

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

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Filed:	May 5, 1998
49th Day:	June 23, 1998
180th Day:	November 1, 1998
Staff:	Lilli Ferguson
Staff Report:	August 28, 1998
Hearing Date:	September 9, 1998
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 1-98-06

APPLICANT: CITY OF EUREKA

PROJECT LOCATION: The shoreline bank of a vacant parcel along Waterfront Drive (no address) in the City of Eureka, Humboldt County (APN 003-062-17). The parcel is immediately south of the Washington Street Slough outfall and the Eureka Small Boat Basin marina.

PROJECT DESCRIPTION: Construct an engineered shoreline revetment along approximately 435 lineal feet of shoreline of Humboldt Bay by excavating a toe trench and reshaping the bank and placing geotextile fabric, a one-foot layer of filter rock, and a 4-foot layer of quarry stone on the bank.

LOCAL APPROVALS RECEIVED: (1) City of Eureka CEQA Negative Declaration certified May 1, 1998; (2) Humboldt Bay Harbor District Permit.

SUBSTANTIVE FILE DOCUMENTS: City of Eureka LCP.

2. Staff Recommendation of Approval:

Staff recommends a YES vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

3. Resolution to Approve Permit:

The Commission hereby grants, subject to the condition 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, is located between the sea and the first public road nearest the shoreline, 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. Corps of Engineers Approval

PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicant shall submit a copy of any necessary U.S. Army Corps of Engineers permit granting approval for the project.

2. Intertidal Debris Removal

Any debris in the intertidal zone of the project area not suitable for use as fill, such as large scraps of metal, shall be removed from the site upon completion of the project.

3. Construction Debris Removal.

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

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

1. Site Description.

The toe and trench portion of the project will extend from elevation of -2 feet Mean Lower Low Water (MLLW) to +4.4 feet MLLW; the filter rock and stone will extend from +4.4 MLLW to +16 feet MLLW, the top of the bank. The finished slope will be 1.5 horizontal to 1 vertical.

3. Priority Uses

The proposed shoreline hardening project will support the continued use of a major berthing area and city dock along the Eureka waterfront, used by recreational boaters and commercial fishermen. The Coastal Act contains strong policy language supporting recreational boating and commercial fishing and related uses.

Section 30234 provides, in part, that:

Facilities serving the commercial fishing and recreational boating industries shall be protected, and where feasible, upgraded...

Without the proposed shoreline protection, the bank on this property would continue to erode, threatening the new developments that will be built on the property to support the marina and port uses. Between 1971 and 1991, the shoreline erosion ranged from 10-25 feet.

4. Fill in Coastal Waters and Environmentally Sensitive Habitat Areas.

The Coastal Act defines fill as including "earth or any other substance or material ... placed in a submerged area." The proposed project involves placing fill materials in coastal waters, as the proposed rock slope will be installed within an intertidal area of Humboldt Bay. The total area of fill proposed in coastal waters is approximately 1,832.3 cubic yards, consisting of solid fill to stabilize the bank. However, no net fill will result for this purpose as the slope fill will replace fill from the cut from the existing bank to smooth it out, loose fill that has sloughed onto the beach, and fill that will be excavated for the toe trench.

The proposed project is not expected to have adverse impacts on estuarine habitat. The RSP will be installed on a pebbly wrack beach, where no marine colony organisms are found. The project will partially project into the algae line, and could have water quality impacts, however.

Several sections of the Coastal Act address the placement of fill within coastal waters and the protection of environmentally sensitive habitat. Section 30231 of the Coastal Act provides as follows, in applicable part:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes...shall be maintained and, where feasible, restored...

The proposed project consists of the placement of solid fill as an extension of shoreline protection projects that protect the mooring of commercial fishing vessels and recreational craft, a city pier, and facilities that support these uses. As such, the project consists of both "new or expanded coastal-dependent industrial facilities, including commercial fishing facilities," and a new or expanded boating facility." Therefore, the Commission finds that the purpose of the fill is consistent with subsections (1) and (4) of Section 30233(a) of the Coastal Act.

B. No Feasible Less Environmentally Damaging Alternatives.

A second general limitation set forth by the above referenced Chapter 3 policies is that any proposed fill project must have no less environmentally damaging feasible alternative.

There are no apparent alternatives that would be less environmentally damaging. By using the slope and sloughed material on site for fill, the project has minimized the additional amount of fill required and resulting adverse environmental impacts.

Also, when developing the plans for this project and the related marina project authorized by CDP 1-98-28, the City considered other design options that would have provided better operational advantages, but which were ultimately rejected because of the additional adverse environmental effects that would have resulted. Specific to the bank protection project under consideration, one option considered was to construct the proposed RSP at a 3:1 slope, instead of the 1.5:1 slope now proposed. The 3:1 slope would have greatly expanded the area of beach that would be covered by the RSP resulting in a greater impact on habitat values.

The no project alternative would not accomplish the project objective of protecting facilities serving the commercial fishing and recreational boating industries, a priority use under the Coastal Act.

Therefore, the Commission finds that proposed method of bank protection involves the least environmentally damaging alternative as required by Section 30233(a).

C. Mitigation for Adverse Impacts.

A third general limitation set forth by Sections 30231 and 30233(a) is that adequate mitigation to minimize the adverse impacts of the proposed project on habitat values must be provided.

Feasible mitigation measures are available to mitigate the potential adverse impacts of the project. The main impacts are some disturbance of the intertidal habitat, and potential water quality impacts from project construction.

iii. Conclusion on Adequacy of Mitigation Proposal.

The Commission finds, that as conditioned, the proposed project is consistent with the third test for approvable fill projects set forth in Section 30233 of the Coastal Act in that adequate mitigation for the adverse environmental effects of the proposed project will be provided.

D. Maintenance and Enhancement of Estuarine Habitat Values.

The fourth general limitation set by Sections 30231 and 30233(a) on fill project is that any proposed fill project shall maintain and enhance the biological productivity and functional capacity of the habitat, where feasible.

As discussed in the previous section, the proposed mitigation plan will both maintain and enhance the biological productivity and functional capacity of Humboldt Bay. As discussed above, there will be not net fill of marine waters. Thus, habitat values will be maintained. In addition, the proposed mitigation plan includes a habitat enhancement measure, the creation of expanded rocky intertidal habitat in the marina which is in relatively short supply in Humboldt Bay, and enhancement of existing mudflat area by removal of debris. Finally, the toe area of the RSP has been designed such that the area might serve future eelgrass mitigation projects.

Therefore, the Commission finds that the project, as conditioned, will maintain the biological productivity and quality of Humboldt Bay, consistent with Section 30231 of the Coastal Act. Similarly, as conditioned, the proposed project will maintain the functional capacity of the wetlands as required by Section 30233(c).

5. Allowable Shoreline Protection Device.

Section 30235 of the Coastal Act states, in part, that revetments, breakwaters, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

The proposed project includes the placement of approximately 435 lineal feet of RSP along the shoreline to prevent continued bank erosion. The RSP will serve coastal-dependent uses as the site provides ancillary uses to the adjacent marine and dock. No changes in sediment transport for Humboldt Bay will result from the installation of the RSP.

this section, 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.

The proposed project will protect the existing public access sidewalk on the upland portion of the property from erosion, as well as the proposed public parking lot. Without the rock slope protection, the sidewalk will be affected by erosion; currently, the bluff has eroded to within one foot of the sidewalk in some places.

The Commission finds that the proposed project would be a public access and recreational asset to the coastal zone within the City of Eureka and would not adversely affect public access in any way. The Commission further finds that the project is fully consistent with the public access and recreation policies of the Coastal Act.

8. State Waters.

The project site is located in areas that were formerly State-owned waters or were otherwise subject to the public trust. However, these State-owned waters were transferred to the City of Eureka through a legislative grant. Therefore, the applicant has the necessary property rights to carry out the project on former State-owned waters.

9. U.S. Army Corps of Engineers Review.

The project may require review and approval by the U.S. Army Corps of Engineers. Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Commission attaches Special Condition No. 3 which requires the permittee to submit to the Executive Director evidence of U.S. Army Corps of Engineers approval of the project prior to the commencement of work.

10. California Environmental Quality Act (CEQA).

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible

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.

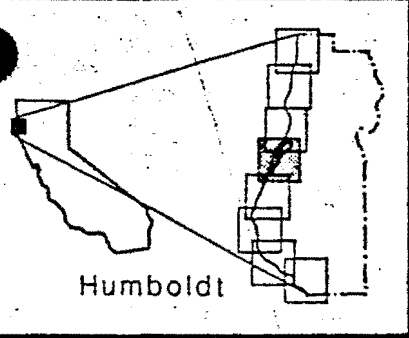
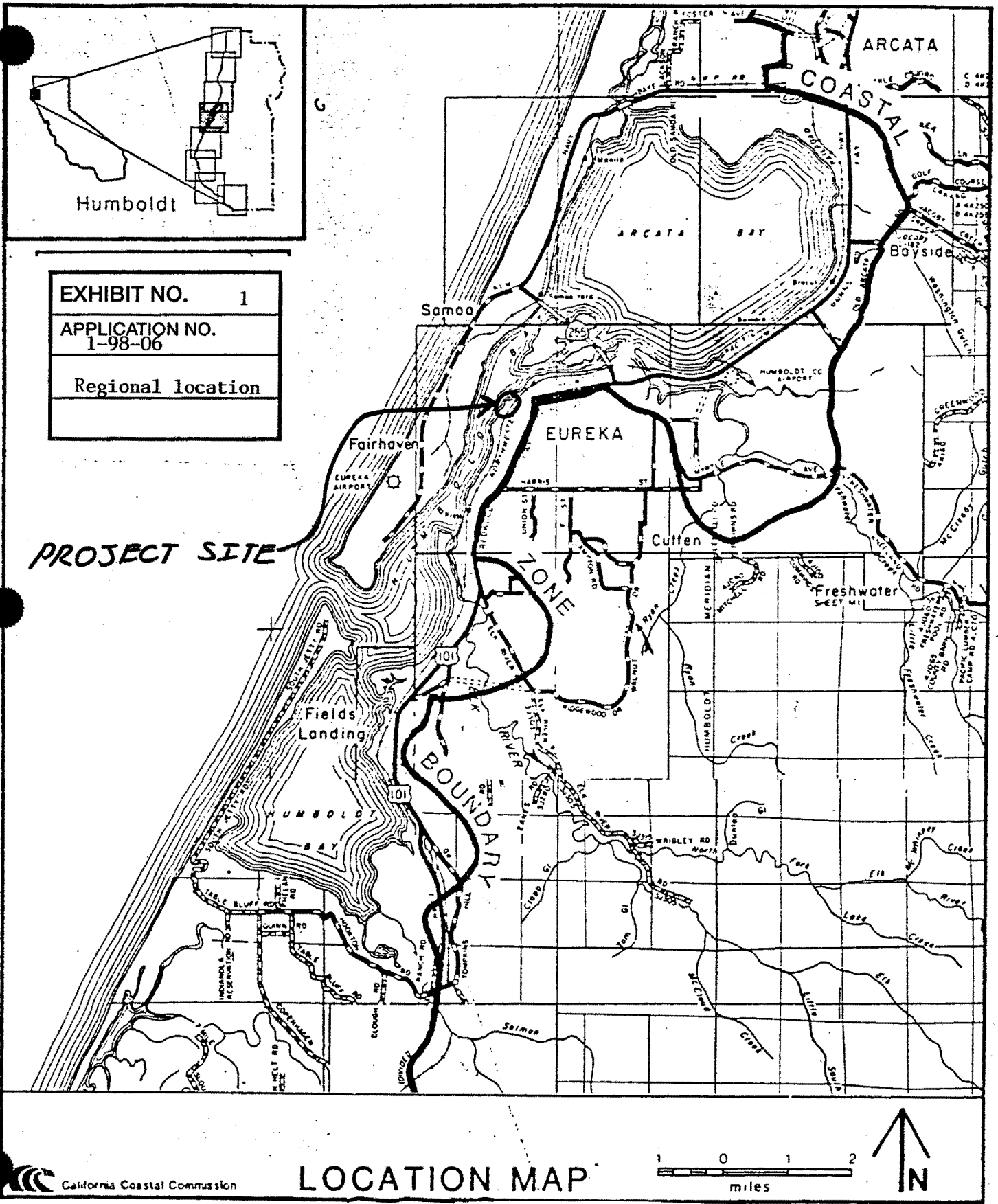
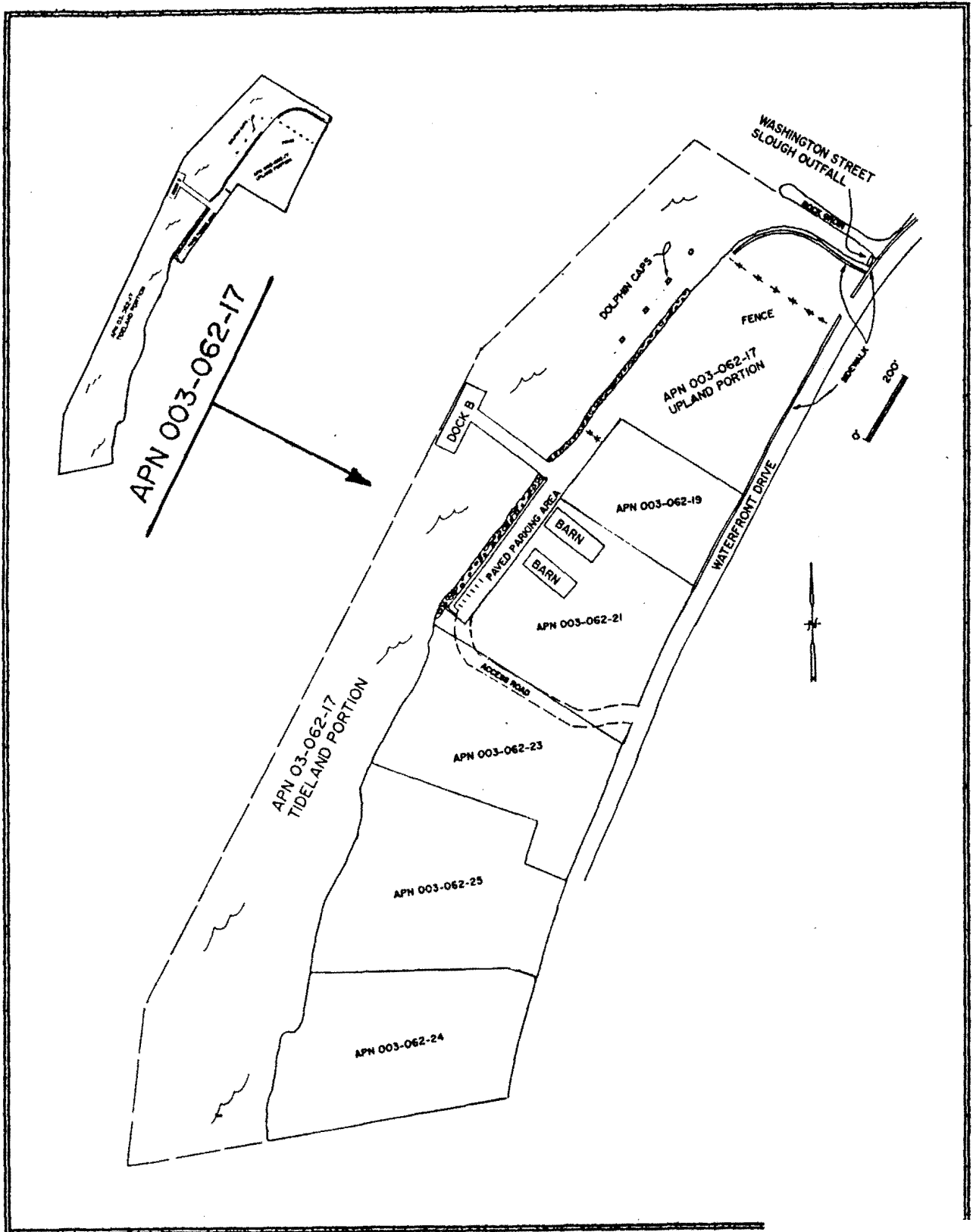


EXHIBIT NO.	1
APPLICATION NO.	1-98-06
Regional location	

PROJECT SITE

BOUNDARY ZONE





PARCEL PLAN

Project: Shoreline Hardening APN 003-062-17
 Waterfront Drive, Eureka, CA
 Humboldt Bay - North Channel

Applicant: City of Eureka
Date: m/w

Date: 8/13/97

Adjacent Property Owners:
 Union Oil Co.
 David L. Schneider
 North Coast Railroad
 City of Eureka

EXHIBIT NO.	3
APPLICATION NO.	1-98-06
Site plan	