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Date Filed:	June 4, 2003
49th Day:	July 23, 2003
180th Day:	December 1, 2003
Staff:	Robert S. Merrill
Staff Report:	April 30, 2004
Hearing Date:	May 13, 2004
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	**1-02-151**
APPLICANTS:	Edwin P. Fredrickson
PROJECT LOCATION:	222 Fredrickson Lane, adjacent to Martin Slough, south of Eureka, Humboldt County (APN 301-181-03)
PROJECT DESCRIPTION:	Grade 395 cubic yards of material to create a building pad and construct an approximately 2,783-square-foot residence with an attached 262-square-foot shop and a 624-square-foot garage.
GENERAL PLAN DESIGNATION:	Residential Low Density (RL)
ZONING DESIGNATION:	Residential Single Family with lot configuration, flood hazard, and wetlands combining zones (RS-S'/F,W)
LOCAL APPROVALS REQUIRED:	None
OTHER APPROVALS REQUIRED:	None
SUBSTANTIVE FILE DOCUMENTS:	(1) Humboldt County Local Coastal Program; (2) CDP File Nos. 1-95-11; 1-99-046; 1-03-067

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with conditions of the coastal development permit application for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the Coastal Act.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on page 2.

STAFF NOTES:

1. Standard of Review

The proposed project is located in the Commission's retained jurisdiction. Humboldt County has a certified LCP, but the site is within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

2. Commission Action Necessary

The Commission must act on the application at the May 13, 2004 meeting to meet the requirements of the Permit Streamlining 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. 1-02-151 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. Final Revised Site Drainage, Erosion, and Runoff Control Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for review and written approval of the Executive Director, a final revised site drainage, erosion, and runoff control plan that substantially conforms with the site drainage, erosion, and runoff control plan dated May, 2003 submitted as part of the application and entitled *"Site Drainage and Erosion and Sediment Control Plan for Ed Fredrickson, Gatliff Avenue, Eureka, CA,"* prepared by Omsberg & Company except that the plan shall be revised to be made consistent with the following requirements:

i. Grading activities shall be limited to the dry season, April 15 through October 15;

ii. The proposed silt fence shall remain in place following conclusion of the authorized grading activities until the applicants have seeded with grass and covered with straw areas left bare by construction activities;

iii. No construction materials, fill materials, debris, or waste shall be placed or stored within wetland areas or where they may be subject to entering the wetlands of the open space area on the property and the waters of Martin Slough, and all on-site debris stockpiles shall be covered and contained at all times;

iv. All on-site stockpiles of fill materials or debris shall be covered and contained at all times;

v. Any and all excess excavated material resulting from construction activities that is not utilized for the approved driveway realignment, grading activities, or other development approved pursuant to this authorization shall be removed and disposed of at a disposal site outside the coastal zone or placed within the coastal zone pursuant to a valid coastal development permit;

vi. Only noninvasive plants vegetation shall be planted for erosion and sediment control; and

vii. The two proposed storm drains shall be modified so that all portions of the drainpipes and the energy dissipaters at the outlets do not extend into the deed restricted open space area on the subject property required by Coastal Development Permit No. 1-95-011.

B. The permittees shall undertake development in accordance with the approved final revised Erosion and Runoff Control plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2 <u>Final Revised Wetland Buffer Plan</u>

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOMENT PERMIT**, the applicant shall submit, for review and written approval of the Executive Director, a final revised wetland buffer plan that substantially conforms with the wetland buffer plan dated February 25, 2004 submitted as part of the application and entitled *"Wetland Buffer Boundary Planting Recommendations for Gatliff Avenue, Eureka, California, APN 301-181-003,"* prepared by Natural Resources Management Corporation except that the plan shall be revised to be made consistent with the following requirements:

i. The planting area shall be modified and expanded as follows:

(a) the entire fill slope of the previously created building pad as it extends through the subject property shall be planted with shrubs and herbaceous species selected from Table 1 of the wetland buffer plan dated February 25, 2004. No tree species shall be planted within the fill slope to minimize excavation of the fill slope that could cause erosion and sedimentation impacts;

(b) the plants planted within the 5-10-foot-wide strip of area at the base of the fill slope of the previously created building pad shall include evergreen trees composed of Wax myrtle (*Myrica californica*),

Toyon (*Heteromeles arbutifolia*), Coastal silk tassel (*Garrya elliptica*), planted on approximately 8-foot-centers;

(c) a 5-10-foot-wide strip of at least 20 additional evergreen trees composed of the species identified in section (b) above shall be planted on approximately 8-foot-centers in the area extending approximately 140 feet from the proposed planting area northeast to the northern property line of the subject property along the base of the fill slope of the previously created building pad. Other plant species from Table 1 may be planted within the 5-10-foot wide strip of evergreen trees;

(d) a 5-10-foot-wide strip of at least 15 additional evergreen trees composed of the species identified in section (b) above shall be planted on approximately 8-foot-centers in the area extending approximately 100 feet from the proposed planting area southwest along the base of the fill slope of the previously created building pad. Other plant species from Table 1 may be planted within the 5-10-foot wide strip of evergreen trees; and

(e) the arrangement of plant species within the required planting area shall ensure that wetland plant species are only planted in wetland areas suitable for their growth and upland species are only planted in non-wetland areas suitable for their growth.

ii. The evergreen tree species required to be planted pursuant to sections (1)(a)-(c) above shall be trained by the gradual removal of lower limbs over time to reach a height of at least 10-15 feet;

iii. A low fence (3-4 feet high) shall be installed at the top of the fill slope along the entire length of the planting area to discourage entry into the wetland buffer and open space areas;

iv. An irrigation system shall be installed and maintained to irrigate the planting area upon initial planting and throughout the dry season of the first year of planting if planted during the spring until seasonal rains begin.

v. The landscaping, fence, and other features of the plan shall be maintained in good condition over the life of the approved development;

vi. Substitutions of the plant species specified for planting in the wetland buffer plan shall not be made without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required;

vii. The required planting of vegetation and installation of the fence shall be completed within one year of the commencement of construction of the approved development;

viii. A plan drawn to scale showing the location and species of each plant as actually planted shall be submitted upon completion of the planting of the vegetation;

ix. Provisions for monitoring and remediation of the entire planting area of the wetland buffer plan in accordance with the approved final revised wetland buffer plan for a period of five years after planting of the vegetation that includes the submittal for the review and approval of the Executive Director of annual monitoring reports prepared in conjunction with a qualified wetlands biologist by September 30 of each year. The annual monitoring reports must evaluate whether the planting area conforms with the goals, objectives, and performance standards set forth in the approved final revised wetland buffer plan. If the final report indicates that the planting effort has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental planting plan to compensate for those portions of the original plan which did not meet the approved performance standards. The revised planting program shall be processed as an amendment to this coastal development permit.

Except as revised to include the preceding provisions, the revised final wetland buffer plan shall conform to the above referenced wetland buffer plan dated February 25, 2004, including, but not limited to the provisions of the plan that (i) only native species that occur in natural vegetation assemblages of the region and as listed in Table 1 of the plan shall be planted, (ii) any soil left bare after grading or construction on the building site shall be seeded with native grasses obtained form a local native plant nursery, (iii) the non-native Himalayan blackberry (Rubus discolor) shall be eradicated from the planting area, and (iv) annual monitoring be performed to ensure the success standards listed in the plan are achieved;

B. The permittees shall undertake development in accordance with the approved final revised wetland buffer plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Conformance of the Design and Construction Plans to the Geotechnical Investigation Report**

A. All final design and construction plans, including site, grading, and foundation plans, shall be consistent with the recommendations contained in the geologic/soils report entitled, "R-2 Soils Report, Martin Slough, Eureka,

California APN 301-181-003," dated July, 2002, prepared by LACO Associates. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geologist) has reviewed and approved all final site, grading, and foundation plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geologic/soils report approved by the California Coastal Commission for the project site.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Future Development Restriction

This permit is only for the development described in coastal development permit No. 1-02-151. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit No. 1-02-151. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 1-02-151 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

5. 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 applicant has executed and recorded against the parcel(s) 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 or parcels 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.

6. Landscaping Restriction

Only native and/or non-invasive plant species shall be planted at the site. No invasive exotic plant species shall be planted anywhere on the site.

7. State Lands Commission Review

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, a written determination from the State Lands Commission that:

A. No State or public trust lands are involved in the development; or

B. State or public trust lands are involved in the development and all permits required by the State Lands Commission have been obtained; or

C. State or public trust lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

8. Condition Compliance

A. **WITHIN 180 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION**, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares

1. Site Description

The project site is located at 222 Fredrickson Lane in an unincorporated but urbanized area south of Eureka (see Exhibits 1-2). The east side of the property borders Martin

Slough, opposite the Eureka Municipal Golf Course, within a narrow valley. Martin Slough is a tributary of Swain Slough, which in turn is a tributary of the Elk River, which eventually flows into Humboldt Bay. The project site is located approximately 1.3 miles east of the shoreline of Humboldt Bay.

The 2.6-acre parcel was established in its current configuration pursuant to Coastal Development Permit No. 1-95-11, granted by the Commission in 1995. That permit approved the merger of four parcels into two and adjusted the boundary line between the two resulting parcels, the subject parcel and a 2.0-acre parcel to the north. CDP No. 1-05-011 also granted authorization for certain wetland restoration work on the parcel to restore wetlands that had been filled without a permit.

The applicant retains an access easement over a portion of the northern parcel that extends over much of the existing driveway that will be shared with the owners of this property to the north, which is already developed with a single-family residence. The Commission granted Coastal Development Permit No. 1-03-067 in February 2004 to the applicant and the current owners of the northern parcel, Richard J. Jioras and Nancy Hinds Jioras, Trustees of the Richard James Jioras and Nancy Hinds Jioras 1997 Revocable Trust, to reconstruct and slightly relocate the driveway to correct a previous Coastal Act violation.

The proposed development site is located in the west-central portion of the parcel, sandwiched between wetlands that occupy most of the eastern half of the parcel and the base of a steep hillside that extends over much of the western half of the property. The applicant enlarged and leveled the proposed building site without benefit of a coastal development permit by excavating approximately 260 cubic yards from the base of the hillside and placing the material as fill over the adjacent upland area at the base of the hillside. The fill area is a strip of land approximately 40-feet-wide by 150-feet-long. In addition, the applicant placed approximately five cubic yards of gravel north of the home site in an area proposed for a driveway turnaround and parking.

In the vicinity of the project site, Martin Slough is approximately 20-30 feet wide. According to the Biological Assessment prepared for the project, the channel and its associated fish habitat appears to have been severely degraded due to a variety of impacts associated with upstream residential development and the conversion of wetlands for the adjoining golf course and livestock pastures. Martin Slough contains mainly freshwater along this reach as downstream tidal control structures block tidal influence. The slough is known to contain coho salmon (Oncorhynchus kistutch), steelhead trout (Oncorhynchus mykiss), and coastal cutthroat trout (Oncorhynchus clarki clarki), but the project area reach of the slough contains no spawning habitat and relatively poor rearing habitat for these species because of the silty and muddy bottom. The likely dominant use for the project area reach of Martin Slough is as a migration corridor for both upstream adult spawners and juveniles heading to the estuary and ocean.

An approximately 50-foot-long by 25-foot-wide band of riparian wetland vegetation borders the slough along the northeast edge of the subject property (the greens of the Eureka Municipal golf course extend all the way to the slough banks on the opposite [east] side of the slough). The riparian vegetation consists mainly of Pacific bramble (Rubus ursinus) and Himalayan blackberry (Rubus discolor) with creeping buttercup (Ranunculus repens), scattered cow parsnip (Heracleum lanantrum), northern willow-herb (Epilobium cilatum), common rush (Juncus effuses), and curly dock (Rumex crispus).

According to the biological assessment prepared for the project, the rest of the wetland area between the riparian strip bordering the slough and the building site has somewhat marginal habitat due to past disturbance by use of the site as livestock pasture which eliminated most of the native species components. A 5,000-square-foot portion of this area was also previously disturbed by the unauthorized placement, and subsequent removal, of approximately 350 cubic yards of fill. The fill removal and restoration of the affected area was authorized by Coastal Development Permit No. 1-95-11 and was performed pursuant to a restoration plan, prepared in consultation with the Department of Fish & Game and approved by the Executive Director.

The area between the riparian strip bordering the slough and the building site has an uneven topography and contains topographical depressions with a greater density of wetland plants than surrounding higher areas. The dominant native herbaceous component is the resilient slough sedge (C. obnupta). The western portions of this area gradually slope upward near the base of the fill slope. Consequently, moving towards the base of the fill slope the vegetation transitions from wetland plants to more upland plant species. The wetland area and the sloped transitional area between the wetland and the fill slope below the building site are restricted to open space by a deed restriction recorded pursuant to Special Condition No. 1 of Coastal Development Permit No. 1-05-011. The special condition required that the deed restriction prohibit any alteration of landforms, removal of vegetation, or the erection of structures of any kind within the open space area. After approval of the permit, a deed restriction approved by Commission staff was recorded on December 16, 1997. The terms of the recorded deed restriction limit use of the affected area to natural opens space for habitat protection, private recreation and resource and resource conservation uses and precluded development, with standard exceptions for (a) the removal of hazardous substances or conditions or diseased plants or trees, (b) the removal of vegetation which constitutes or contributes to fire hazards, and (c) the installation or repair of underground utility lines and septic systems.

The building pad is adjacent to the above-described wetland area. According to the biological assessment, the majority of the area impacted by the unpermitted placement of fill for the building site was an upland area with a herbaceous-dominated habitat with ruderal pasture vegetation components. The upper edges of the fill area along the base of the hill were previously covered with vegetation similar to that which covers the current

hillside. This vegetation consists of a shrub-dominated habitat with some scattered trees. The scrub habitat has mesic native and non-native vegetation components such as red alder (Alnus oregona), coyote brush (Baccharis pilularis), Sitka spruce (Picea sitchensis), Douglas-fir (Pseudotsuga menziesii), sword fern (Polystichum munitum), cascara (Rhamnus purshiana), wood rose (Rosa gymnocarpa), Himalayan blackberry (Rubus discolor), and Pacific bramble (Rubus ursinus).

According to the Biological Assessment, portions of the site serve as habitat for a variety of wildlife species. Several bird species have been observed foraging and moving through the mature willows, lawn and other grassy areas of the site, including House Finches (Carpdacus mexicanus), Dark-eyed Juncos (Junco hyemalis), Anna's Hummingbird (Calypte anna), Black Phoebe (Sayornis nigricans), American Robin (Turdus migratorius), Song Sparrow (Melospize melodia), and Northern Flicker (Colaptes auratus). Other birds have been observed in the mature willow and conifers along the edge and outside of the parcel including Steller's Jay (Cyanocitta stelleri), Red-shouldered Hawk (Buteo lineatus) and Common Raven (Corvus corax). Ducks and Great Blue Heron (Ardea herodieas) have been observed flying along Martin Slough. Because much of the site and its surroundings are developed with little natural cover, it is likely that use of the site by deer and other larger wildlife species is primarily restricted to dispersal and other movement. However, the Biological Assessment indicates that the mature willows and conifers on the site may be used for nesting by some of the bird species noted above and several amphibians may breed in the site's wet depressions including rough-skinned news (Taricha granulose), Pacific chorus frogs (Pseudacris regilla), northern red-legged frogs (Rana aururora aurora) and foothill yellow-legged frogs (Rana boylei)

The subject property is located at the base of a hill. As a result, drainage from a residential subdivision near the top of the hill drains downhill through the site, primarily across the driveway where it crosses the northern property line. During periods of heavy rain, runoff will create minor flooding along this section of the driveway. In addition, water from Martin Slough will occasionally overflow its banks in the wintertime inundating much of the wetland area on the subject property and portions of the driveway as well.

The subject parcel is bisected by the boundary line between the Commission's retained coastal development permit jurisdiction and that of Humboldt County. The majority of the property is within the Commission's coastal development permit jurisdiction, including the portions of the site in and around the Martin Slough wetlands, and the proposed building site. Portions of the hillside area are within the County's coastal development permit jurisdiction.

2. Project Description

The applicant is seeking authorization for the development of a 22-foot-high, 2,783-square-foot residence with an attached 262-square-foot shop and a 624-square foot garage. (See Exhibits 9-7.) The project includes grading of a total of approximately 395 cubic yards of material to create a larger level building pad. A portion of the grading has already been performed and the applicant is proposing to place approximately 135 cubic yards of additional fill to improve the building pad. The application also seeks after the fact authorization for the placement of five cubic yards of gravel north of the home site in an area proposed for a driveway turnaround and parking. In addition, two storm drains are proposed to be placed under the building pad. Furthermore, the applicant is proposing certain erosion and sedimentation control measures and to plant vegetation as part of a wetland buffer plan to buffer the wetland area protected by the existing open space deed restriction between the building pad and Martin Slough. The details of each of the project elements are described below.

Grading of Building Pad

The proposed elliptical-shaped building pad extends for a total distance of approximately 200 feet down the central part of the parcel adjacent to the west of the previously deed restricted open space area. The top of the building pad is at an elevation of 10 feet above mean sea level. At its widest point, the fill pad is approximately 50 feet wide. Much of the pad has already been constructed without the benefit of a coastal development permit. In 1998, approximately 260 cubic yards of material was cut from the base of the hillside and placed over the adjacent upland area at the base of the hillside to create the pad. Approximately 135 cubic yards of additional fill would be placed to improve the building pad. None of the previously placed or proposed fill for the building pad extends into the deed-restricted open space area. The cut slope varies in height from 1-6 feet. The fill slope of the building pad varies from 0-8 feet in height.

Residential Structures

The proposed 2,783 square-foot residence would be one-story with a pitched roof reaching a maximum of 22 feet above the surrounding grade. The house would have three bedrooms (counting den as bedroom). The proposed development also includes a 624-square-foot attached garage and a 262-square-foot attached shop. The shop and garage would be connected to each other and attached to the northeast end of the house, but would be served by a separate entry. The structure would have horizontal siding similar to the siding of the home on the parcel to the north. The specific colors of the siding have not yet been chosen, but the applicant indicates he is considering wood tones, gray, or possibly white. The roof would be a dark gray composition shingle roof, also similar to the roof of the next-door structure.

The proposed development includes a retaining wall along the northwestern side of the structure to support the cut-slope of the adjacent hillside and provide a foundation for the wall of this side of the building.

Parking Area Improvements

A proposed 24-foot-wide driveway would extend approximately 60 feet from the applicant's easement over the existing access drive on the parcel to the north to the garage of the proposed residence. The driveway would include a turnaround extension. Approximately five cubic yards of gravel have already been placed for the driveway and the applicant proposes to place an additional 40 cubic yards of gravel to complete the parking area improvements.

Drainage Improvements

The proposed development includes certain drainage improvements to convey runoff from the roof of the structure and runoff from the hillside adjacent to the building pad past the residence to the open space area. The void between the proposed retaining wall and hillside would be filled with drain rock and a drainpipe that would carry runoff form the hillside to either end of the house. At the southwestern end of the house, the drainpipe would connect to a 12-inch diameter storm drain with a 24-inch diameter inlet. This storm drain would cross under the building pad and daylight at the base of the fill slope of the building pad in an upland portion of the deed restricted opens space area. The outlet would include an approximately 6-square-foot energy dissipater composed of approximately three cubic yards of rock. At the northeastern end of the house, the retaining wall drainpipe would connect to a 4-inch drain line that would similarly cross under the building pad and daylight at the base of the fill slope in an upland portion of the open space area. The outlet to the 4-inch line would also include a rock energy dissipater. Roof drains would be plumbed into the various proposed drainpipes. Vegetation in the open space area would provide biofiltration of the discharge from both pipes.

Sedimentation and Erosion Control Measures

The proposed project includes certain erosion control measures. In addition to the proposed rock energy dissipaters to be installed at the end of the storm drains, the applicant proposes to install a 3-foot-high silt fence composed of filter fabric strung between steel or wood posts. To protect the adjoining open space area, the silt fence would run along the eastern edge of the top of the building pad from the northern property line to a point approximately 25 feet south of the residence. Furthermore, all ground left bare by construction activities would be seeded with grass and covered with straw within two weeks of completion of the grading or by November 1st, whichever occurs first. The vegetative screen proposed as part of the buffer improvement plan described below would also help biofiltrate sediment contained in runoff from the site.

Wetland Buffer Improvements

The selection of a building site location on the subject parcel is greatly constrained by the large wetland area on the approximately eastern half of the property that is protected by the recorded open space deed restriction and the moderately steep hillside that occupies most of the western portion of the property. The applicant proposes to site the home in the relatively narrow strip of upland just east of the wetland and at the base of the hillside. Building in this location does not allow for establishing a full 100-foot-wide buffer between the proposed residence and the wetlands on the property. As proposed, the house would be situated as close as 15 feet from the deed restricted open space area. As noted previously, not all of the deed restricted open space area is wetland. The eastern portion of the deed restricted open space area immediately adjacent to the building site slopes upward and is upland area that does not contain wetlands. However, even taking into account the upland characteristic of the most eastern portion of the deed restricted area, the proposed residence would still be located approximately 35 feet from the true wetland areas of the property.

To create an effective buffer between the residential development and the wetlands despite the narrow physical separation available, the applicant proposes to create a vegetative screen composed of native vegetation to be planted along the margin of the open space area. The applicants submitted a plan for the vegetative screen entitled, "Wetland Buffer Boundary Planting Recommendations for Gatliff Avenue, Eureka, California," prepared by Natural Resources Management Corporation. The stated goals of the plan are listed as follows:

- To create a vegetative "screen" of approximately 2,400 square feet in size planted along the buffer boundary in front of the residence;
- To provide a natural visual and noise control screen that will buffer the environmentally sensitive wetland resources from the new residence;
- To naturally filter drainage and trap sediments from the hill slope to the west by planting native vegetation along the slough/wetland buffer boundary;
- To provide a diversity of regionally-appropriate native species and natural vegetation assemblages for the enhancement of wetland and wildlife resources (e.g. birds, pollinating insects, etc.)

The proposed 2,400-square-foot planting area would extend for approximately 80 feet along the fill slope of the building pad and extend 20 to 40 feet eastward into the open space area itself. The planting area would be located directly in front of the side of the house that fronts onto the open space area. Approximately 37 trees and/or shrubs would be planted with additional herbaceous species planted in between the trees and shrubs. The plant species would all be native species that occur in natural vegetation assemblages of the region, including such species as red alder, Pacific willow, Sitka willow, wax myrtle, toyon, coastal silk tassel, coyote brush, black twinberry, thimbleberry,

salmonberry, red flowering currant, American dogwood, wood rose, salal, Pacific reedgrass, tufted hairgrass, Dewey's sedge, western sword fern, and Douglas iris. The full plant list is provided in Table 1 of the plan. The trees and shrubs would be spaced approximately 8 feet apart, and 50% of the trees would be evergreen species capable of reaching at least 15 feet in height. The planting plan includes planting guidelines that include such measures as (a) eradicating the non-native Himalayan blackberry (Rubus discolor) from the planting area to keep this invasive plant from compromising the success of the native plantings, (b) arranging plants to optimize the value of the vegetated area as a visual screen and to locate plants in higher and lower portions of the site depending on the species drought tolerance, (c) avoiding planting during the summer months and watering plants for specified periods of time after planting, (d) mulching plants, (e) specifying that seedlings be 18-24 inches in height minimum, and (e) allowing substitutions of plant sizes and species based on plant availability in consultation with a qualified botanist, ecologist, or native plant nursery staff. The plan sets forth the following success standards for the planting area:

- The planting area should contain a minimum of 50% woody vegetations relative cover by the end of the second growing season after site planting is completed and 80% by the end of year 5;
- There should be minimum of 50% survival of planted individuals after year 1 and plants shall be replaced as necessary to achieved the desired cover;
- There should be a minimum of 50% survival of all evergreen species planted after year 1 and through the monitoring period;
- Himalayan blackberry should comprise no more than 10% of the relative cover of the planting area by the end of year 1; and
- Plants shall be replaced as necessary and Himalayan blackberry removed as necessary to achieve the desired cover standards above.

Besides the planting of the vegetative screen, the applicant proposes to buffer the impacts of the proposed residential development from the habitat area by reducing erosion and sedimentation of the habitat area by incorporating the proposed drainage facility described above and the installation of silt fences during construction along the top of the fill slope of the building pad.

3. New Development

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or 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 subject property is located within an unincorporated but urbanized area just south of the City of Eureka. The property is designated in Humboldt County's Humboldt Bay Area Plan as Residential Low Density (RL) and is zoned Residential Single-Family (RS), where single-family residences are a principally permitted use. Thus, the proposed residential use would be located within a developed area planned for such use.

The subject parcel is located in an area served by municipal water and sewer with adequate capacity to serve the proposed development. Thus, the area has adequate services to accommodate the proposed development.

As discussed in the findings below, the proposed development has been conditioned to reduce potential impacts to water quality and environmentally sensitive habitat to less than significant impacts. In addition, the proposed development as conditioned will be designed to ensure the project would not contribute to geologic hazards. Furthermore, as discussed in Finding Nos. 5 and 6, the proposed development would not have significant adverse impacts on public access or visual resources.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with Coastal Act Section 30250(a) in that it is located in a developed area, it has adequate water and sewer capability to accommodate it, and it will not cause significant adverse effects, either individually or cumulatively, on coastal resources.

4. Protection of Environmentally Sensitive Habitat Area (ESHA)

Section 30240 of the Coastal Act states in applicable part:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30240(b) requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values potentially resulting from adjacent development. Additionally, Section 30231 provides that the quality of coastal waters be maintained.

The subject property contains environmentally sensitive habitat area consisting of portions of Martin Slough, an adjoining strip of riparian vegetation, and wetlands within the area between the riparian strip and the eastern boundary of the property and the

building pad. As described in the site description finding, the area between the riparian strip bordering the slough and the building site has an uneven topography and contains topographical depressions with a greater density of wetland plants than surrounding higher areas. The dominant native herbaceous component is the resilient slough sedge (C. obnupta). The western portions of this area gradually slope upward near the base of the fill slope. Consequently, moving towards the base of the fill slope the vegetation transitions from wetland plants to more upland plant species. The upper approximately 20-foot-wide portion of area adjacent to the fill slope of the building pad is clearly upland area. However, no formal wetland delineation has been performed that maps the exact upward boundary of the wetland area. As previously discussed, all of the wetlands on the property and the bordering upland area between the eastern property line and the base of the fill slope of the building pad are restricted as open space by a deed restriction recorded pursuant to the terms and conditions of Coastal Development Permit No. 1-95-011, granted for a previous merger and boundary line adjustments that created the present configuration of the parcel.

The applicant proposes to locate the residence as far from the ESHA as possible while avoiding development on the moderately steep hillside that occupies much of the western half of the property. However, the available building area between the open space area and the hillside is very narrow. The width of the building pad from where it abuts the hillside on its northwestern side to its base of its southeastern side varies in width from a maximum of 30 feet to a minimum of 50 feet. In its proposed location, the house would vary in distance from the edge of the open space area from a maximum of 40 feet to a minimum of 15 feet. However, those portions of the top of the building pad not occupied by the house would likely be utilized as yard area for the house. Therefore, the effective width of the area between the areas to be used for residential purposes and the open space is approximately 10 feet, which is essentially the width of the fill slope of the building pad. As noted above, the open space area extends westward beyond the actual edge of the wetlands for a distance of approximately 20 feet. Therefore, the actual area available for a spatial buffer between the portions of the property to be used for residential purposes and the wetland ESHA is approximately 30 feet.

The project would result in an increase in activity at the site common to residential use, thereby subjecting birds and other wildlife that inhabit the ESHA to increased noise and disturbance. Spatial buffers provide separation from development and environmentally sensitive habitat areas (ESHA) to minimize disturbance to plants and animals inhabiting an ESHA and to protect the habitat values of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with residential and other development such as noise, lighting, and human activity, which can disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and environmentally sensitive habitat areas. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and storm water runoff from development to minimize the amount of pollutants potentially entering environmentally sensitive habitat areas and receiving waters.

Buffers between development and ESHA are often required to be a minimum of 100 feet in width. In this case, however, a buffer greater than the proposed 30 foot width cannot feasibly be provided. The building site is located on a strip of land that extends from the northern property boundary to the southern property boundary. All of the area of the subject parcel to the east of this strip of land is subject to the recorded open space deed restriction, which precludes residential development. All of the area of the subject parcel to the west of this strip of land is part of the moderately steep hillside. The geotechnical report prepared for the subject property notes that the moderately sloping hillside (30 to 50%) is located in an area mapped as having a moderate potential for slope instability. As discussed in the geologic finding below, although development of the house on the building pad as proposed at the base of the slope raises some differential settlement concerns that will need to be addressed in the final foundation plan, the proposed building site is not subject to the slope instability problems that would affect development on the hillside. Thus, development on the hillside would subject the proposed development to greater degree of geologic instability. In addition, disturbance of the hillside for development would create a much greater risk of erosion and sedimentation, as erosion is much harder to control on steep slopes. Increased erosion and sedimentation would adversely affect the wetlands on the site and within Martin Slough. Furthermore, siting the proposed development on the hillside would raise the house to an elevation where it would rise above the tops of the trees that exist on the lower elevations of the site and make the house much more prominent from public vantage points in the surrounding area, greatly increasing its visual impact.

Within the developable strip of land at the base of the hill, there is no other location where the proposed residence can be sited to achieve appreciably greater separation from the wetlands as the wetlands flank the entire strip and the strip is of relatively uniform width. The house itself is of modest width, approximately 42 feet. Thus, reconfiguration of the house would not gain significant additional space. Therefore, no preferable building site has been identified that would provide a greater buffer width and not increase sedimentation of the ESHA and create other impacts on coastal resources.

At the time that Coastal Development Permit No. 1-95-11 was approved for the merger and resubdivision of the subject property, the Commission considered how a future residence could be developed consistent with the ESHA protection policies of Section 30240 of the Coastal Act. Commission staff reviewed how the wetland ESHA could be buffered from the impacts of future residential development with the staff of the Department of Fish & Game. The Department of Fish & Game indicated that the wetland area could be suitably protected by installation of a vegetative screen and fencing. Based on this recommendation, the Commission approved the establishment of the current lot boundaries of the subject parcel through its approval of the permit. In its findings for approval, the Commission acknowledged that there is little room for a buffer and determined that the vegetative screen and fencing would be appropriate. The adopted findings from CDP 1-95-11 state as follows:

> The restricted area does not include a buffer area. The Department of Fish and Game has indicated to Commission staff that suitable protection of the wetland area from the impacts of the use and construction of the future residence could be achieved through the installation of a vegetative screen and fencing. Because plans for the proposed house have not yet been prepared, the appropriate composition, configuration, and size of such a screen cannot be determined at this time. When the applicant submits a coastal development permit application for the house, the county and/or the Commission could impose requirements for screening that would be appropriate to the house plans that are presented. Therefore, the Commission finds that it is not necessary to impose a requirement for a buffer screen or buffer area with the current application.

Consistent with the buffer approach envisioned in the Commission's action on Coastal Development Permit No. 1-95-11, the applicant is proposing to create a vegetative screen composed of native vegetation to be planted along the margin of the open space area. As described more fully in the project description finding, the applicants submitted a plan for the vegetative. The stated goals of the buffer planting plan are listed as follows:

- To create a vegetative "screen" of approximately 2,400 square feet in size planted along the buffer boundary in front of the residence;
- To provide a natural visual and noise control screen that will buffer the environmentally sensitive wetland resources from the new residence;
- To naturally filter drainage and trap sediments from the hill slope to the west by planting native vegetation along the slough/wetland buffer boundary;
- To provide a diversity of regionally-appropriate native species and natural vegetation assemblages for the enhancement of wetland and wildlife resources (e.g. birds, pollinating insects, etc.)

The proposed planting plan involves planting a 2,400-square-foot area that would extend for approximately 80 feet along the fill slope of the building pad and extend 20 to 40 feet eastward into the open space area itself. The planting area would be located directly in front of the side of the house that fronts onto the open space area. Approximately 37 trees and/or shrubs would be planted with additional herbaceous species planted in between the trees and shrubs.

As indicated in the goals, besides creating a visual and noise control screen the planting is designed to provide a diversity of regionally appropriate native species and natural vegetation assemblages to enhance the wetland and wildlife resources of the opens space area. As an enhancement measure to improve the ESHA habitat values, the portion of the planting area that would extend into the deed restricted open space area and into ESHA itself would (a) be consistent with the requirements of Section 30240(a) of the Coastal Act that only uses dependent on those resources shall be allowed within those areas, and (b) be consistent with the requirements of the recorded open space deed restriction that

"the use of the protected land...shall be limited to natural open space for habitat protection, private recreation, and resource and resource conservation uses."

The proposed planting plan would help buffer the ESHA from the impacts of the proposed residential development. The vegetation, which includes various tree species would provide a visual screen for much of the ESHA area and would have some limited value in muffling noise. As it would be located immediately adjacent to the fill slope of the building pad and the outlets to the proposed storm drains, the planted vegetation would provide additional biofiltration of runoff from the development site. Furthermore, the planting of native plants could enhance existing habitat values of the open space area. The Commission finds, however, that the proposed planting plan would not be fully effective in buffering the ESHA from the significant adverse impacts of the proposed residential use of the development for the following principal reasons.

First, the planting screen as proposed would only extend across a portion of the frontage of the proposed house and would not extend over the fill slope of the building pad. The planting screen would not be dense enough and long enough to provide a visual and noise screen of future residential activity occurring alongside the garage portion of the structure, within the driveway/parking area and within the level yard area immediately southwest of the proposed structure.

Second, the planting plan does not ensure that sufficient numbers of evergreen trees would be spaced throughout the planting area to ensure that the effectiveness of the visual screen would not diminish in the fall and winter when deciduous trees loose their leaves.

Third, the characteristics of the planting area vary from wetland areas to upland areas. The planting plan provides for the planting of a variety of wetland and upland native plant species. However, the planting plan does not indicate where each species will be planted and does not ensure that the wetland plants will be planted in the more wet areas of the site and that the upland species will be planted in drier areas to better ensure their survival.

Fourth, the vegetative buffer plan does not include the installation of a fence along the margin of the buffer to better screen future residential activity form the ESHA. In its recommendations to the Commission when the Commission reviewed Coastal Development Permit Application No. 1-95-11, the Department of Fish & Game specifically indicated a fence should be a component of the buffer plan to ensure the effectiveness of the buffer. A low fence in combination with the vegetative plantings would not only screen visual disturbance and noise, but would discourage entry into the ESHA area and resulting disturbance of the habitat.

Fifth, although the plan calls for watering of the planted vegetation for a period of time after the initial planting, the plan does not specifically call for an irrigation system to

better ensure the plants will be sufficiently watered during the crucial first growing season and maximize survival of the plants.

Sixth, although the plan incorporates certain success standards for the vegetative plantings and calls for monitoring of the planted vegetation to ensure that the success standards are met, the monitoring provisions do not address how problems would be remediated.

However, if modified to incorporate certain feasible and effective measures to improve the effectiveness of the proposed buffer, the Commission finds that the project would provide an adequate buffer that would protect the ESHA from impacts that would significantly degrade the ESHA. The principal measures that should be incorporated include the following:

First, extending the planted area along the entire length of the fill slope of the building and house site would ensure that all or most of the future residential activity of the site would be screened. To minimize excavation of the fill slope that could cause erosion and sedimentation impacts, only shrubs and herbaceous species should be planted on the slope itself with trees interspersed with shrubs and herbaceous species planted within a 5-10 foot wide strip adjacent to the base of the fill slope.

Second, requiring that evergreen trees are planted on 8-foot-centers throughout the 5-10-foot-wide strip of tree planting would ensure that leafy trees would continuously screen the development even in the fall and winter.

Third, requiring that wetland plant species are only planted in wetland areas suitable for their growth and upland species are only planted in non-wetland areas suitable for their growth will improve the chances of survival of the vegetative plantings.

Fourth, requiring that a low 3-4-foot-high fence be installed at the top of the fill slope of the building pad extending along the entire length of the panting area would provide better visual and noise screening and would discourage entry into the ESHA and thereby minimize physical disturbance of the ESHA by people.

Fifth, requiring that an irrigation system be installed and maintained to irrigate the planting area upon initial planting and throughout the dry season of the first year of planting until season rains begin would increase the chances for survival of the planted vegetation.

Sixth, requiring that the monitoring provisions be specified in greater detail and include provisions for the preparation of a revised or supplemental planting plan to compensate for any portions of the plantings which do not achieve the approved performance standards and requiring the applicant to apply for any necessary permit amendment to incorporate the revised planting program into the approved development would provide a

mechanism to ensure that the vegetative planting will achieve the specified success standards.

Therefore, the Commission attaches Special Condition No. 2 which requires the modification of the propose wetland buffer plan to incorporate the above measures to improve the plan's effectiveness at mitigating the visual, noise, and human impacts of the proposed development. The condition requires that a revised buffer plan be prepared for the review and approval of the Executive Director that incorporates all of the above measures prior to issuance of the permit. As conditioned to require implementation of the modified wetland buffer plan, the Commission finds that the proposed development would provide an adequate buffer to protect the ESHA from the visual, noise, and human impacts of the development that would significantly degrade the ESHA consistent with the requirements of Section 30240(b) of the Coastal Act.

The proposed project includes a drainage, erosion, and sedimentation control plan that includes measures to protect the water quality of the wetlands in the open space area and the waters of Martin Slough. As discussed below in the Water Quality Finding, the plan as modified by Special condition No. 1 would protect water quality and minimize and control erosion and sedimentation by (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting or seeding any disturbed areas with native vegetation following project completion; (3) covering and containing debris stockpiles at all times; (4) using silt screens to control runoff during construction; (5) installing drainage facilities to direct runoff from the completed development in a manner that would minimize continued erosion, and (6) providing for biofiltration of the collected runoff from the development to prevent sediment and other pollutants in the runoff from the development from entering the waters of Martin Slough. As conditioned to require implementation of the modified drainage, erosion, and sedimentation control plan, the Commission finds that the proposed development would provide an adequate buffer to protect the ESHA from the water quality impacts of the development that would significantly degrade the ESHA consistent with the requirements of Section 30240(b) of the Coastal Act.

Even with the buffer improvements, the ESHA could also be adversely affected if non-native, invasive plant species were introduced in landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA and displace native wetland vegetation, thereby disrupting the value and function of the adjacent ESHA. The applicant is proposing to plant vegetation as part of the vegetative screen to buffer the wetland habitat from the impacts of the proposed residential development. All of the species on the proposed plant list are native plants that occur in natural vegetation assemblages of the region; no invasive exotics are included. Special Condition No. 2 requires that the revised final wetland buffer plan include a provision requiring that with the exception of the specific revisions to the plan required by the condition, the plan shall conform to the original wetland buffer plan submitted by the applicant, including the plan's provision that only native species that occur in natural vegetation assemblages of

the region shall be planted. In addition, as part of the erosion and runoff control plan, the applicant proposes to seed disturbed area with grass and other vegetation. To ensure that only noninvasive plants are utilized for this purpose, the Commission attaches Special Condition No. 1 which requires the erosion and runoff plan to be revised to specifically provide that only noninvasive plants vegetation shall be planted for erosion and sediment control. Details of any other landscaping the applicant may wish to install were not provided with the application. To ensure that the ESHA is not adversely impacted by the planting of invasives in such landscaping of the site, either during the development of the project or in the future, the Commission attaches Special Condition No. 6 that requires only native and/or non-invasive plant species be planted at the site. Special Condition No. 5 also requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property to ensure that all future owners of the property are aware of the prohibitions on planting invasive exotic plants at the site in the future.

As conditioned, the proposed development would be sited and designed provide an adequate buffer from the ESHA. However, the Commission notes that future minor incidental development normally associated with single family residences such as additions to the residence, construction of outbuildings, decks and patios, or installation of additional landscaped areas could be sited and designed in a manner that could compromise the value of the buffer and have potentially adverse impacts on the environmentally sensitive habitat area. Many of these kinds of development are normally exempt from the need to obtain a coastal development permit under Section 30610(a) of the Coastal Act. Thus, the Commission would not normally be able to review such development to ensure that impacts to sensitive habitat are avoided.

To avoid such impacts to coastal resources from the development of otherwise exempt additions to existing homes, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250(b)(6) specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. As noted above, certain additions or improvements to the approved residence could involve a risk of adverse impacts to the ESHA on the site. Therefore, in accordance with provisions of Section 13250 (b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 4 which requires a coastal development permit or a permit amendment for all additions and improvements to the residence on the subject parcel that might otherwise be exempt from coastal permit requirements. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in significant adverse impacts to the ESHA on the site. Special

Condition No. 5 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements to the residence without first obtaining a permit as required by this condition.

The Commission finds that with the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area from visual and noise disturbance, erosion and sedimentation, and the introduction of invasive species, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area.

The Commission further finds that in this particular case, a narrow buffer area with the required vegetative screen, fencing, and water quality measures that are required to be part of the revised wetland buffer plan is appropriate to buffer the potential impacts of the proposed residential development on ESHA for several reasons. First, as discussed above, the plan as required to be revised with the specified mitigation measures will minimize any potential significant adverse impact and will ensure that the project as proposed will not significantly degrade the adjacent ESHA. Second, the only option to expand the width of the buffer area would be to construct the residence on the moderately steep hillside to the west of the proposed building site, which would itself be problematic. As discussed previously, the construction on the hillside would greatly increase the amount of erosion and sedimentation that would result from the project. As the wetland ESHA is down slope from the hillside, the increased sediment that would be loosened from the hillside would be carried directly into the habitat with runoff, degrading the quality of the habitat. In addition, development on the hillside would increase the risk of geologic instability for the development and increase the visual impacts of the development. Third, the approach of using a vegetative screen and fencing is consistent with the recommendations provided by the Department of Fish & Game at the time the Commission considered Coastal Development Permit Application No. 1-95-11 for the merger and redivision of the property. The Commission adopted findings for approval of CDP Application No. 1-95-011 indicating that the reconfigured parcel could be developed in a manner consistent with the ESHA protection policies of the Coastal Act by use of the vegetative screen and fencing approach recommended by Fish & Game at the time and currently proposed. For all of the above reasons, the Commission finds that the proposed narrow buffer utilizing a vegetative screen and fencing is appropriate in this case.

However, the Commission finds that because (a) the vegetative screen and fencing as required to be modified will be effective in this case in minimizing any potential impact and ensuring that the project will not degrade the adjacent ESHA, (b) the open space deed restriction and moderately steep hillside severely constrain development of the subject property, and (c) the Commission's incorporation of the previous recommendations of the Department of Fish and Game that use of a vegetative screen and fencing would be an

appropriate way to buffer the ESHA from the impacts of future residential development on the property in its findings for approval of the merger and resubdivision of the subject property, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area, the project as conditioned is consistent with Section 30240(b) of the Coastal Act.

5. Water Quality

Coastal Act Section 30231 states as follows:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and 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.*

Section 30231 of the Coastal Act addresses the protection of coastal water quality in conjunction with development and other land use activities. Runoff from the building site and the adjoining hillside sheet flows over the building pad towards the wetlands in the deed restricted open space and eventually towards Martin Slough along the eastern property line. The proposed development has, and would continue to impact the water quality of these water bodies both during construction and after project completion.

Cut and fill grading activities to create the building pad on the site have exposed loosened soil to storm water runoff. The additional grading and construction activities to be performed under the permit will continue to expose the soil storm water runoff. Storm water runoff flowing across the site could entrain loose soil materials that could in turn drain out onto the adjoining wetlands and eventually enter flow into Martin Slough, adversely affecting water quality. After project completion, storm water runoff originating from the hillside and from the development site itself has the continued potential to collect sediment and other pollutants. Runoff originating from the development site that is allowed to drain over the edge of the fill pad would contain entrained sediment and other pollutants in the runoff that would contribute to degradation of the quality of Martin Slough and the wetland area between the development site and the slough.

The proposed project includes a site drainage and erosion and sediment control plan which identifies several preventative measures to avoid water quality impacts. These measures include certain mitigations for the construction-related impacts identified above including installation of a 3-foot-high silt fence composed of filter fabric strung between

steel or wood posts. To protect the adjoining open space area, the silt fence would run along the eastern edge of the top of the building pad from the northern property line to a point approximately 25 feet south of the residence. Furthermore, all ground left bare by construction activities would be seeded with grass and covered with straw within two weeks of completion of the grading or by November 1st, whichever occurs first. The submitted site drainage and erosion and sediment control plan also identifies several preventative measures to avoid completed project-related impacts. These measures include the installation of certain drain lines to convey all runoff from the roof of the structure and runoff from the hillside adjacent to the building pad underground past the residence to the open space area to intercept such runoff before the runoff acts to erode the building pad. In addition, rock energy dissipaters would be installed at the outlets to the drain lines to minimize erosion where the drainage emerges from the pipelines. Furthermore, the outlets would discharge flow to vegetated areas in the uplands of the open space area to allow for biofiltration of sediment and other pollutants collected in the runoff before the runoff reaches the waters of Martin Slough. Finally, the plan calls for planting and maintaining vegetation between the proposed parking and turnaround area and the eastern end of the fill pad and maintaining existing vegetation between the building site and wetlands to provide for long term erosion and sediment control.

The proposed measures would serve to reduce potential storm water runoff related water quality impacts and are generally consistent with measures the Commission has required in other projects to mitigate significant adverse water quality impacts and ensure consistency with Section 30231 of the Coastal Act. However, even though the proposed measures would help mitigate potential storm water runoff related impacts, several other best management practices could feasibly be employed during the development construction phase that would further reduce potential water quality impacts and ensure greater consistency with Section 30231. For example, all grading could be more clearly limited to the dry season and stockpiles of excavated material, fill, and debris could be covered and contained at all times. In addition, the terms of the recorded open space deed restriction do not allow for the installation of the storm drain outlets and their associated energy dissipaters within the open space area. The deed restriction precludes all development with certain exceptions. The storm drains are a form of development but are not among the excepted kinds of development that are allowed within the deed restriction.

Therefore, the Commission attaches Special Condition No. 1 which requires approval of a final erosion and runoff plan prior to permit issuance, incorporating both the measures proposed by the applicant, as well as additional actions identified by the Commission staff, and requiring modifications of the storm drains to ensure they do not extend into the deed restricted open space area where they are not allowed. These additional measures include requirements that (a) all grading activities shall be limited to the dry season, April 15 through October 15, (b) the proposed silt fence remain in place following conclusion of the authorized grading activities until the applicants have seeded with grass and covered with straw areas left bare by construction activities, (c) efforts be taken to ensure that in the handling and storage of construction materials, demolition debris, and other wastes, no such materials be allowed to enter the wetlands of the open space area on the property and the waters of Martin Slough, (d) all on-site stockpiles of fill

materials or debris shall be covered and contained at all times, (e) all debris and waste be removed for the project site and disposed of in an upland location outside of the coastal zone or at an approved disposal facility, and (f) the two proposed storm drains be modified so that all portions of the drain pipes and the energy dissipaters at the outlets do not extend into the deed restricted open space area on the subject property. The revised final plan is required to ensure that appropriate best management practices (BMPs) to control runoff are implemented in light of expected precipitation events.

Section 30412 prevents the Commission from modifying, adopting conditions, or taking any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality. There are no existing National Pollutant Discharge Elimination System (NPDES) permits that apply to the site and the proposed project does not require any permits from the Regional Water Quality Control Board. Therefore, conditions and/or BMPs required by the Commission to minimize adverse impacts to water quality from the proposed development would not conflict with any determination by the RWQCB consistent with the requirements of Coastal Act Section 30412.

The Commission finds that as conditioned, erosion and sedimentation will be controlled and minimized by (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting or seeding any disturbed areas with native vegetation following project completion; (3) covering and containing debris stockpiles at all times; (4) using silt screens to control runoff during construction; (5) installing drainage facilities to direct runoff from the completed development in a manner that would minimize continued erosion, and (6) providing for biofiltration of the collected runoff from the development to prevent sediment and other pollutants in the runoff from the development from entering the waters of Martin Slough. Therefore, the Commission further finds that by controlling runoff, the proposed development as conditioned is consistent with the requirement of Coastal Act Sections 30231 that the quality of coastal waters, streams, wetlands, and estuaries be maintained.

6. Geologic Hazards

Section 30253 states in applicable part:

> *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...*

The proposed building site is located in an area subject to certain geologic and flood hazards. There are three principal hazards affecting the site. First, the project site is in a flood hazard combining zone. The site is adjacent to Martin Slough, which drains a relatively large watershed area and is subject to flooding from storm water runoff after periods of heavy rain. Second, the building site is adjacent to moderately sloping (30 to 50 percent slope) hillside that could subject the building site to landslide hazards. Third, the proposed house would be constructed on the cut and fill building pad that has been constructed without benefit of a coastal development permit. Development on the fill pad could subject the proposed house to differential settlement hazards.

The applicant commissioned a geologic/soils report to be performed of the subject property for the proposed project. LACO Associates performed a geologic/soils technical investigation of the site documented in a report dated July 2002. The report concludes that the hazard of flooding to the proposed new residence is considered low. Although much of the eastern two-thirds of the subject property is a low area containing wetlands that drain into Martin Slough and will flood, the building pad for the proposed residence is at an elevation approximately 10 feet in elevation above the flood plain of Marin Slough.

With regard to landslide hazards, the LACO report notes that the moderately sloping hillside (30 to 50%) is located in an area mapped as having a moderate potential for slope instability. However, the proposed building site appears to be located safely away from any presently recognizable active or dormant landslides. The LACO report does recommend that a minimum 4-foot-high retaining wall with suitable drainage be constructed to stabilize the cut-bank of the hillside along the western edge of the proposed structure. The project as proposed includes such a retaining wall with appropriate drainage features that will form the foundation for the northwestern wall of the structure.

With regard to differential settlement hazards, the LACO report indicates that the proposed building footprint is underlain by about 4 feet of non-engineered fill material overlying native topsoil. The report states that the non-engineered fill material is unsuitable for use for the establishment of a building foundation. Therefore, the report recommends that the foundation elements for the structure should be founded in the firm, undisturbed native materials beneath the four feet of unengineered fill. Any structural fill should be suitable granular native material or well-graded imported granular material and placed in loose lifts not exceeding 8 inches and compacted mechanically to certain standards. The report also recommends that ground surfaces near the structure should be graded such that rain, irrigation, and roof run-off water is directed away from structure foundation elements. In addition, drainage or runoff emanating from the hillside to the west should be directed toward the Martin Slough wetland in tightlines or storm drains and controlled to prevent any concentrated runoff from flowing onto the building pad. Energy dissipaters should be installed at the outlet points of all drains to control erosion.

The proposed project includes many of the specific measures recommended in the geologic/soils report including a suitably drained retaining wall along the cut-bank of the hillside and drainage facilities that would convey water from the development and the adjoining hillside to the west towards Martin Slough. The drainage facilities would be constructed in a manner generally consistent with the recommendations of the report. However, the application does not include details for the foundation of the house, other than the proposed retaining wall. To ensure that the house will be constructed consistent with the foundation and other recommendations of the geologic/soils report and to minimize risks to life and property of geologic hazards and assure stability and structural integrity consistent with the requirements of Section 30253 of the Coastal Act, the Commission attaches Special Condition No. 3. This special condition requires that all final design and construction plans, including site, grading, and foundation plans, shall be consistent with the recommendations contained in the LACO report. The special condition also requires that the applicant submit evidence for the review and approval of the Executive Director that a licensed professional (Certified Engineering Geologist or Geologist) has reviewed and approved all final site, grading, and foundation plans and has certified that each of those plans is consistent with all of the recommendations of the geologic/soils report.

Therefore, the Commission finds that as the building site is located on a portion of the property and at an elevation where it will not be subject to flood hazards, and as the proposed project, as conditioned, will be developed using measures designed to minimize landslide hazard and differential settlement, the project as conditioned is consistent with the requirements of Section 30253 of the Coastal Act that new development minimize risks to life and property of geologic and flood hazards and assure stability and structural integrity.

7. 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 single-family residence is located in a valley in a location somewhat distant from Humboldt Bay and the coast. Thus, the project site and its surrounding area do not provide shoreline access and do not provide public viewing of the bay or ocean because of intervening landforms. Thus, the development would not block any public views of the bay, or other coastal areas. Furthermore, the project would not result in the substantial alteration of natural landforms, as the grading required to establish the building pad is relatively minor and does not alter the basic character of the topography.

The character of this unincorporated area of Eureka is largely defined predominantly by single-family residences with a diversity of architectural styles and sizes. The proposed residence would be one-story, wood framed, and covered with siding material consistent with the material used in the house next door. The project would incorporate a dark gray composition roof also similar to the neighboring house. As proposed, the residence would be of similar size, scale, and architectural style to other development in the neighborhood. Thus, the project would also be visually compatible with the residential character of the surrounding area.

Therefore, the project would be consistent with Section 30251, as the project would not adversely affect views to or along the coast, result in major landform alteration, or be incompatible with the character of the surrounding area.

4. State Waters.

The project site is located in an area subject to the public trust. Therefore, to ensure that the applicant has the necessary authority to undertake all aspects of the project on these public lands, the Commission attaches Special Condition No. 7, which requires that the project be reviewed and where necessary approved by the State Lands Commission prior to the issuance of a permit.

5. Alleged Violation.

As noted above, the applicant proposes to correct a violation of the Coastal Act involving grading activities that occurred in 1998 without benefit of a coastal development permit. The applicant enlarged and leveled the proposed building site without benefit of a coastal development permit by excavating approximately 260 cubic yards from the base of the hillside and placing the material as fill over the adjacent upland area at the base of the hillside. In addition, the applicant placed approximately five cubic yards of gravel north of the home site in an area proposed for a driveway turnaround and parking.

Consideration of this application by the Commission has been based solely upon the policies of Chapter 3 of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the cited alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

7. California Environmental Quality Act.

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 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.

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

Exhibits

1. Regional Location
2. Vicinity Map
3. Subject Parcel
4. Site Plan
5. Area of Grading
6. Floor Plan
7. Elevations

ATTACHMENT

Standard Conditions:

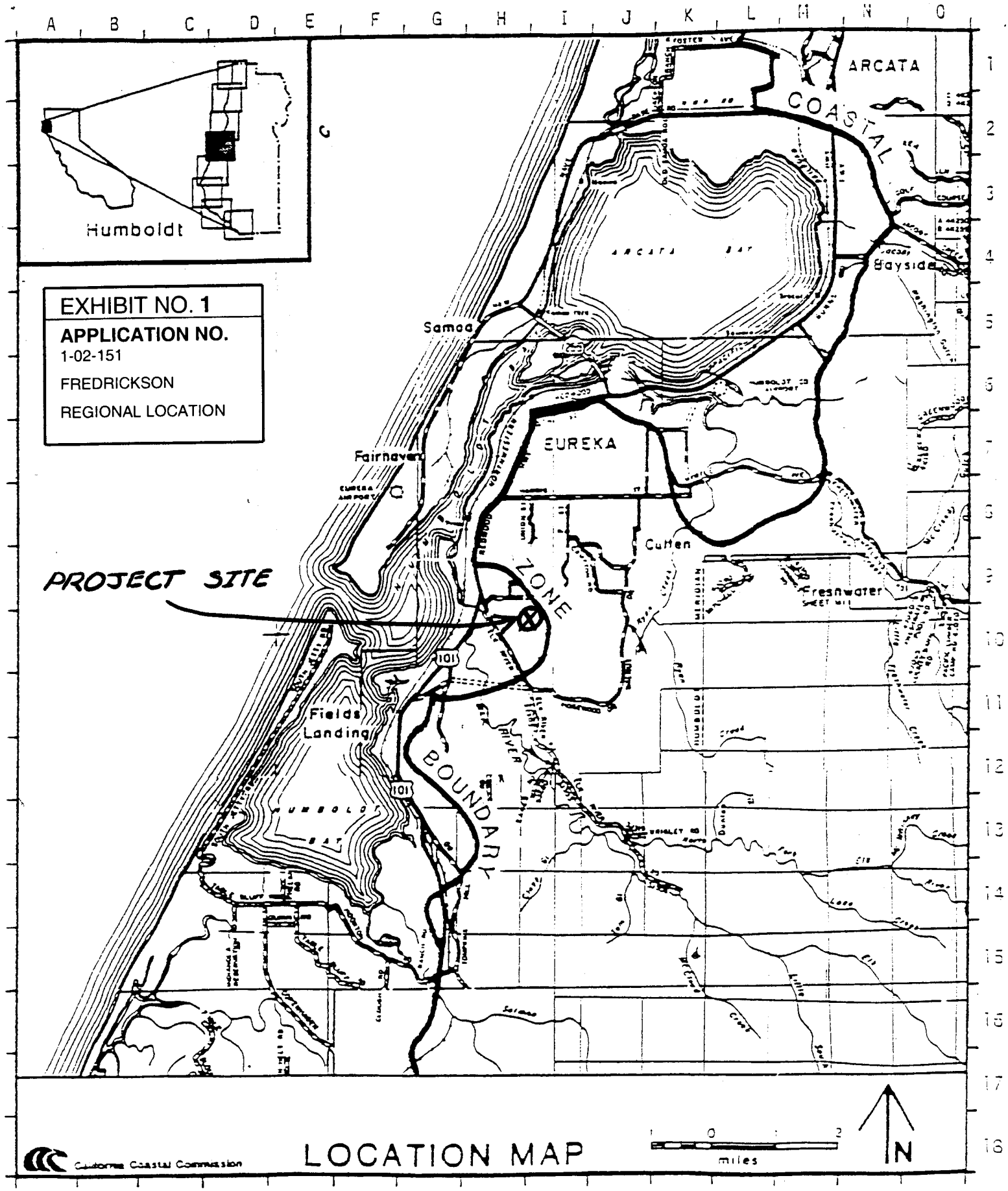
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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.



County of Humboldt

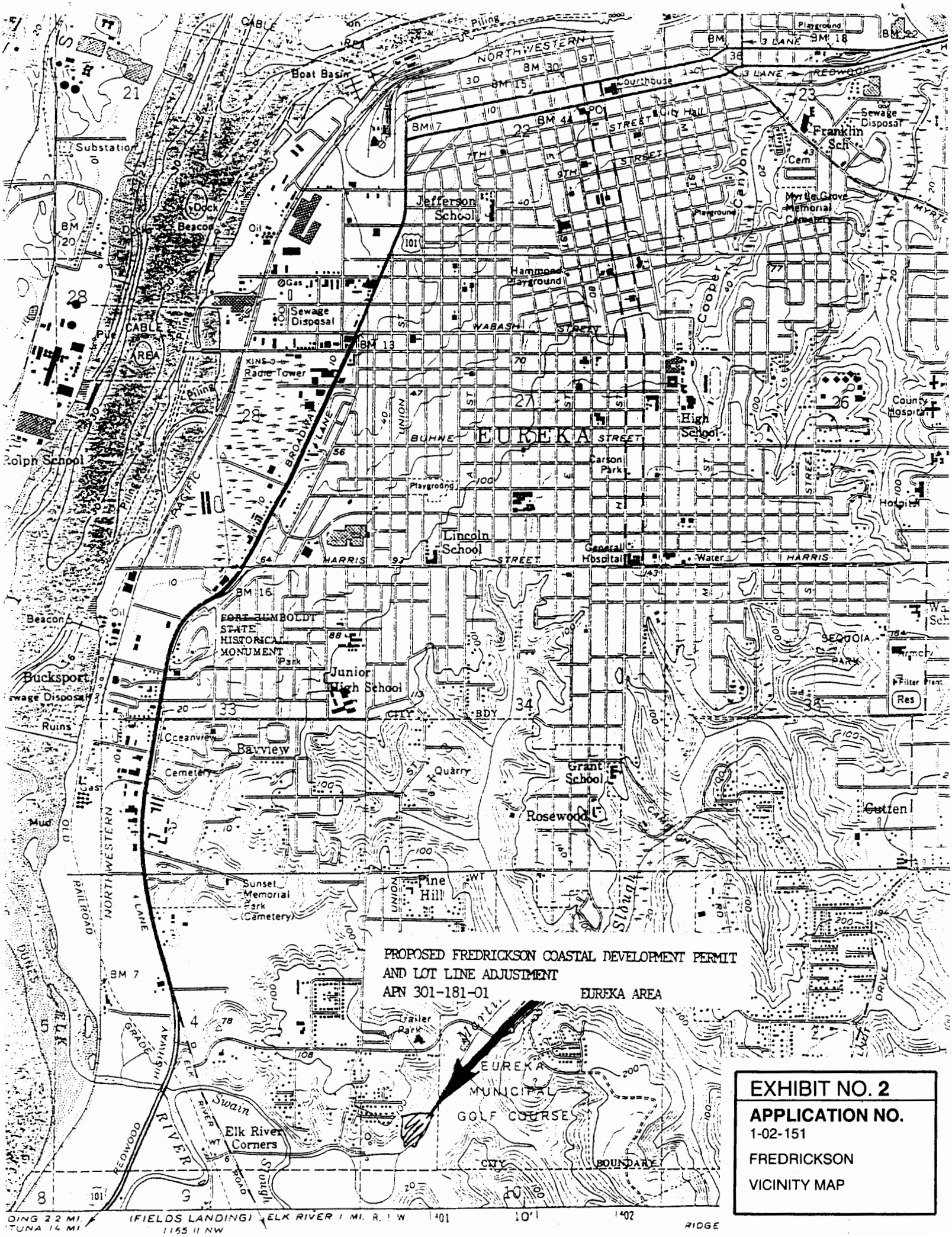


EXHIBIT NO. 2
APPLICATION NO. 1-02-151
FREDRICKSON
VICINITY MAP

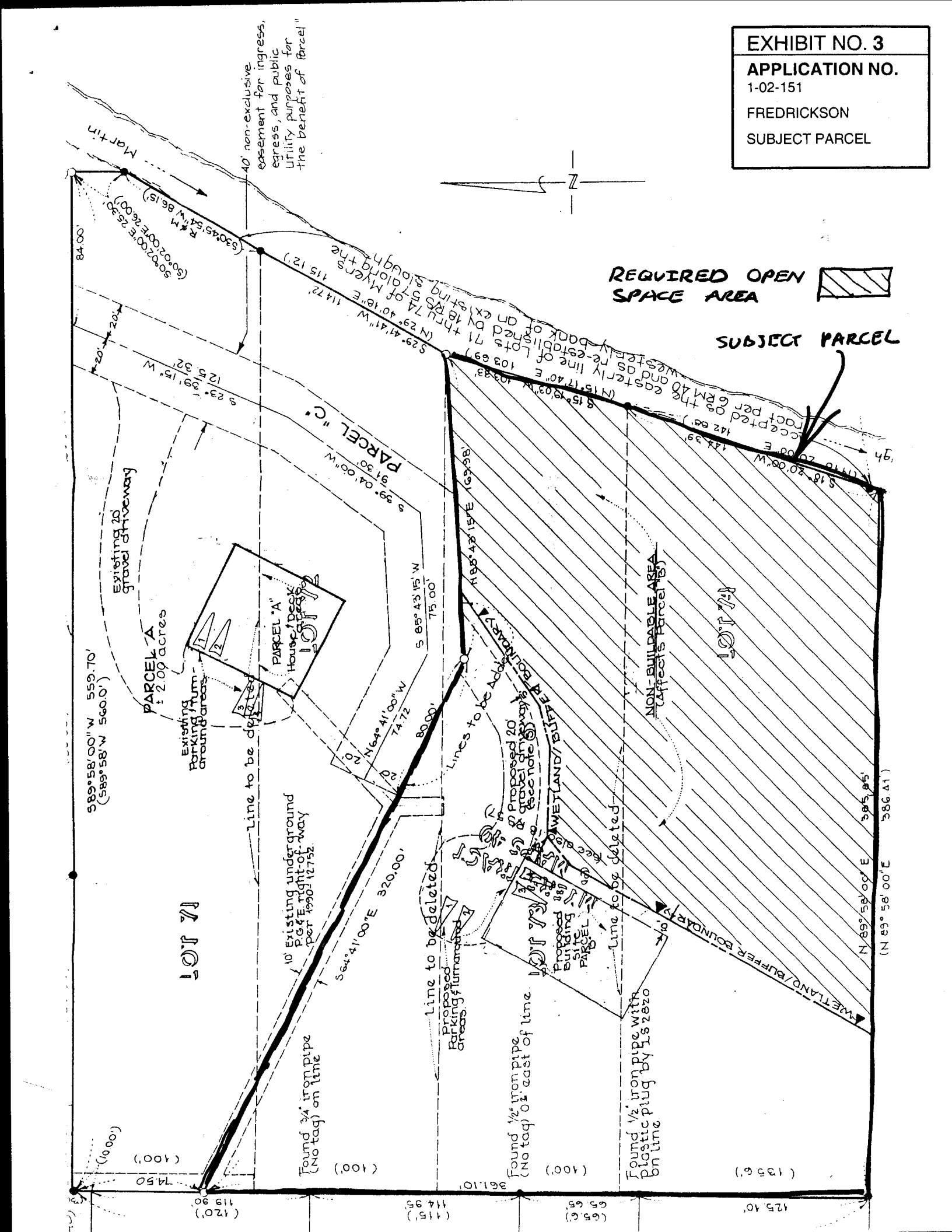
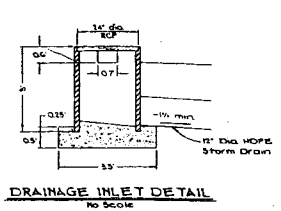


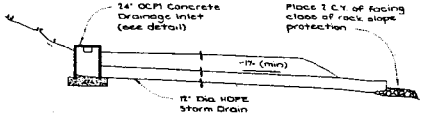
EXHIBIT NO. 3
APPLICATION NO.
1-02-151
FREDRICKSON
SUBJECT PARCEL
REQUIRED OPEN SPACE AREA
SUBJECT PARCEL
Martin
40' non-exclusive easement for ingress, egress, and public utility purposes for the benefit of Parcel "A"
PARCEL "C"
PARCEL "A" ± 2.00 acres
Existing 20' gravel driveway
Existing Parking/Turnaround areas
House/Deck
Proposed 20' gravel driveway
WETLAND/BUFFER BOUNDARY
NON-BUILDABLE AREA (Affects Parcel 1&3)
Lines to be Added
Line to be deleted
Proposed Parking & Turnaround areas
Proposed Building Site
10' Existing underground P.G.&E. right-of-way per 1990 12752
Found 3/4" iron pipe (No tag) on line
Found 1/2" iron pipe (No tag) 0.2' east of line
Found 1/2" iron pipe with plastic plug by LS 2820 on line
LOT 1
LOT 2
LOT 3
LOT 4
S 89° 58' 00" W 559.70' (S89° 58' W 560.0')
S 64° 41' 00" E 320.00'
N 64° 41' 00" W 74.72'
S 85° 43' 15" W 75.00'
N 89° 58' 00" E 386.41' (N 89° 58' 00" E 386.85')
361.10'
74.50
84.00'

EXHIBIT NO. 4

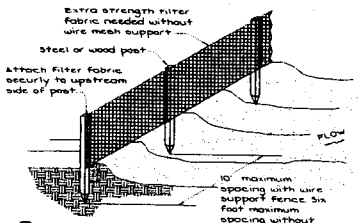
APPLICATION NO.
1-02-151
FREDRICKSON
SITE PLAN



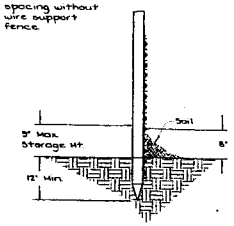
DRAINAGE INLET DETAIL
No Scale



SECTION "A" - "A"
STORM DRAIN
No Scale

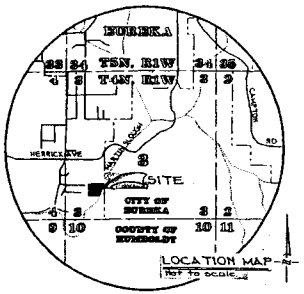


TRENCH DETAIL



INSTALLATION WITHOUT TRENCHING

SILT FENCE
No Scale



LOCATION MAP
Not to scale

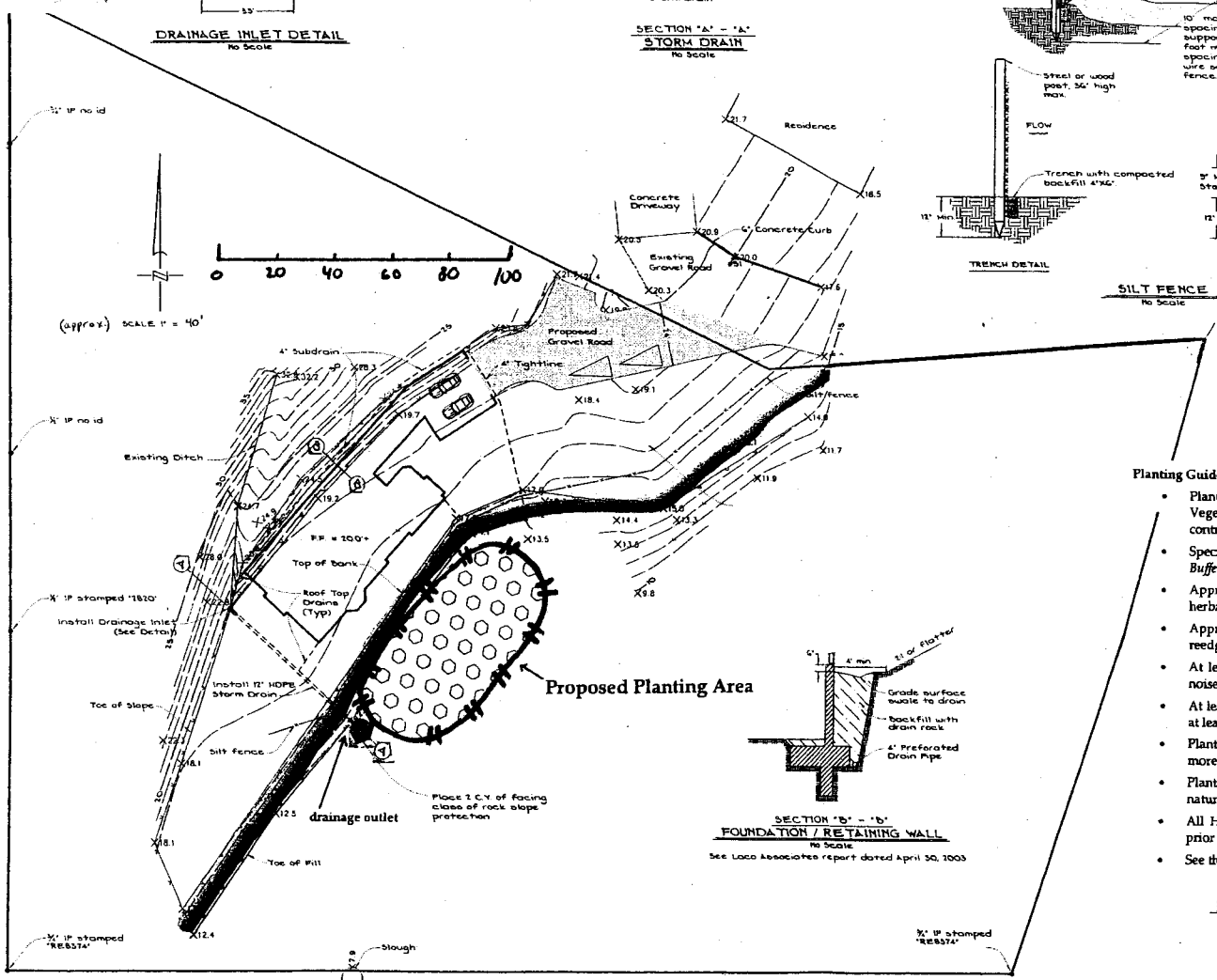
LEGEND

SYMBOL	INDICATES
•	Found iron pipe as noted.
—15—	Existing contours at 1' intervals

Wetland buffer boundary

Planting area boundary (approximate)

Vegetation to be planted
(Note: circles do not represent proposed spacing distances)



SECTION "B" - "B"
FOUNDATION / RETAINING WALL
No Scale
See Loco Associates report dated April 30, 2003

Planting Guidelines:

- Plant ~2400 sq ft. (~80 ft long x 30 ft wide) of native vegetation in this planting area. Vegetation should be planted in front of the proposed residence for visual and noise control screening.
- Species to be planted are detailed in the attached report by NRM Corp. entitled *Wetland Buffer Boundary Planting Recommendations* (dated 2/25/04).
- Approximately 37 trees and/or shrubs should be planted in the planting area. Additional herbaceous species may be planted between tree/shrub plantings to fill in spaces.
- Approximate spacing distances are 8 ft o.c. (on center) for trees, shrubs, and Pacific reedgrass, and 3 to 5 ft o.c. for other herbaceous species (see attached report for details).
- At least 50% of the trees and shrubs planted should be evergreen species for visual and noise control screening.
- At least 50% of the trees and shrubs planted should be species that are capable of reaching at least 15 ft in height for visual and noise control screening.
- Plant species with lower drought tolerance such as willows, black twinberry, and salal in more mesic sites, such as around proposed drainage outlets.
- Plants should be clustered in odd numbers (e.g., groups of 1, 3, 5, etc.) to appear more natural.
- All Himalayan blackberry (*Rubus discolor*) should be eradicated from the planting area prior to planting.
- See the attached report for additional planting guidelines and standards.

SURVEYOR / ENGINEER
Omsberg & Company
304 'H' Street
Eureka, CA 95501
(707) 445-8651

OWNER / APPLICANT
Edwin Fredrickson
P.O. Box 6604
Eureka, CA 95502
(707) 445-0277

APN 301-181-003

This map is for information purposes only. Actual locations and numbers of plants used may vary based on site conditions at the time of planting, plant species availability, etc. Planting area measurements and spacing distances are approximate.

This map was created by NRM Corp. on February 25, 2004 for Ed Fredrickson, c/o Omsberg & Co.

NO.	REVISION	DATE	BY

OMSBERG & COMPANY
304 'H' Street, Eureka, California 95501
(707) 443-8651 Fax 443-8421
SURVEYORS PLANNERS ENGINEERS

DRAWN BY Chris Hock 6/4/03
CHECKED BY
APPROVED BY

DRAINAGE, EROSION & SEDIMENT CONTROL PLAN
FOR
EDWIN FREDRICKSON
in the unincorporated area of Humboldt County
SW¼ of Section 9, T.4N., R.1W., H.M.

SCALE 1" = 40'
JOB NO. 02-475-2
SHEET 1 OF 1

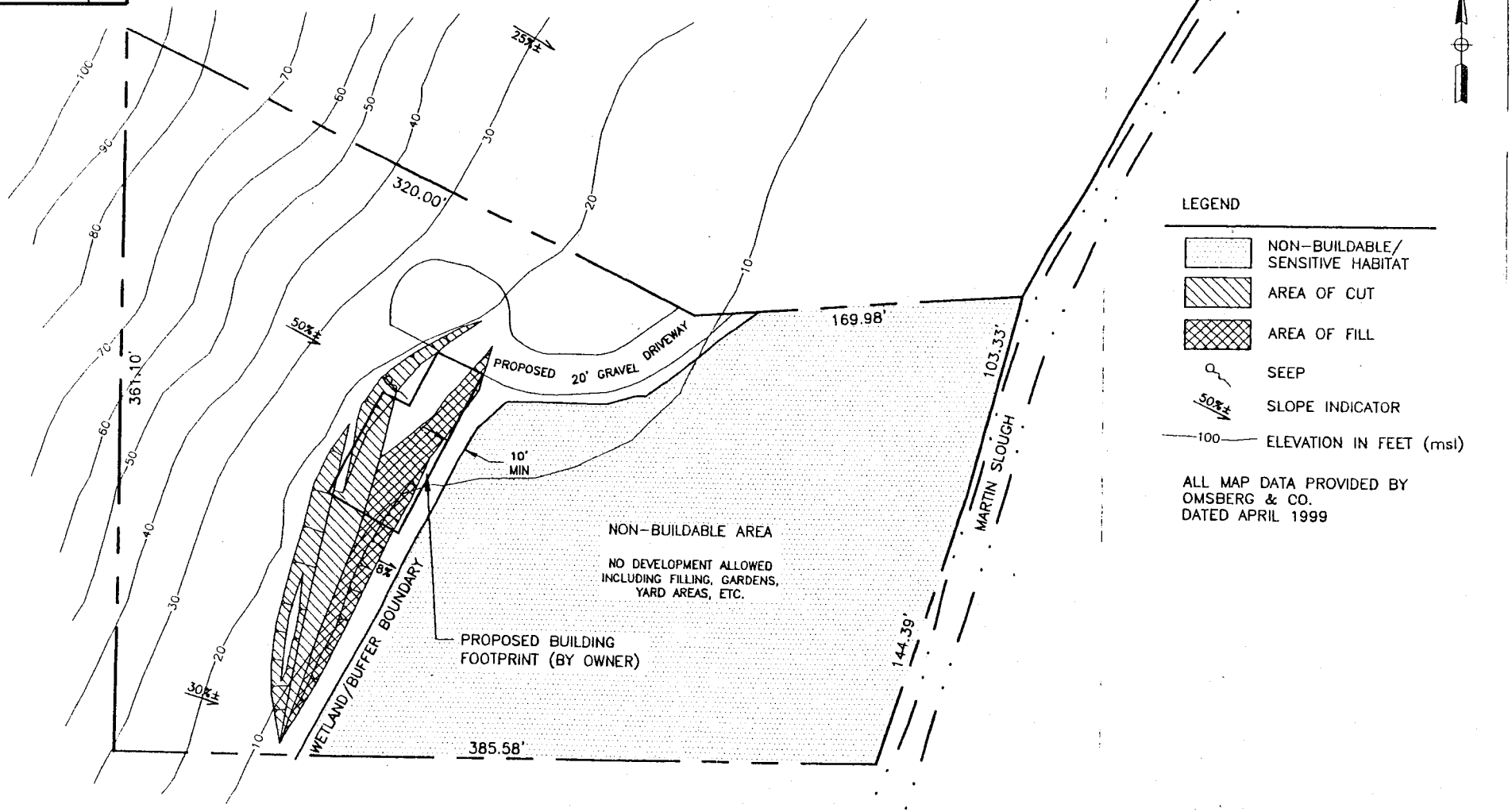
O:\Land Desktop R2\Templates_TEMPLATE.dwt 10/25/2002 11:04:56 AM PDT

EXHIBIT NO. 5

APPLICATION NO.
1-02-151

FREDRICKSON

AREA OF GRADING



NO.	REVISION	BY	CHK	DATE

LACO ASSOCIATES
CONSULTING ENGINEERS
218 I ST. EUREKA, CA 95501 (707)443-5054

R-2 SOILS REPORT
SITE MAP

EDWIN FREDRICKSON
APN 301-181-003
EUREKA, CA

SCALE	1"=50'
DRAWN	BAB
CHECK	GAV
APPVD	
DATE	7/9/02
JOB NO	5225 00
FIGURE	3

Jul 09,2002-10:19am
T:\Projects 5000\5225\ 5225SITE.dwg

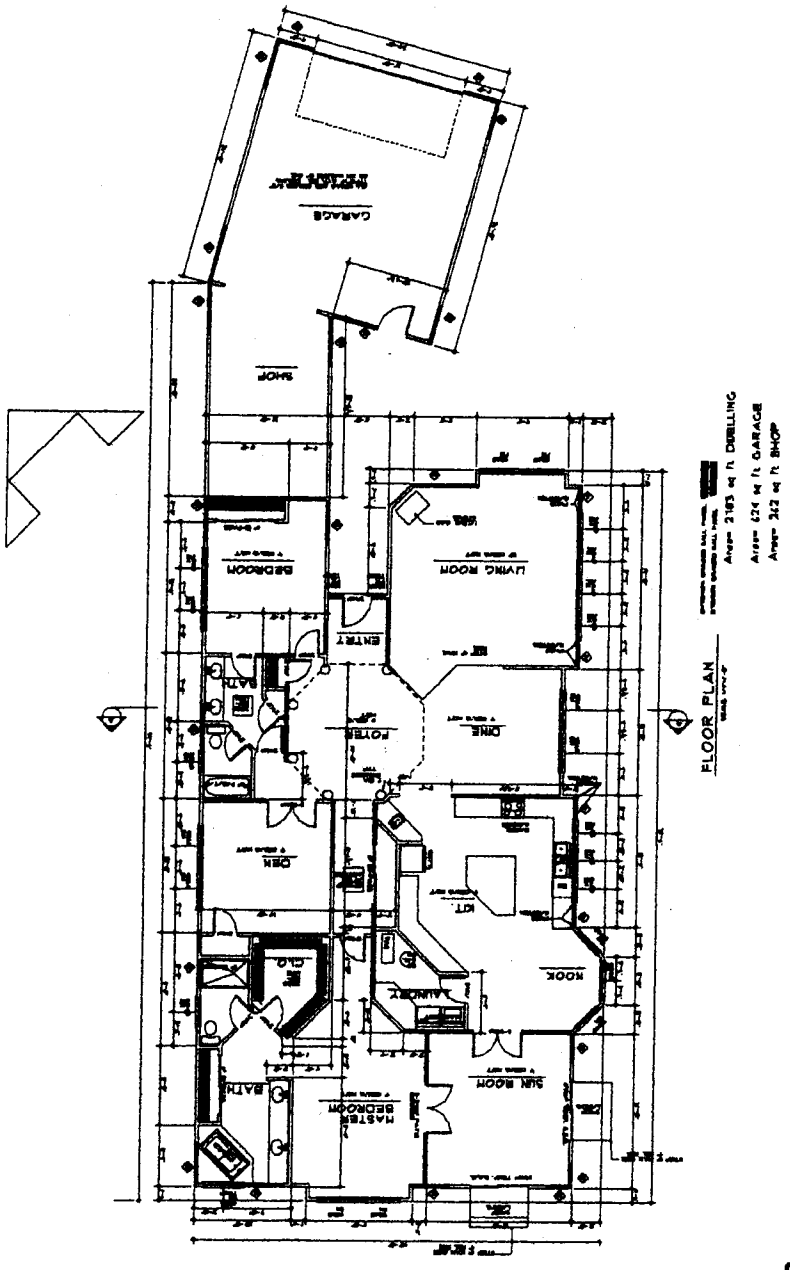
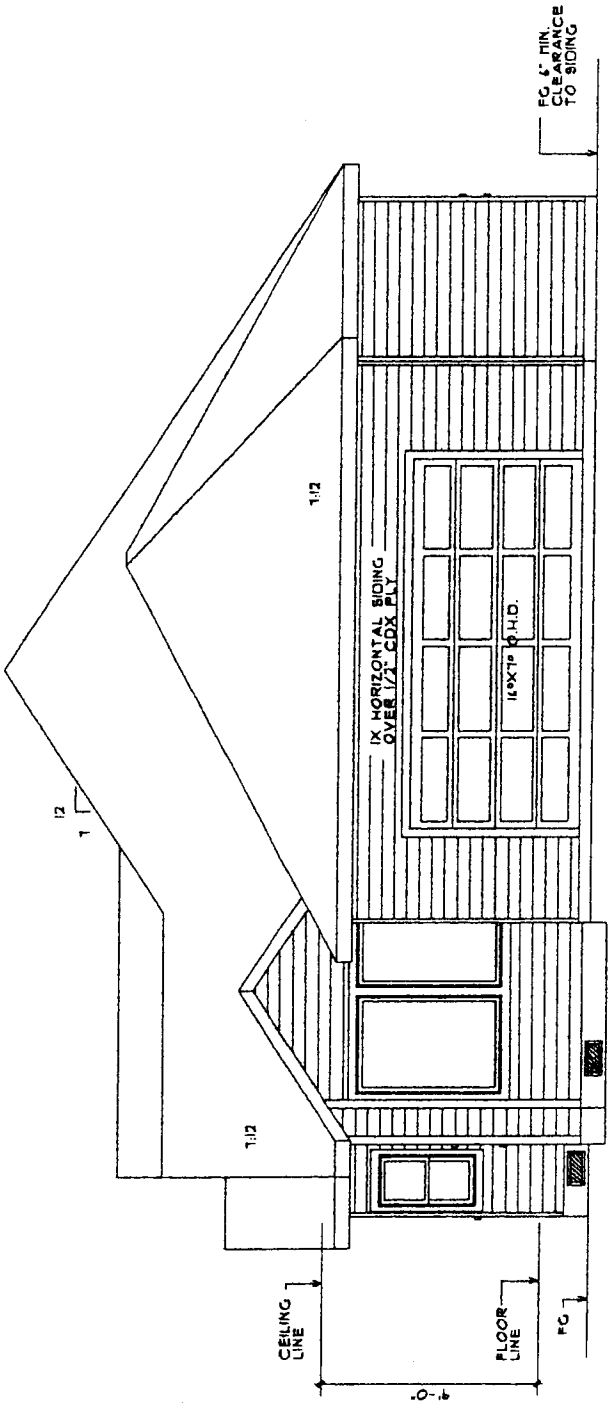


EXHIBIT NO. **6**

APPLICATION NO.
1-02-151

FREDRICKSON

FLOOR PLAN



FRONT ELEVATION

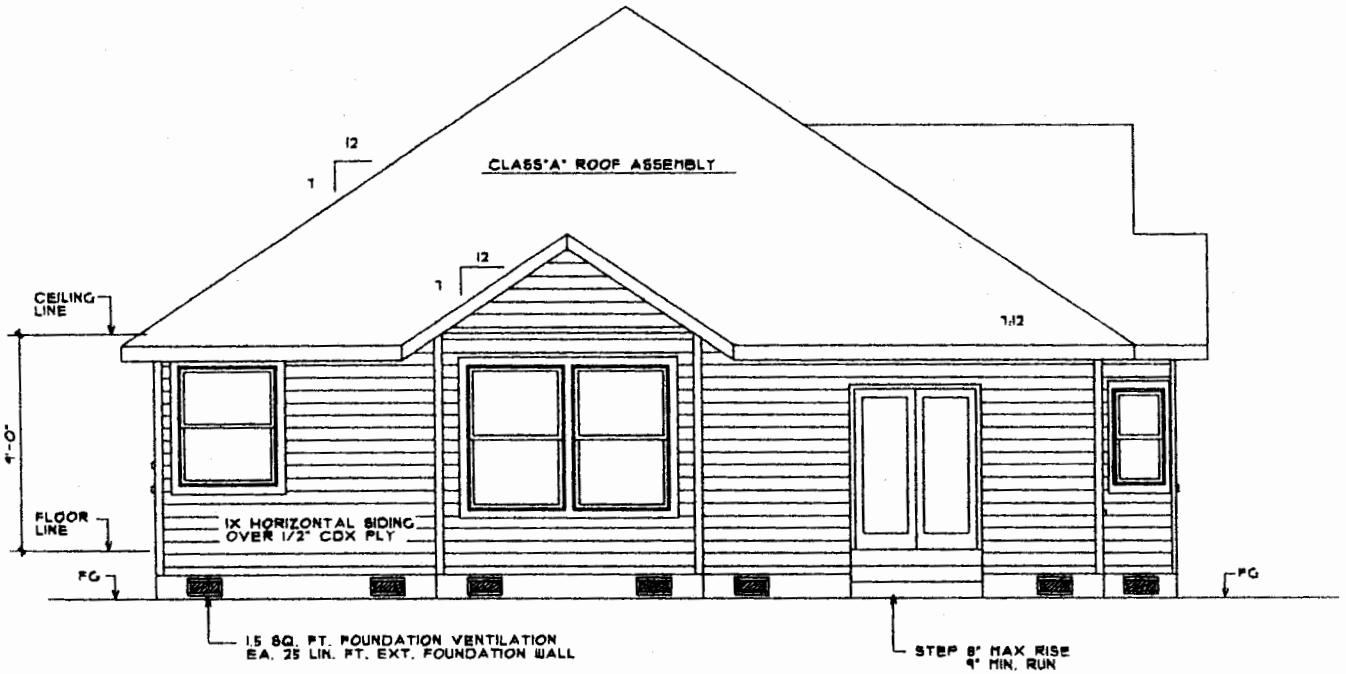
SCALE: 1/4"=1'-0"

EXHIBIT NO. 7

APPLICATION NO.
1-02-151

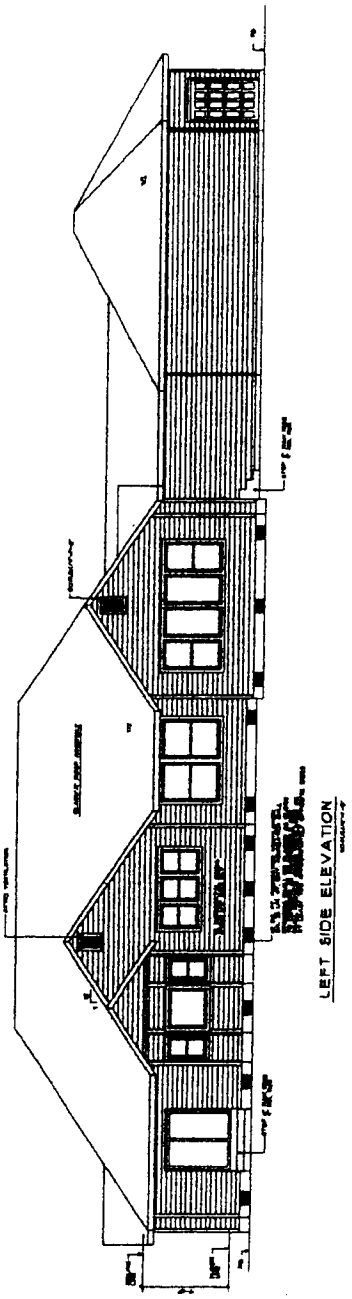
FREDRICKSON

ELEVATIONS (1 of 3)



BACK ELEVATION

SCALE: 1/4"=1'-0"



LEFT SIDE ELEVATION