

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
 710 E STREET • SUITE 200
 EUREKA, CA 95501-1865
 VOICE (707) 445-7833
 FACSIMILE (707) 445-7877

MAILING ADDRESS:
 P. O. BOX 4908
 EUREKA, CA 95502-4908

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 Staff: Tiffany S. Tauber
 Staff Report: October 18, 2002
 Hearing Date: November 7, 2002
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-02-035**

APPLICANT: Phil Ayers – E.G. Ayers Distributing, Inc.

AGENT: Omsberg & Company

PROJECT LOCATION: 5819 South Broadway, in the Spruce Point area south of Eureka, Humboldt County (APN 305-101-24)

PROJECT DESCRIPTION: Construction of a 4,605-square-foot warehouse, a 4,171-square-foot truck docking facility, and a 1,224-square-foot office with landscaping and paving.

GENERAL PLAN DESIGNATION: Commercial General (CG)

ZONING DESIGNATION: Commercial General with Coastal Resources Dependent, Flood Hazards and Wetlands Combining Zones (CG/C,F,W)

LOCAL APPROVALS RECEIVED: Humboldt County Coastal Development Permit and Conditional Use Permit (CDP-01-18/CUP-01-06)

The primary natural hazard affecting development of the subject property is flooding. The project site is designated in the County's LCP as being within a flood combining zone. To ensure that the proposed development is designed to minimize risks to life and property from flood hazards, staff recommends Special Condition No. 5 that requires the applicant to provide evidence of a Flood Elevation Certificate approved by the Humboldt County Building Department as being adequate to demonstrate that the finished foundation would be at least one foot above the Base Flood Elevation. Staff also recommends Special Condition No. 6 that requires the applicant to acknowledge and assume the risks of flooding to the applicant and the property that is the subject of this permit.

Special Condition No. 7 requires that a deed restriction be recorded to ensure that future buyers of the property are aware of the special conditions of the permit affecting the use of the property.

As conditioned, staff believes that the project is fully consistent with the Chapter 3 policies of the Coastal Act.

STAFF NOTES:

1. Standard of Review

The proposed project site is bisected by the boundary between the Commission's permit jurisdiction and Humboldt County's permit jurisdiction. Approximately 0.1 acres of the 0.8-acre parcel lies within the Commission's jurisdiction and the remainder of the parcel is within Humboldt County's permit jurisdiction. Humboldt County has a certified LCP and approved a coastal development permit for the portion of the development within the certified area on December 6, 2001. The local coastal development permit was not appealed to the Commission. The standard of review that the Commission must apply to the portion of the project that is located within the Commission's retained jurisdiction and the subject of Coastal Development Permit No. 1-02-035 is the Chapter 3 policies of the Coastal Act.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-02-035 pursuant to the staff recommendation.

- a. a map showing the type, size, and location of the plant materials and the various features of the buffer in relation to relevant property lines and the existing wetlands;
 - b. a narrative description of all materials to be used, the proposed methods of installation and the names of the landscapers who will perform the planting work; and
 - c. a schedule for installation of the plants.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final revised plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Building Design and Operation Limitations

The warehouse, truck docking facility, and office shall be constructed as proposed without doors, windows, lighting, or other reflective materials along the southern wall facing the wetland area. Any future proposal to add doors, windows, lighting, or reflective materials shall require an amendment to this permit. No trucks or other heavy equipment shall be operated between the fence and the southern wall.

3. Landscaping Plan

The permittee shall undertake development in accordance with the landscaping plan submitted with the application entitled "*Landscape Plan for E.G. Ayers Distributing, Inc.*" prepared by Omsberg & Company and dated July 2001. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Runoff Control Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, plans for stormwater runoff control.

1. The runoff control plan shall demonstrate that:

- a. Runoff from the roof of the approved structures and other impervious surfaces shall be directed away from the wetland to the southeast of the development to the existing drainage inlet at the northeast corner of the parcel; and

7. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

1. Site & Project Description

The proposed project site is a 0.8-acre parcel located on the inland side of South Broadway, southwest of Eich Road, approximately two miles south of Eureka in the Spruce Point area of Humboldt County (Exhibit Nos. 1 & 2). The site is east of Highway 101 and approximately 0.3 miles east of the existing shoreline edge of Humboldt Bay. The project involves the construction of a 4,605-square-foot warehouse, a 4,171-square-foot truck docking facility, and a 1,224-square-foot office (Exhibit Nos. 3 & 4).

The proposed project site is bisected by the boundary between the Commission's permit jurisdiction and Humboldt County's permit jurisdiction. Approximately 0.1 acres of the 0.8-acre parcel lies within the Commission's jurisdiction and the remainder of the parcel is within Humboldt County's permit jurisdiction. Humboldt County has a certified LCP and approved a coastal development permit for the portion of the development within the certified area on December 6, 2001. The local coastal development permit was not appealed to the Commission.

Surrounding land uses include a vehicle repair shop, a mini-storage facility, and other commercial development to the northeast off of Eich Road. The applicant's two existing warehouse buildings are located adjacent to the subject site on a separate parcel to the south and southwest. A freshwater marsh and seasonal wetland are located behind the subject parcel to the southeast.

In 1991, the Commission approved Coastal Development Permit No. 1-90-251 to grade and pave an approximately 84-foot-wide by 200-foot-long parking and equipment storage area at the site.

Section 30231 of the Coastal Act addresses the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

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.
(emphasis added)

Section 30240(b) requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values potentially resulting from adjacent development. The proposed project site is located adjacent to an undeveloped parcel that contains freshwater marsh and seasonal wetland habitat.

The 0.8-acre parcel is located adjacent to a freshwater marsh. The extent and quality of the freshwater marsh has diminished by the placement of fill prior to the Coastal Act. However, the marsh and associated seasonal wetlands still occupy sizable areas between South Broadway and Humboldt Hill Road to the east. During previous action on this parcel by the Commission, the Department of Fish and Game commented that numerous species of wildlife inhabit the marshes in the immediate vicinity of the project site including mallard, teal, scaup, bufflehead, scoter, coot, egret, heron, snipe, sandpipers, and mammals such as skunks, weasels, and voles.

Although the proposed development would be located outside of the marsh, the development could potentially adversely affect the habitat value of the marsh. The site is currently used for truck parking and equipment storage and construction of a warehouse, truck docking facility, and office would result in greater intensity of use of the area. Increased human activity on the project site could lead to more frequent physical intrusion and could adversely affect habitat values. Voices, loud noises, and the visible presence of people can discourage birds and other wildlife from using the otherwise desirable habitat. The proposed development could also adversely affect the water quality of the marsh. The project would result in greater impervious surface area by paving the remainder of the site and by the construction of approximately 10,000 square-feet of building. The increase in impervious surface area could increase the volume of runoff into the marsh. As the site would be used as a truck docking facility, oil, grease, and other pollutants could become entrained in runoff and, if directed to the marsh, could result in adverse impacts to the water quality of the habitat area.

The proposed development would be located approximately 40 feet from the edge of the wetland area and would be separated by an existing six-foot-high chain link slatted fence, half of which is densely vegetated with mature willows. As noted previously, the fence and the willow vegetation were established pursuant to requirements of a previous permit approved by the

pollutants that can contribute to the degradation of water quality. As proposed, all site drainage, including roof runoff, would be directed toward an existing drainage inlet at the northeastern corner of the parcel away from the wetlands. In its action on the project, the County attached a condition requiring that an oil/water separator be installed at the drainage inlet to treat the water prior to entering the storm drain system. To ensure the protection of water quality and the biological productivity of the adjacent wetlands, the Commission attaches Special Condition No. 4 requiring submittal of a runoff control plan for review and approval by the Executive Director. The plan must demonstrate that all drainage would be directed away from the wetlands and that an oil/water separator would be installed at the existing drainage inlet.

Critical to the successful function of post-construction treatment Best Management Practices (BMPs) in removing pollutants in stormwater to the maximum extent practicable, is the application of appropriate design goals for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, stormwater runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small more frequent storms, rather than for the large infrequent storms, results in optimal BMP performance at lower cost¹.

The Commission finds that sizing the proposed post-construction structural BMPs to accommodate the stormwater runoff from the 85th percentile storm event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns [i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs]. The proposed warehouse, truck docking facility, and office would result in an increase in impervious surface area at the site. The proposed project does not provide sufficient pervious surface area relative to the size of the site and its proximity to the wetland to provide adequate infiltration during the most significant runoff events. Therefore, Special Condition No. 4 requires that the oil/water separator be designed to treat or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event.

Furthermore, Special Condition No. 4 requires that the runoff control plan include (1) a schedule for installation and maintenance of the oil/water separator, (2) a site plan showing the proposed location of the oil/water separator and how all roof runoff from the approved structures and impervious surfaces of the development would be directed to the oil/water separator, (3) a detailed drawing showing the proposed installation of the oil/water separator, and (4) specifications for the proposed oil/water separator demonstrating that the separator will conform to the above requirements.

The applicant has indicated that a General Stormwater Permit from the Regional Water Quality Control Board has been applied for, but not yet received. Section 30412 prevents the

¹ [ASCE/WEF, 1998. Urban Runoff Quality Management. WEF Manual of Practice No. 23, ASCE Manual and Report on Engineering Practice No. 87.]

Additionally, the Commission attaches Special Condition No. 6 that requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite flooding risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. Special Condition No. 7 requires that a deed restriction be recorded informing future buyers of the property of the special conditions, including the Assumption of Risk condition.

Therefore, as conditioned, the project would minimize risks to life and property from flood hazards and is consistent with Section 30253 of the Coastal Act.

5. 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, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

The proposed project is located in an existing commercial and light industrial area and is surrounded by existing commercial development, some undeveloped parcels, and freshwater marsh. The proposed building site for the new warehouse, trucking dock, and office is currently a partially graveled and partially paved vacant lot used for equipment storage and truck parking. The subject site is inland of Highway 101 and does not offer views to or along Humboldt Bay or other coastal areas and thus, would not block views to or along the coast. Additionally, the warehouse, truck dock, and office would be consistent with the color, design, materials, and height of the existing adjacent building and thus, would be compatible with the surrounding development. Furthermore, the site is essentially flat and would not involve significant grading or alteration of natural landforms.

Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act as the development will not block views to and along the coast, will not involve any alteration of land forms, and the proposed demolition activities would not result in any adverse change to the visual character of the area.

6. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement 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 the proposed development may have on the environment.

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. Interpretation. Any questions of intent of 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.

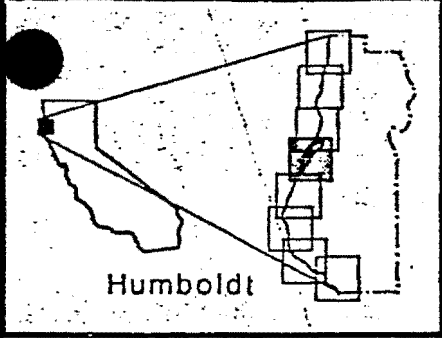
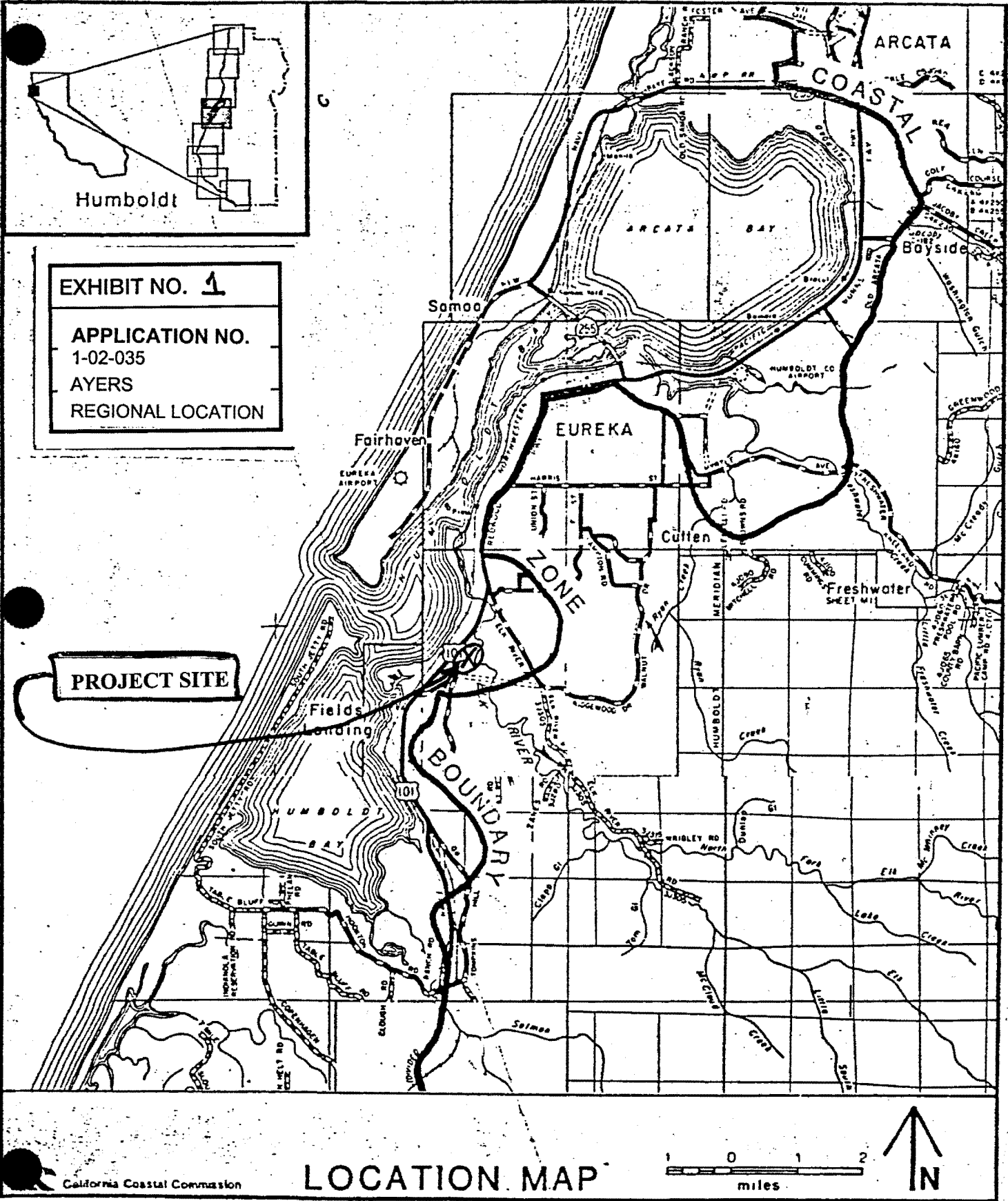


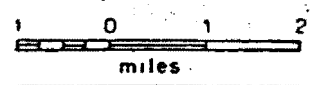
EXHIBIT NO. 1

APPLICATION NO.
1-02-035

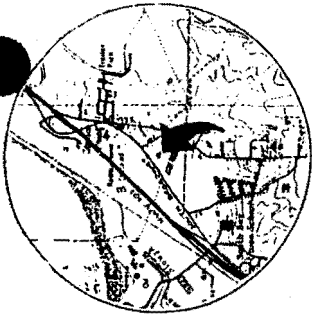
AYERS
REGIONAL LOCATION

PROJECT SITE

LOCATION MAP



California Coastal Commission



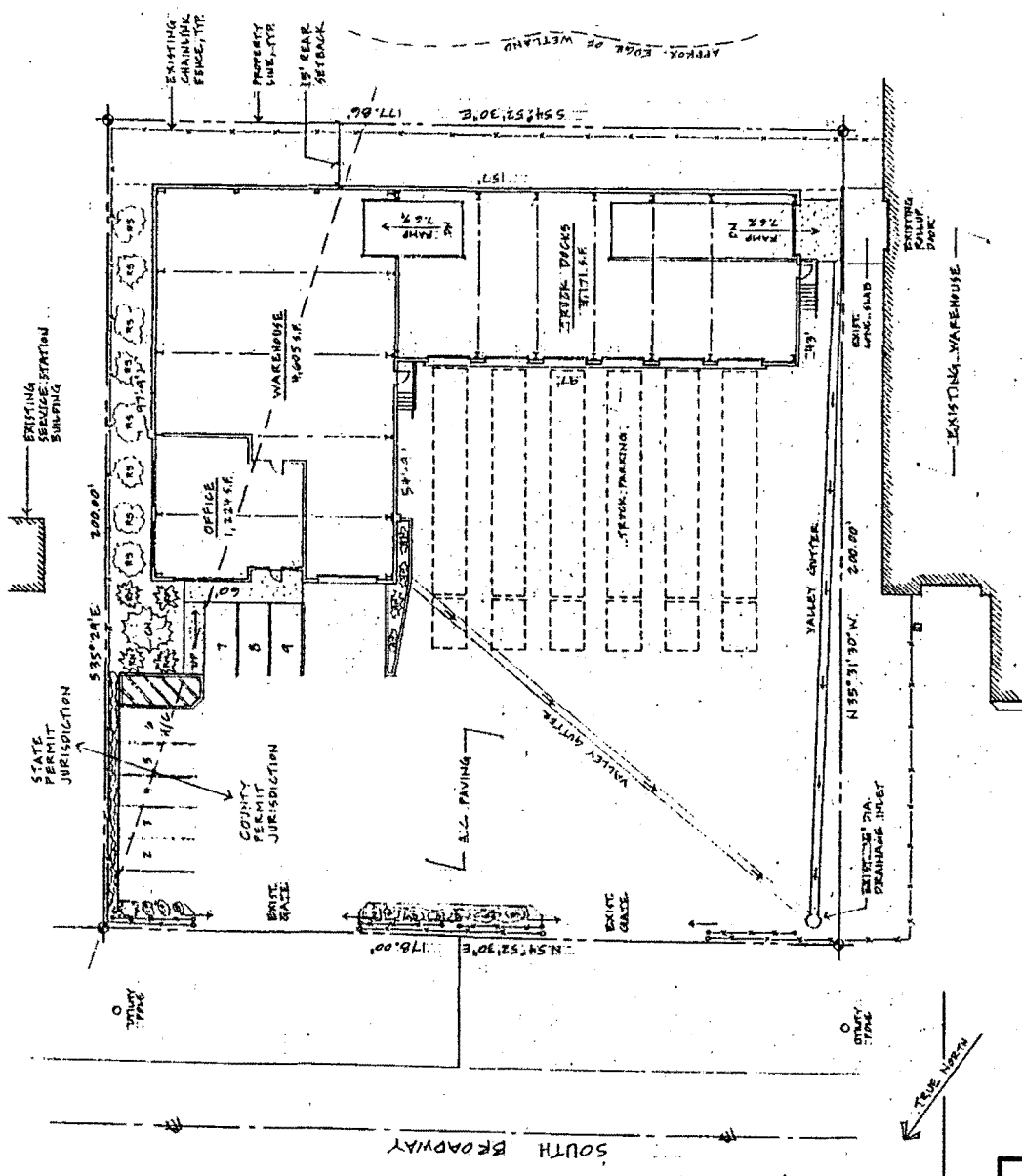
Location Map
Scale = 1" = 2000'

LANDSCAPE NOTES:

1. All areas to have Omnit Pro Mowcut or similar weed control.
2. All areas to have 3-4 inches cover of bark or washed river rock.
3. All areas to have 6 inches mulch 1/2" depth.
4. All areas to have irrigation drip for shrubs and trees.
5. All landscape plants to be minimum 1/2" high at time of installation.
6. All trees to be mature and double tree cal.
7. Upon plant or shrub failure, replacement should be the same or similar.

PLANT KEY

KEY	DESCRIPTION	SIZE
T	Tree: Pomelo (Ornamental)	3 gal
SN	Shrub: Nutsall Pacific Dogwood	5 gal
MN	Shrub: Nutsall Pacific Dogwood	3 gal
RM	Rhododendron Occidentale (Coastal Rhododendron)	3 gal
RC	Rhododendron Occidentale (Western Table)	3 gal
RE	Roseum (Flowering Currant)	3 gal



SITE PLAN
Scale = 1" = 20'

APN 305-101-024

SCALE	DATE	REVISION	DATE
1" = 20'	7/01		
1" = 20'	7/01		
1" = 20'	7/01		

OWNER/APPLICANT
E. G. AYERS DISTRIBUTING, INC.
5014 S. BROADWAY
BURBANK, CA 91505
(707) 445-2077

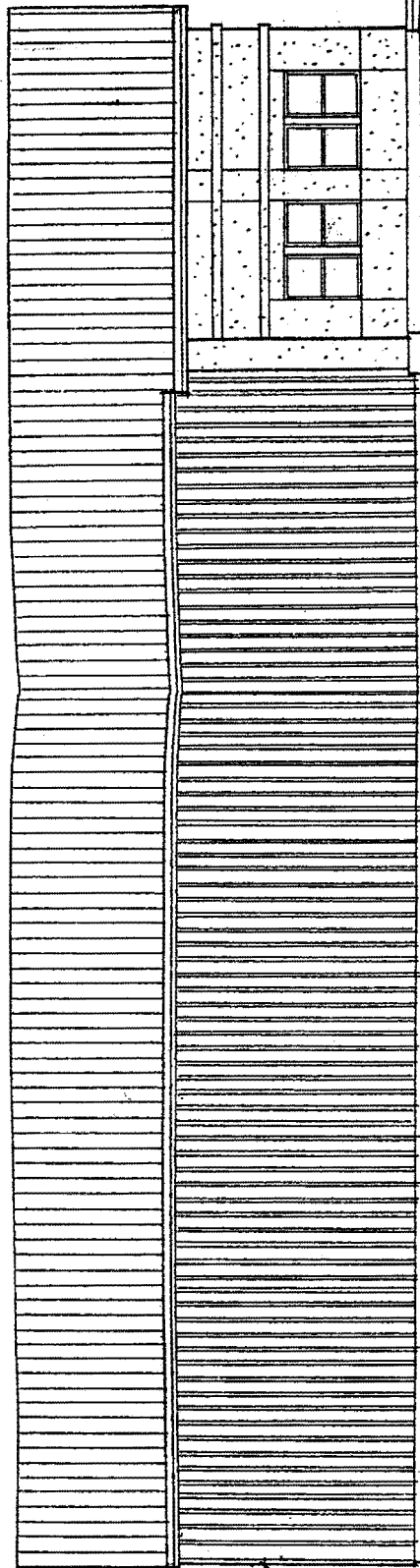
DESIGNER
M. BERGER & COMPANY
ENGINEERS
SCIENTISTS
124 North Broadway
Burbank, California 91501
(707) 445-4851

LANDSCAPE PLAN
for
E. G. AYERS DISTRIBUTING, INC.
in the
PROJECT NORTH

EXHIBIT NO. 3

APPLICATION NO.
1-02-035

AYERS
SITE PLAN



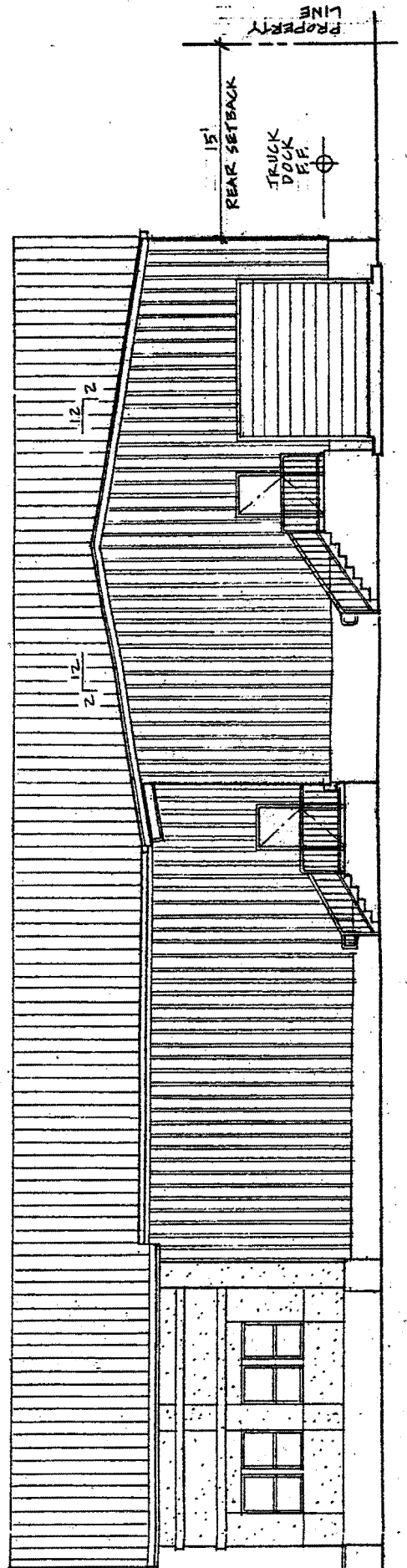
15'
REAR SETBACK

PROPERTY LINE

292

EAST ELEVATION

$\frac{1}{8}'' = 1'-0''$



15'
REAR SETBACK

TRUCK DOCK E.F.

PROPERTY LINE

12'

12'