4). A new geotechnical investigation was submitted that evaluates the revised plans for the residence, including the expanded footprint, new loft, and new basement, and concludes that the revised location and design of the structure is geotechnically suitable, and that the development will not have adverse impacts on the stability of the coastal bluff or on erosion. Special Condition No. 1 of this amendment requires that final site, foundation, and drainage plans submitted with the amendment request and reviewed in the new geotechnical report dated 15 February 1996 shall be implemented according to recommendations made in the report; any

deviation from the approved plans will require an amendment of the permit. This condition will ensure that the house will either be built according to the plans approved by the geotechnical engineer for the project or the Commission will have the opportunity to review any future changes for consistency with the geologic hazard policies of the LCP.

In addition, Special Condition No. 1 of the original permit requires Commission review of all future development to ensure that it will be sited and designed to avoid creation of a geologic hazard.

The Commission finds, therefore, that the amended project is consistent with LUP Policies 3.4-7 and 3.4-9 and with Zoning Code Sections 20.500.010 and 20.500.020(B), as the proposed development will be located and designed in a manner that will not result in the creation of a geologic hazard.

3. Visual Resources:

LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that permitted development shall be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas, and, in highly scenic areas, to be subordinate to the character of its setting. Policy 3.5-3 states that new development west of Highway One in designated "highly scenic areas" should be subordinate to the natural setting and minimize reflective surfaces. The Zoning Code reiterates these policies. Specifically, Section 20.368.040 of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas in Range Land districts, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.

The development approved by the Commission, as noted above, includes the construction of an 18-foot-high, one-story single-family residence and driveway on the subject parcel, which is a blufftop parcel located in an area designated in the County LUP as "Highly Scenic." The proposed amended project is for a reconfigured and expanded building footprint, including an additional 653 square feet which will extend the footprint 12 feet to the northwest, a new 198-square-foot basement, and a new second-story master bedroom loft. The structure will remain at no more than 18 feet in height, with the expanded portion being 14-16 feet to minimize visual impacts. No additional trees will be removed as a result of expanding the footprint.

The portion of the coast in which the subject site lies, between Elk and Albion, is largely undeveloped, with few structures visible from Highway One, affording wide-open, sweeping vistas to motorists travelling on the highway. It is an extremely scenic stretch of coast that has a very different character

than the more developed portions of the Mendocino coast. Existing trees growing on both sides of the proposed building site partially screen the site from view from Highway One. The residence will be located in a grove of trees on the north side of the property, which is the portion of the property least visible from Highway One. The proposed expanded residence will not be at all visible from the east or the north, but will be somewhat visible from a Highway One turnoff to the south of the subject parcel, and from the highway itself to the south.

Several special conditions were attached to the original staff report to minimize the adverse impacts of the development on visual resources. Special Condition No. 3 required submission of a landscape/tree maintenance plan that included the planting of twice the number of trees to be removed for the project along the eastern and southern portions of the property to further screen the residence from view from Highway One to the south. Eight trees were removed to allow for construction; therefore at least 16 trees were required to be planted (the applicant actually submitted a landscaping plan that included 22 trees). In addition, the Commission attached Special Condition No. 4, requiring the use of earthtone colors, natural appearing and non-reflective materials, and low-wattage and downcast lighting for the structure.

Furthermore, the Commission attached Special Condition No. 1, requiring recordation of a deed restriction stating that all future development on the subject parcel that might otherwise be exempt from permit requirements under the California Code of Regulations, such as fences or the addition of outbuildings, requires a coastal permit. As a result, the Commission will be able to review all future development to ensure that it will not have significant adverse impacts on visual resources.

Since the proposed amended project will have a greater footprint than the originally approved project, the applicant has submitted a revised landscaping plan that includes five new Douglas fir trees to be planted to the northwest of the residence to provide additional screening of the expanded structure when viewed from the south (see Exhibit No. 3), in addition to the 22 trees already to be planted. There will therefore be a total of 27 trees planted for landscape screening. The Commission attaches a new special condition to this amended permit, Special Condition No. 2, which requires that the new revised landscape plan dated 26 July 1996 submitted with the coastal amendment application shall be implemented in lieu of the previously submitted landscape plan dated 1 May 1996. The condition requires that a total of 27 Douglas fir trees and shore pines be planted in the approximate locations shown on the landscape plan for the purpose of screening the house from view along Highway One. The trees to be planted shall be a minimum of five feet high when planted, and must reach a mature height of at least 20 feet. The trees shall be watered by drip irrigation during the summer months, with a 100% replacement of dead trees for the life of the project. Any deviation from the plan will require an amendment of the permit.

The Commission finds, therefore, that the proposed amended project, as conditioned, is consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.368.040 of the Zoning Code, as the amended development will (1) be sited and designed to protect views; (2) prevent impacts that would significantly degrade the area; (3) be visually compatible with the character of surrounding areas; (4) be no more than 18 feet in height; and (5) be subordinate to the character of its setting.

4. Environmentally Sensitive Habitat Areas:

LUP Policy 3.1-2 states that development in environmentally sensitive habitat areas such as riparian zones shall be subject to special review to determine the current extent of the sensitive resource. Policy 3.1-7 states that a buffer area shall be established adjacent to all environmentally sensitive habitat areas to protect the environmentally sensitive habitat from significant degradation resulting from future developments. Policy 3.1-10 states that areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas which shall be protected. These policies are reiterated in the Zoning Code.

A natural, heavily brush-covered drainage ravine with moderately steep side slopes is located north of the subject property boundary. The riparian vegetation associated with the unnamed watercourse is approximately 100 feet from the property boundary. The botanist who examined the property at the time of the original permit application has conducted another botanical survey and has determined that there is no sensitive habitat that will be affected by the proposed amended project. Since the proposed amended development will be located more than 100 feet from the riparian habitat and will not have any significant adverse impacts on sensitive habitat, the Commission finds that the proposed amended project is consistent with the County's LCP.

8. 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)(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.

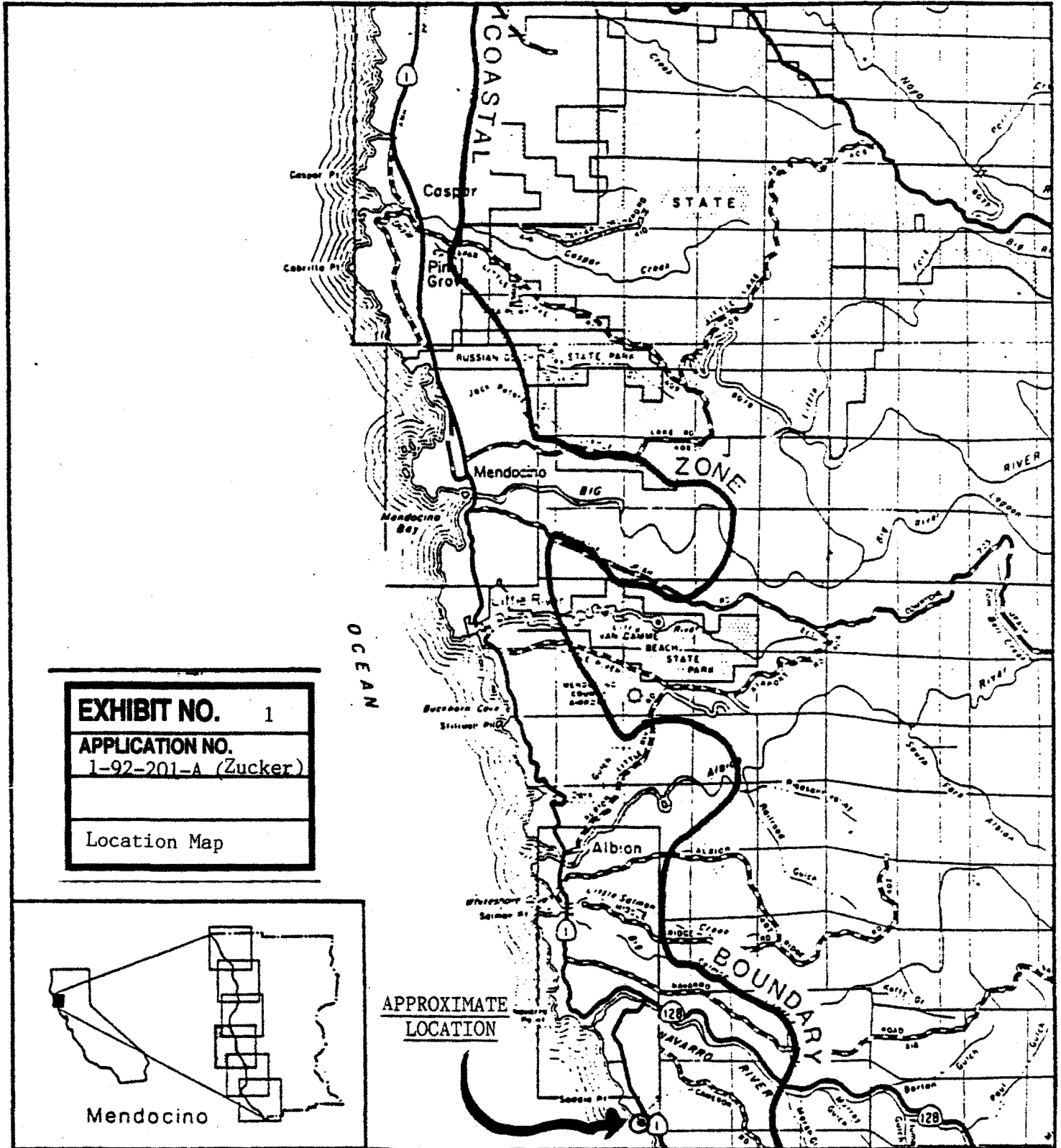
As discussed above, the project has been mitigated to avoid significant impacts, and hazards. The project, as conditioned, will not have a significant adverse effect on the environment, within the meaning of CEQA.



## ATTACHMENT A

### Standard Conditions

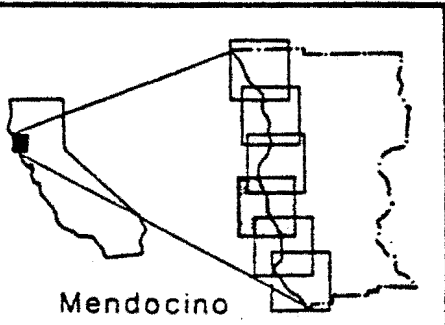
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.



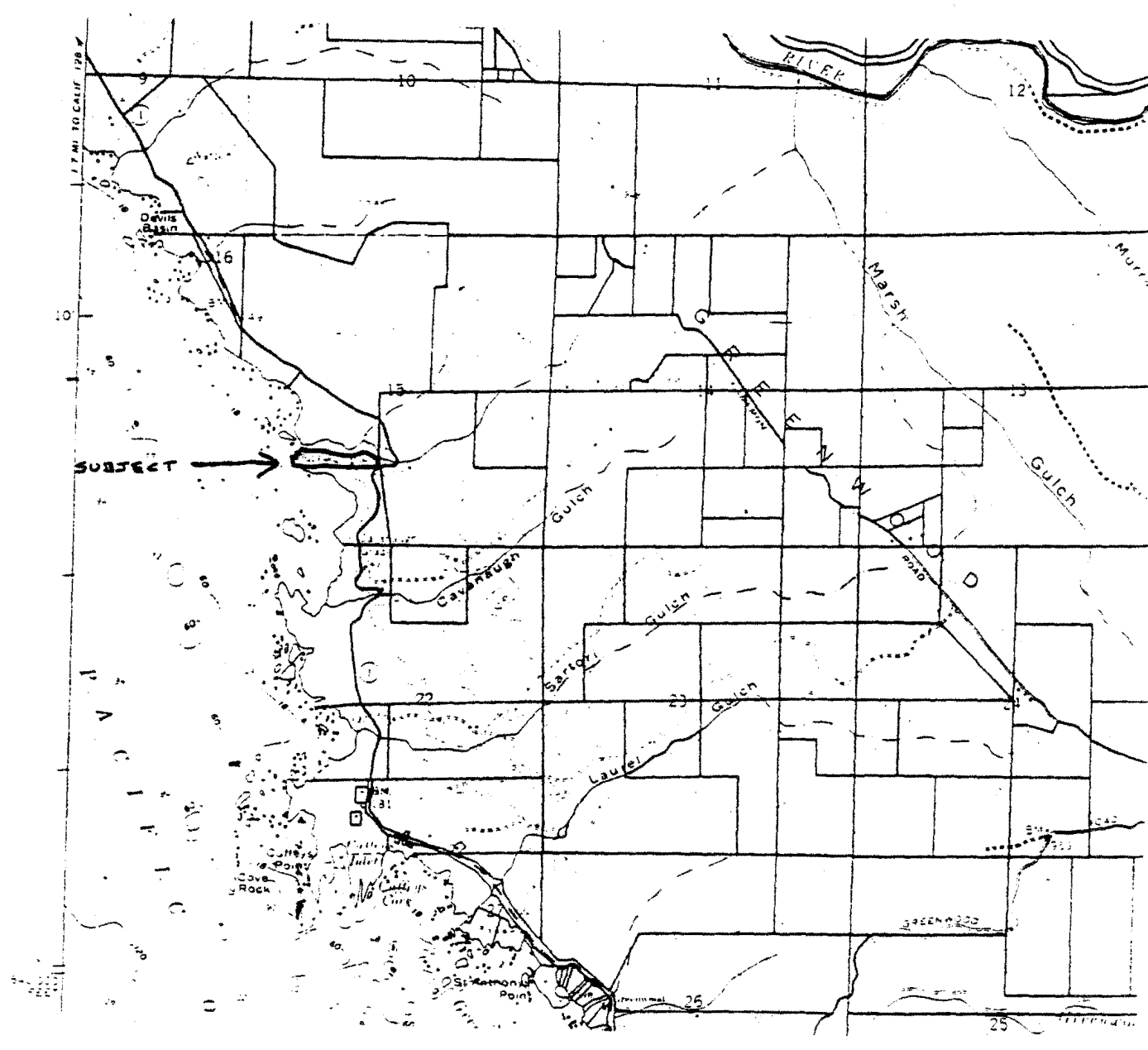
**EXHIBIT NO.** 1  
**APPLICATION NO.**  
 1-92-201-A (Zucker)

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Location Map



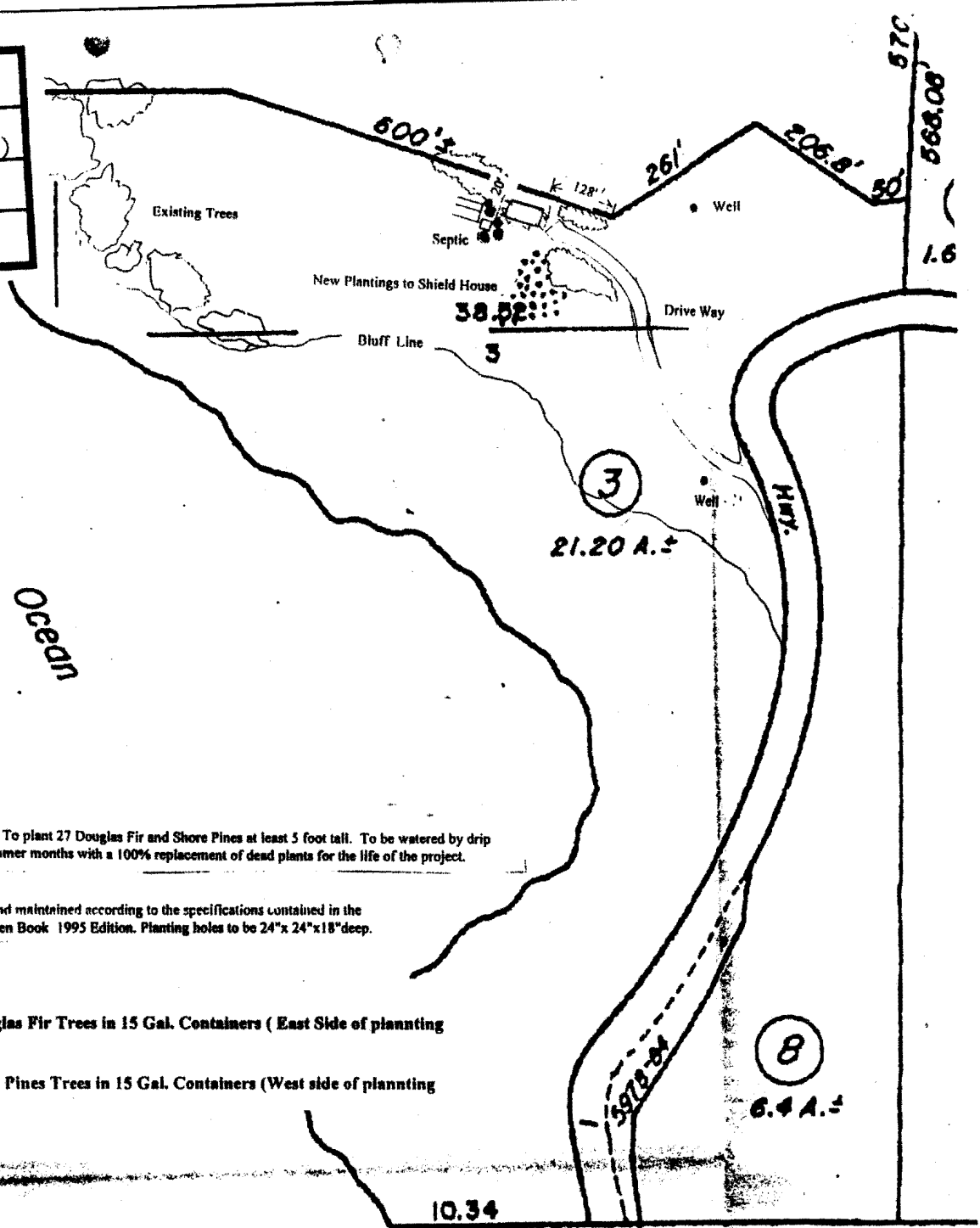
APPROXIMATE  
 LOCATION



<b>EXHIBIT NO.</b> 2
<b>APPLICATION NO.</b> 1-92-201-A (Zucker)
Vicinity Map

**EXHIBIT NO.** 3  
**APPLICATION NO.**  
 1-92-201-A (Zucker)

Site Plan/  
 Landscaping Plan



Land Landscaping Plan: To plant 27 Douglas Fir and Shore Pines at least 5 foot tall. To be watered by drip irrigation during the summer months with a 100% replacement of dead plants for the life of the project.

Trees to be planted and maintained according to the specifications contained in the Sunset Western Garden Book 1995 Edition. Planting holes to be 24"x 24"x18" deep.

**Plantings:** 17 Douglas Fir Trees in 15 Gal. Containers ( East Side of planning area)

10 Shore Pines Trees in 15 Gal. Containers (West side of planning Area)

**Hole Preparation:** Hole size to be 24" x 24" x 18" deep with a 40% addition of Organic Compost mixed with the native soil, add 3 tablets of Agriform to soil when planting to promote root growth.

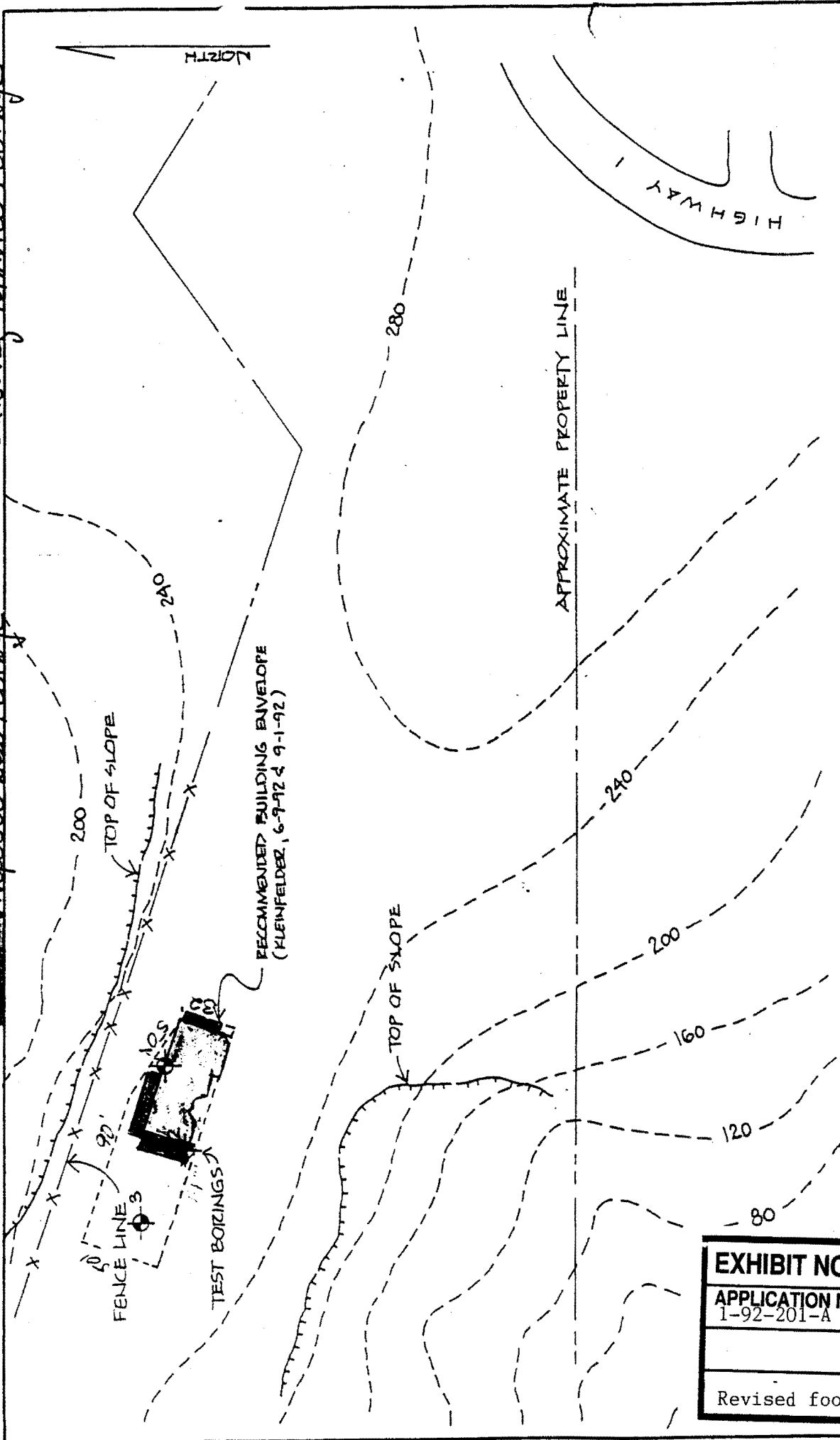
Cover planting area with 3" of shedded mulch. No additional fertilizers are required.

Trees to reach a mature heighth of at least 20'

*Revised 7/26/96. Additional Proposed Plantings. for additional, 5 Douglas Fir Trees planted with some specs. as above.*

Existing Permitted Footage

Proposed New Footage



RECOMMENDED BUILDING ENVELOPE  
(KLEINFELDER, 6-9-92 & 9-1-92)

PLATE **1**

**SITE PLAN**  
Zucker Residence  
Highway 1, Elk, California

**KLEINFELDER**

PROJECT NO. 41-3272-01

0 50 100  
SCALE IN FEET

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
 1-92-201-A (Zucker)

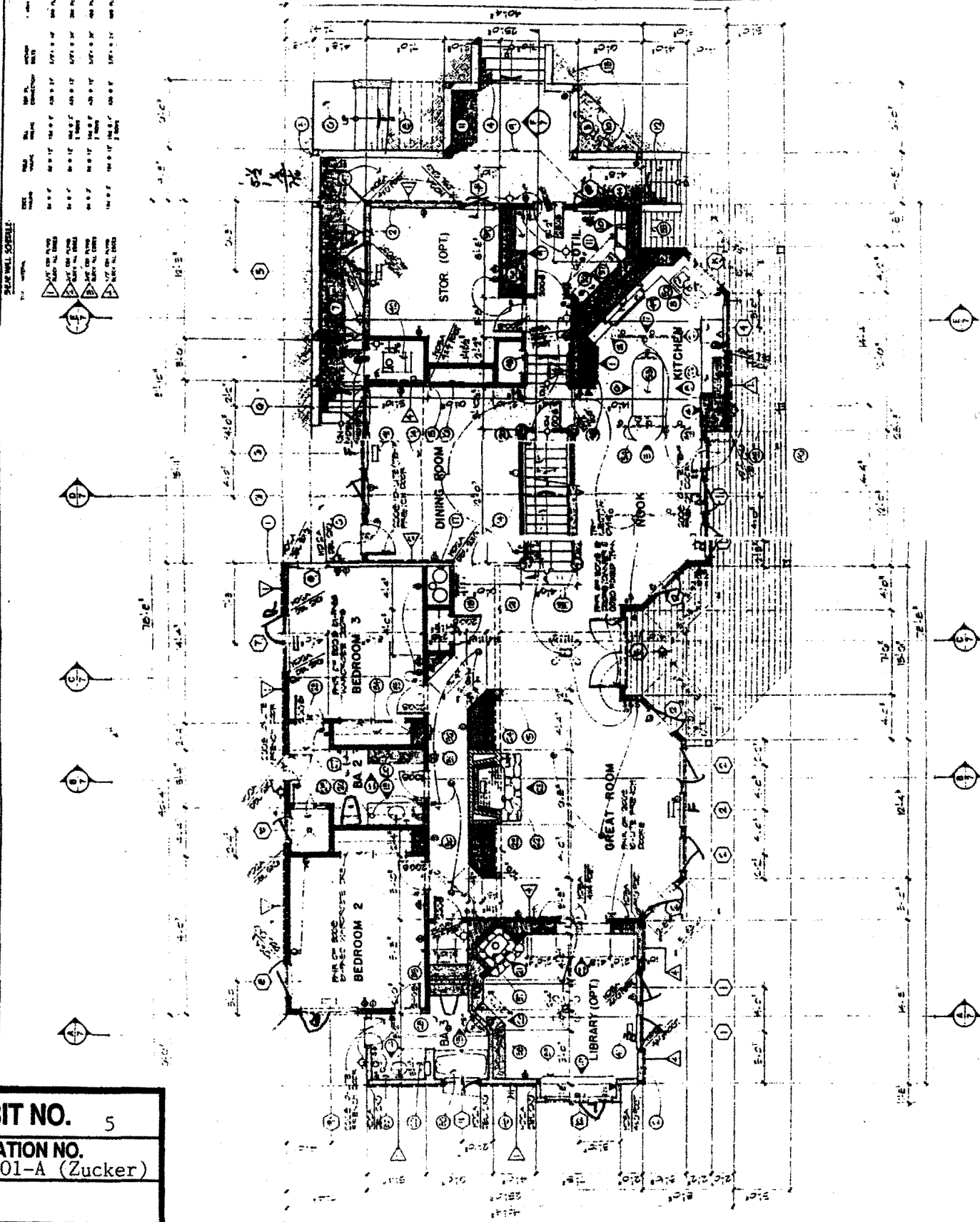
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Revised foot print

**KEY NOTES**

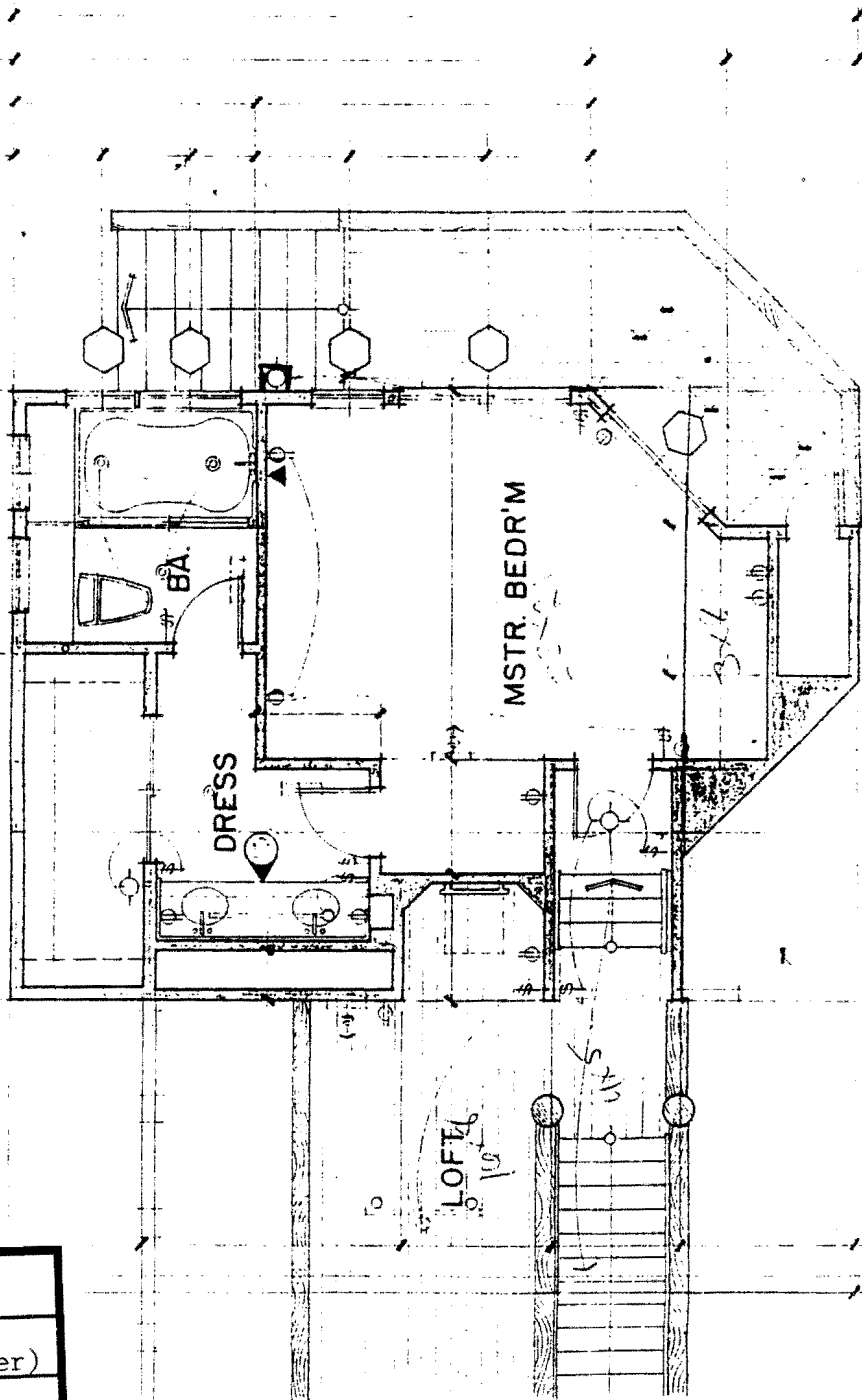
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3. 2x8 D.P. 7/11 exterior walls (thickness of 2x8 walls at all other locations).
4. 2x10 D.P. 7/11 exterior walls (thickness of 2x10 walls at all other locations).
5. 2x12 D.P. 7/11 exterior walls (thickness of 2x12 walls at all other locations).
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FLOOR PLAN  
MAIN LEVEL



**EXHIBIT NO.** 5  
**APPLICATION NO.** 1-92-201-A (Zucker)

Floor Plan

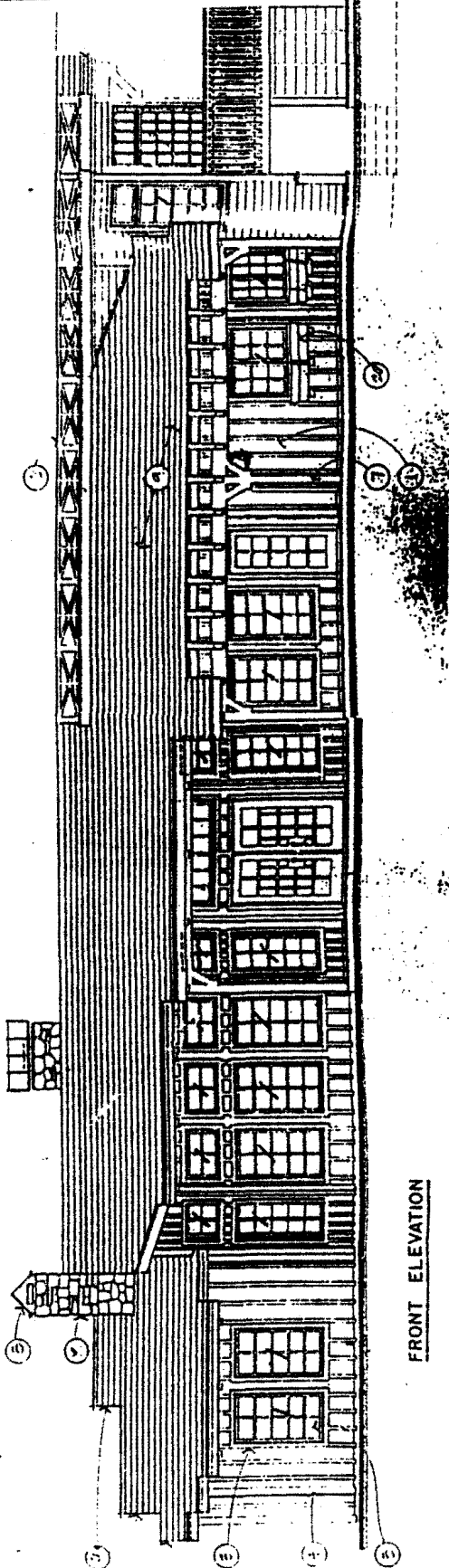


<b>EXHIBIT NO.</b> 6
<b>APPLICATION NO.</b> 1-92-201-A (Zucker)
Loft

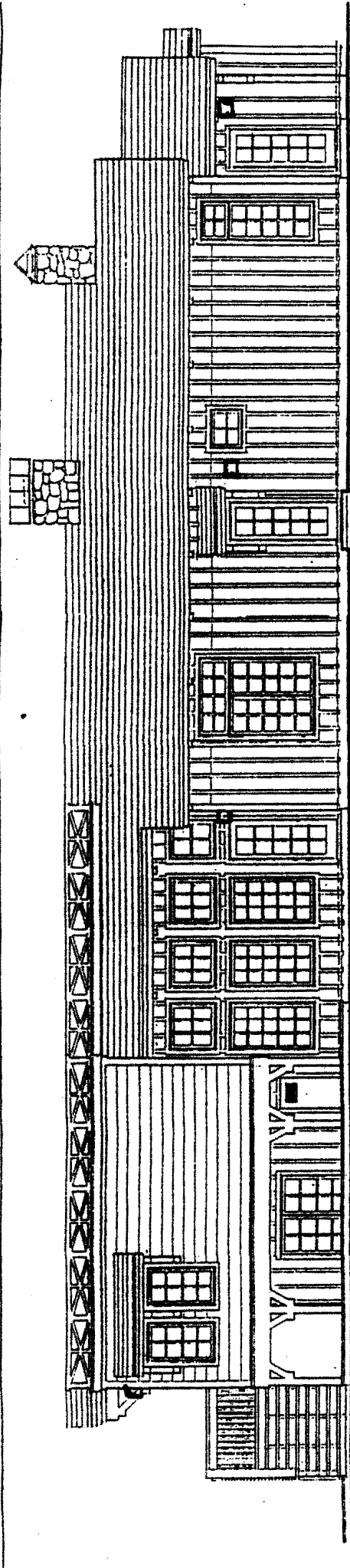
EXHIBIT NO. 7

APPLICATION NO.  
1-92-201-A (Zucker)

Elevation Plans

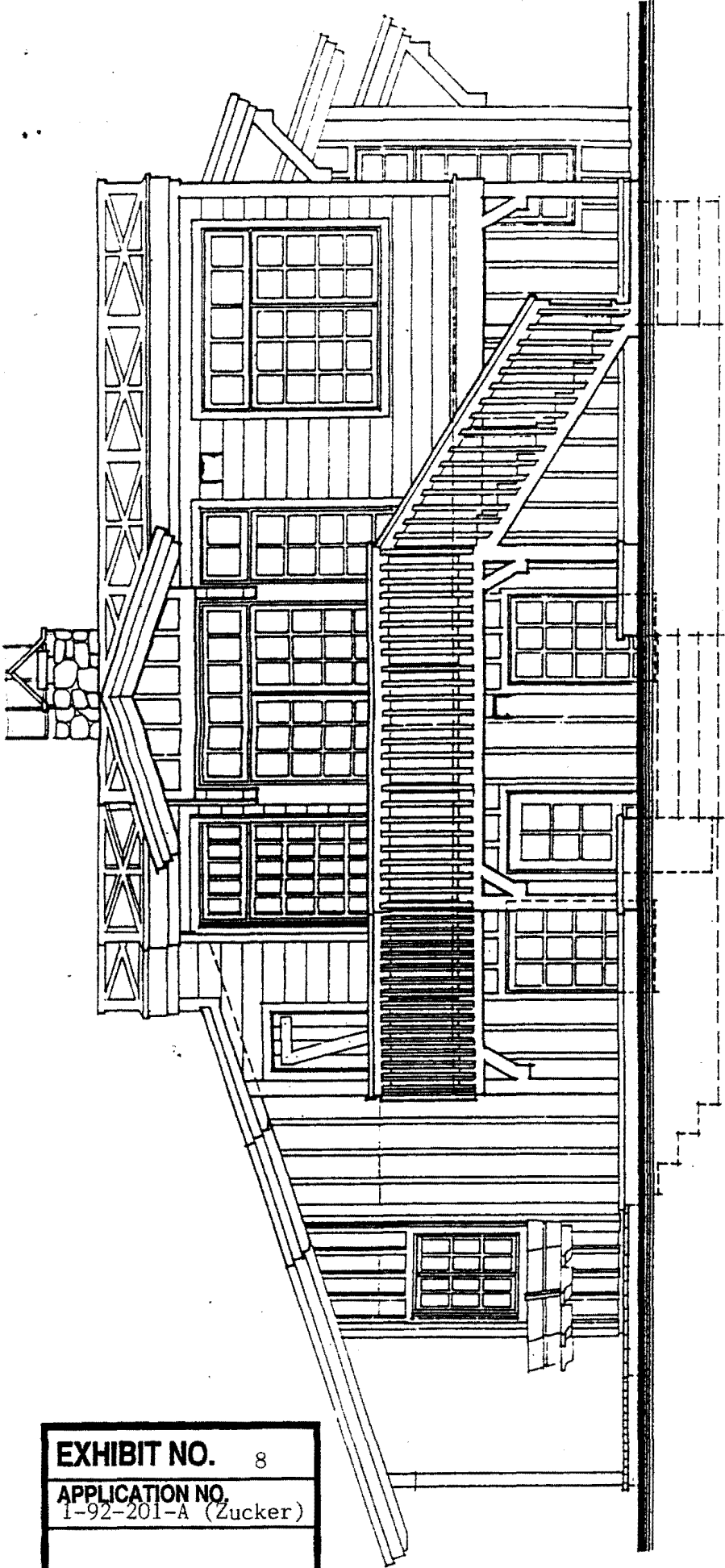


FRONT ELEVATION

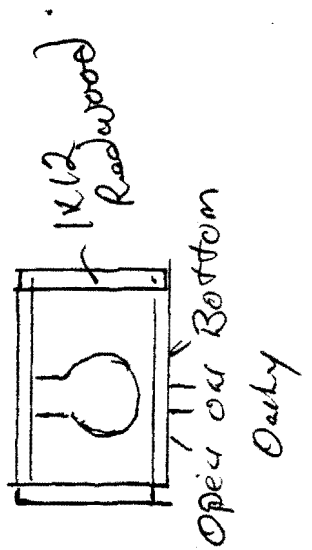


REAR ELEVATION





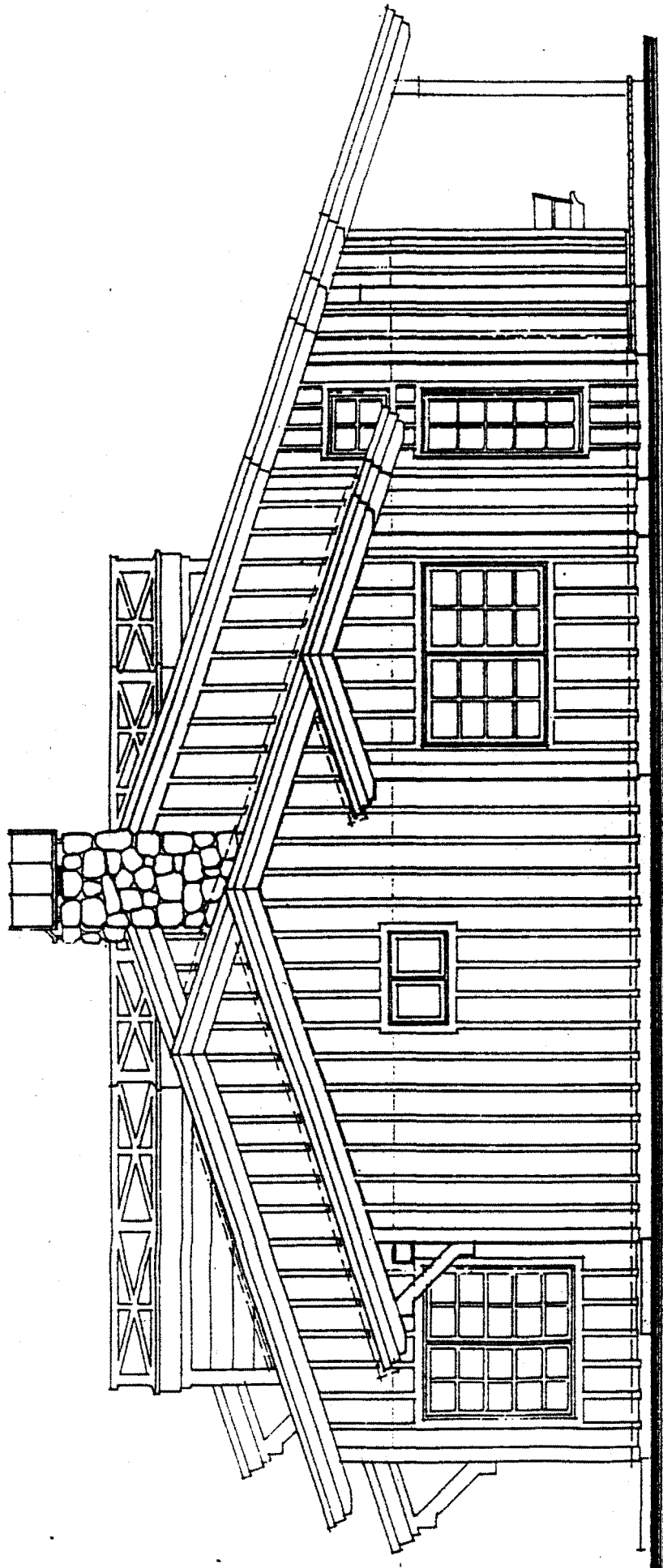
**RIGHT SIDE ELEVATION**



ALL Exterior lights to be enclosed in  
 Redwood Box Cover to allow downcast  
 lighting only.

*ASZ*

**EXHIBIT NO.** 8  
**APPLICATION NO.**  
 1-92-201-A (Zucker)  
 Elevation Plans



LEFT SIDE ELEVATION

<b>EXHIBIT NO.</b> 9
<b>APPLICATION NO.</b> 1-92-201-A (Zucker)
Elevation Plans

**CALIFORNIA COASTAL COMMISSION**  
 NORTH COAST AREA  
 45 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 (415) 904-5260

**Th 56**



Filed: December 3, 1992  
 49th Day: Hearing Opened & Cont'd  
 180th Day: June 1, 1993  
 Staff: Jo Ginsberg  
 Staff Report: March 5, 1993  
 Hearing Date: March 18, 1993  
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-92-201**  
 APPLICANT: **JOHN STEWART**  
 AGENT: Stephen Hale  
 PROJECT LOCATION: 3401 Highway One, approximately two miles north of  
 Elk, Mendocino County, APN 127-040-03x.  
 PROJECT DESCRIPTION: Construct a one-story single-family residence with a  
 driveway, well, and septic system.

Lot area: 4 ± acres  
 Building coverage: 2,040 sq.ft.  
 Plan designation: Rangeland-160 (RL-160)  
 Zoning: RL-FP  
 Project density: 1 du/4 acres  
 Ht abv fin grade: 18 feet

LOCAL APPROVALS RECEIVED: Mendocino County LCP Consistency Review;  
 Department of Environmental Health well and  
 septic approval; Certificate of Compliance #10-91.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program.

STAFF NOTE

At the Commission meeting of January 12, 1993, the Commission opened and continued the public hearing on the subject application and directed staff to investigate certain visual and botanical concerns that were raised at the meeting. The staff report for the project has been revised to include new information. A number of pieces of correspondence have been submitted since the January meeting, and these are included as exhibits.

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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 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. Future Development:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for review and approval of the Executive Director, and subsequently record a document stating that the subject permit is only for the development herein described in the coastal development permit and that any future additions or other development as defined in Public Resources Code Section 30106, including the construction of fences, additions, or outbuildings that might otherwise be exempt under Public Resources Code Section 30610(a), will require an amendment to this permit or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The document shall be recorded as a covenant running with the land binding all successors and assignees in interest to the subject property.

2. Final Foundation and Site Drainage Plans:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director final foundation and site drainage plans for the proposed project. These plans shall be consistent with the recommendations made in the Geotechnical Investigation Report prepared by Kleinfelder, Inc. dated February 13, 1992, and the addendum to this report dated June 9, 1992, which were submitted with the application. In particular, the plans shall be consistent with the recommendations regarding site grading, construction of the foundation, blufftop setback, and

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site drainage. Any deviation from the approved plans will require an amendment of this permit.

3. Landscaping:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the Executive Director's review and approval, a landscaping/tree maintenance plan that includes planting a minimum of 16 native trees, either Douglas fir, Bishop pines, or shore pines, and any shrubs the applicant wishes to plant, along the southern and eastern portions of the property for the purpose of screening the house from view along Highway One. The trees to be planted shall be a minimum of five feet high when planted. The plan shall specify the kind of trees to be planted, and the mature height of the trees, which shall be at least 20 feet.

The plan shall further include a tree maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted trees and shrubs and a tree replacement program on a one-to-one or greater ratio for the life of the project. The new trees and shrubs shall be planted within 60 days of completion of the project.

4. Design Restrictions:

All exterior siding of the structure shall be of natural or natural-appearing materials of dark earthtone colors only, and the roof shall also be of dark earthtone color and shall be of a natural-appearing material. In addition, all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare. Finally, all exterior lights, including any lights attached to the outside of the house, shall be low-wattage, non-reflective, and have a directional cast downward.

IV. Findings and Declarations.

The Commission finds and declares the following:

1. Project and Site Description:

The proposed project consists of the construction of an 18-foot-high, 2,040-square-foot, single-family residence with a driveway, well, and septic system on a blufftop lot located west of Highway One approximately two miles north of the town of Elk.

The elongated property is situated on a finger-like extension of coastal terrace. The site is near-level, sloping slightly to the north. Steep to very steep coastal bluffs approximately 200 feet high extend along the south,

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west, and part of the north sides of the property. The heavily brush-covered slope along the north side of the terrace is relatively gentle. North of the property line, the slope descends moderately steeply into a natural, brush-covered drainage ravine. The south and west portions of the property drop off relatively steeply down to the shoreline. The top of slope to the southwest is the top of an overgrown landslide headscarp.

The subject parcel is not shown as a legal lot on the County's LUP maps or the County's assessor parcel maps. However, an investigation by Commission staff revealed that the parcel was created by a land patent in the 1800's, and that a Certificate of Compliance (#10-91) was recently issued by the County for the subject parcel, establishing that it is a legal lot. The Certificate of Compliance was issued under subdivision (a) of Government Code Section 66499.35, meaning that the parcel met local government requirements at the time it was created, and therefore a coastal permit for a land division is not necessary.

The subject parcel is designated in the Land Use Plan as Rangeland-160 (RL-160), meaning that there may be one parcel for every 160 acres. The subject parcel is approximately four acres in size, and is therefore a legal, non-conforming lot.

2. Locating and Planning New Development:

Section 30250(a) of the Coastal Act states in part that:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, 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 intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The Mendocino County Department of Environmental Health has issued well and septic permits for the subject property. The proposed development, therefore, is consistent with Coastal Act Section 30250(a) to the extent that the parcel is able to accommodate the proposed development and that adequate services are provided.

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3. Geologic Hazards:

Coastal Act Section 30253 states in part that

New development shall:

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

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As noted above, the subject property is located atop a very high, steeply-sloped coastal terrace. The slope to the southwest contains an overgrown landslide headscarp. The proposed building site is approximately 75 feet from the top of the headscarp. The geotechnical report makes a number of recommendations regarding site grading, drainage, building setback, and foundation design intended to minimize erosion and eliminate any potential geologic hazards. To ensure that the proposed residential development is consistent with the recommendations made by the geologist who surveyed the property, the Commission attaches Special Condition No. 2, requiring submittal of final foundation and site drainage plans for the review and approval of the Executive Director.

In addition, the Commission attaches Special Condition No. 1, requiring recordation of a deed restriction stating that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements under the California Code of Regulations requires an amendment or coastal development permit. This condition will allow future development to be reviewed to ensure that the project will not be sited where it might result in a geologic hazard.

As conditioned, therefore, the proposed development is consistent with Coastal Act Section 30253, as the proposed development will not have adverse impacts on the stability of the coastal bluff or on erosion, and the Commission will be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard.

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4. Visual Resources:

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed development, as noted above, includes the construction of a one-story single-family residence and driveway on the subject parcel, which is a blufftop parcel located in an area designated in the County LUP as "Highly Scenic." This portion of the coast, between Elk and Albion, is largely undeveloped, with few structures visible from Highway One, affording wide-open, sweeping vistas to motorists travelling on the highway. It is an extremely scenic stretch of coast that has a very different character than the more developed portions of the Mendocino coast. Existing trees growing on both sides of the proposed building site partially screen the site from view from Highway One. The proposed residence will be located in a grove of trees on the north side of the property, which is the portion of the property least visible from Highway One. The proposed residence will not be at all visible from the east or the north, but will be somewhat visible from a Highway One turnoff to the south of the subject parcel, and from the highway itself to the south (see Exhibit No. 8).

To minimize the adverse impacts of the proposed development on visual resources, the Commission attaches Special Condition No. 3, requiring submission of a landscape/tree maintenance plan that includes the planting of twice the number of trees to be removed for the project (8 trees will be removed; 16 will be planted) along the eastern and southern portions of the property to further screen the residence from view from Highway One to the south. In addition, the Commission attaches Special Condition No. 4, requiring the use of earthtone colors, natural appearing and non-reflective materials, and low-wattage and downcast lighting for the structure.

Furthermore, the Commission attaches Special Condition No. 1, requiring recordation of a deed restriction stating that all future development on the



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subject parcel that might otherwise be exempt from permit requirements under the California Code of Regulations, such as fences or the addition of outbuildings, requires a coastal permit. In this way, the Commission will be able to review all future development to ensure that it will not have significant adverse impacts on visual resources.

There has been some concern raised by neighbors that the visual impacts of the development could be better addressed by relocating the proposed residence to a site some 200 feet to the east of the site selected by the applicant (see Exhibit No. 23). Staff has received a number of letters from interested parties concerning visual impacts (see attached exhibits). The Commission has had to consider whether the proposed residence should be sited in the proposed location, which will result in the removal of 8 trees (6 for the house, and 2 for the driveway), or perhaps relocated to the alternative site farther east where no trees would need to be removed. The Commission has weighed the pros and cons of these two sites and has determined that, on balance, the originally proposed site is superior because, with the landscape screening required in Special Condition No. 3, the residence will be less visible in that location than at the alternative location. Should the house be located in the alternative site, it would be visible not only from the south, but also from the east, while if the house is located in the originally proposed site, it will only be partially visible from the south. In addition, as the alternative site is 200 feet closer to Highway One, the structure would appear larger and be much more prominent from Highway One in the alternative site than in the proposed site.

Neighbors have raised a concern that removing the six trees from the applicant's proposed house site may cause the remaining 32 trees in the grove to die, leaving the house exposed and visible. It has been pointed out that the trees on the headland have survived as a grove with wind and saltburned branches dying on one tree but protecting and allowing growth of a branch on another; in such cooperative fashion the grove has survived as a unit, each protecting and being protected by another. This issue has been addressed by the botanist who surveyed the subject site (see Exhibit No. 18). He states that while no one can predict with absolute certainty the final outcome of removing some trees from a grove, it is his opinion that the proposed removal of six trees will not do long term damage to the trees that remain. He states:

The prevailing winds on the site are from the northwest. The Douglas fir trees on the site have become established with that exposure, and I suspect if one could measure the root system of these trees they would be better adapted to support the trees in the face of this wind than the roots of trees growing in a more sheltered site. If the smaller trees around the periphery of the grove were removed, leaving the larger trees in the center

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of the grove exposed (the opposite of what is proposed) the probability of the exposed trees suffering from windburn or blowdown would be higher. The proposal is, however, to remove six trees from the middle of the grove and leave the remainder [32 trees]. The shaping of the crowns of these trees by the prevailing northwest wind presents a minimum amount of the crown to the wind, and the wind tends to "slide" over the crowns, more or less on the principle of an inclined plane. The resulting lateral force of the wind that would cause blowdown is mostly deflected. Removing six trees from the center of this grove will not change the overall shape of the grove that deflects the damaging effect of the wind over the grove. I do not believe that the northwest wind will have a deleterious effect on the peripheral trees that would remain if the proposed removal of six trees takes place.

Occasionally Pacific storms cause strong winds to blow from the southwest and could cause trees without protection to blow down. But in this case, in my opinion, the same argument prevails: the trees in the center of the grove would be more in danger of blowing down if the peripheral trees were removed. But the peripheral trees will remain and the central trees are proposed for removal. Moreover, the house, if it is constructed as proposed, would provide some measure of protection to the remaining trees from southwest winds.

The issue has also been raised that new trees required to be planted as screening will not survive on the headland. The botanist who surveyed the property has addressed this issue as well, stating that there is no reason to expect that healthy trees, if provided adequate water and protection from deer browsing, would not prosper.

The Commission therefore concludes that the proposed project, as conditioned, is consistent with Coastal Act Section 30251, as the development will be sited and designed to protect views, prevent impacts that would significantly degrade the area, be visually compatible with the character of surrounding areas, and be subordinate to the character of its setting.

5. Public Access:

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, except where adequate access exists nearby, or where the provision of public access would be inconsistent with public safety.

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Section 30210 states:

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 states:

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:

(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.

In applying these policies, however, the Commission is limited by the need to show that any denial of a permit application based on those policies, 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 subject parcel is located west of Highway One and sits atop a steep bluff that rises to approximately 200 feet. There is no evidence of any public use of the subject lot for blufftop or beach access, and there does not appear to be any safe vertical access to the beach down the steep bluffs. Since the

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proposed development will not increase the demand for public access and will have no other impacts on existing or potential public access, the Commission finds that the project, which does not include provision of public access, is consistent with Coastal Act Sections 30210, 30211, and 30212.

6. Environmentally Sensitive Habitat Areas:

Section 30240 of the Coastal Act states that:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

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 through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

A natural, heavily brush-covered drainage ravine with moderately steep side slopes is located north of the subject property boundary. The riparian vegetation associated with the unnamed watercourse is approximately 100 feet from the property boundary. Since the proposed development will be located more than 100 feet from the riparian habitat and so will not have any significant adverse impacts on sensitive habitat, the Commission finds that the proposed project is consistent with Coastal Act Sections 30240 and 30231.

Letters have been submitted by concerned neighbors and citizens who feel that the existing Douglas fir trees on the site constitute sensitive habitat, and

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that sensitive habitat will be destroyed by the proposed project. (Please note that a site plan provided by the applicant and attached as Exhibit No. 3 indicates that the majority of trees on the site are "pine" trees; in fact, they are Douglas fir trees.) These trees have been referred to by one correspondent as "60-100 year old climax Douglas fir forest habitat demonstrating a classic example of the Krummholtz effect." The correspondence further refers to the "destruction of an entire plant community" and also to the "total degradation of an entire plant community, a plant community that does not exist in another location for over 10 miles to the north and 4 miles to the south."

These concerns have been addressed by the botanist who surveyed the subject property (see Exhibit No. 12). He states that in order for "the total destruction of an entire plant community" to take place, the vegetation on the entire parcel would have to be not only removed, but permanently extirpated, which is clearly not the case. He further states that the driveway, building envelope, septic system, and well are proposed for less than an acre of the flat portion of the site, and that the vegetation on the bluffs and most of the four-acre site, including most of the Douglas fir trees, will not be disturbed. The site has 118 Douglas fir trees on it now; only 8 need be removed for the proposed development. The botanist further states that the true plant community on the site is North Coast (Franciscan) Bluff Scrub with some conifers, and that this plant community is almost continuous (except for beaches) along the bluffs of northern Mendocino County.

In addition, the botanist addresses the issue of "the Krummholtz effect." He states that there is indeed such a thing as Krumholtz vegetation, but it is a manifestation of a boreal forest near the timberline in mountainous regions. According to Polunin (An Introduction to Plant Geography, 1960, pg. 377), "at its upper limits the forest becomes less luxuriant and the canopy lower until it passes into 'elfin wood' and ultimately into 'Krumholtz' of stunted, twisted trees...about where the alpine tundra begins." He states that true Krumholtz vegetation is not characteristic of sea level plant communities. Moreover, even if the windshaped Douglas fir on the site were Krumholtz vegetation, which it is not, that plant community does not qualify as "sensitive habitat" under either the Coastal Act or the County's LCP policies.

Several letters refer to the age of the Douglas fir trees as being 60-100 years old. In actuality, these trees cannot be more than 35 years old, as the applicant has submitted a photograph from 1959 of the subject site and surrounding area that clearly shows that there are no trees visible on the subject parcel and barely a tree at all on the headland. In other words, all the trees on the subject parcel appear to be at most 35 years old.

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Other letters from neighbors address the concern that there are specimens of the rare and endangered Castilleja mendocinensis (Mendocino coast paintbrush) growing on the site and within the building envelope, but which the botanist would have been unable to see blooming since the site had been tractor mowed. The botanist who surveyed the site has addressed this issue and states that (1) he visited the site before any tractor mowing took place and so would have seen the Mendocino coast paintbrush if it were present, and (2) there are specimens of Castilleja wightii (Wight's paintbrush) on the site but there is no Castilleja mendocinensis; Wight's paintbrush is not rare or endangered.

The Commission wishes to point out that it would be preferable if no trees need be removed for the subject development, no matter what the age or species of the trees and despite the fact that the trees on the subject site are not considered environmentally sensitive habitat under the definition in the County's certified LCP. However, the Commission has had to weigh the concern with visual impacts in this highly scenic area against the concern with preserving trees that are not considered environmentally sensitive habitat (not rare or endangered and not wetland or riparian species). The Commission has determined that since only eight trees need be removed and since twice that number will be planted per Special Condition No. 3, it is appropriate to permit development at the originally proposed site where visual impacts will be minimized. The Commission, therefore, finds that there will be no significant adverse impacts on sensitive habitat, consistent with Coastal Act Section 30240.

7. Mendocino County LCP:

Policy 3.5-1 of the Land Use Plan provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas. Policy 3.5-3 states that new development west of Highway One in designated "highly scenic areas" should be subordinate to the natural setting. The Zoning Ordinance, which has been approved by the Commission, reiterates these policies. Specifically, Section 20.368.040 of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas in Range Land districts, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.

Special Condition No. 4 will ensure that there are no adverse impacts on visual resources resulting from the proposed development by imposing design restrictions such as the use of dark earthtone colors, natural appearing and non-reflective materials, and low-wattage downcast lighting. Special Condition No. 1 requires Commission review of all future development to ensure that it will be sited and designed to avoid adverse impacts to visual

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resources. Special Condition No. 3 requires submission of a landscape/tree maintenance plan that includes planting of several native trees to screen the proposed residence from Highway One. Therefore, the development, as conditioned, is consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.368.040 of the Zoning Code.

Policy 3.4-7 of the LUP requires that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Section 20.500.020(B) of the Zoning Code reiterates this language, and states that construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff. The proposed building site is located 75 feet back from the south-facing bluff edge. The geotechnical report submitted with the application states that the proposed building location is satisfactory from the standpoint of potential hazards from slope instability.

Policy 3.4-9 states that any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself. Special Condition No. 1 requires Commission review of all future development to ensure that it will be sited and designed to avoid creation of a geologic hazard. Special Condition No. 2 requires submission of final foundation and site drainage plans that are consistent with the geotechnical report's recommendations, which are intended to minimize geologic hazards and avoid an increase in erosion or bluff instability. As conditioned, therefore, the proposed project is consistent with Policies 3.4-7 and 3.4-9 of the LUP and with Section 20.500.020(B) of the Zoning Code.

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

8. CEQA:

The project, as conditioned, does not have a significant adverse effect on the environment, within the meaning of CEQA. The project has been mitigated as discussed above to ensure consistency with the Coastal Act, as the project is located in an area able to accommodate it, will not create a geologic hazard, and will not have any significant adverse effects on coastal resources, including groundwater resources, environmentally sensitive habitat areas, public access, and visual resources.

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