

CALIFORNIA COASTAL COMMISSION

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Staff: Melissa B. Kraemer
Staff Report: April 24, 2009
Hearing Date: May 6, 2009
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-09-010**

APPLICANT: **Richard & Yvette Schnaubelt**

AGENTS: Norman de Vall & Associates, and
Amy Wynn Coastal Development Permits

PROJECT LOCATION: Along the Noyo River, at 32380 and 32390 North Harbor Drive, in an unincorporated portion of Fort Bragg, Mendocino County (APN 018-140-42)

PROJECT DESCRIPTION: After-the-fact authorization for the construction of a 2,400-square-foot, 20-foot-high fish processing plant that produces fish by-product.

GENERAL PLAN DESIGNATION: Fishing Village (FV), urban

ZONING DESIGNATION: Fishing Village (FV): Flood Plain (FP)

OTHER APPROVALS RECEIVED: Conditional Use Permit No. 27-97
Building Permit No. FB 97900730

SUBSTANTIVE FILE DOCUMENTS: (1) Commission CDP File No. 1-97-49; and
(2) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with conditions of the after-the-fact coastal development permit for the proposed fish processing plant.

The project site is located along the northern bank of the Noyo River estuary east of the Highway 1 Noyo River Bridge, at 32380 and 32390 North Harbor Drive within the lower Noyo Harbor area (see Exhibit Nos. 1-3). Noyo Harbor is largely an unincorporated area of Mendocino County adjacent to the City of Fort Bragg. The site is located on a flat waterfront parcel situated east of the Noyo Bridge. The entire property has been previously disturbed and developed, and it contains no environmentally sensitive habitat other than the adjacent Noyo River estuary. The area is not designated as a highly scenic area in the Mendocino County LCP, and there are only partial views of the estuary through the development from North Harbor Drive.

The subject site is an approximately 0.62-acre lot developed with several commercial buildings and facilities that provide fish and seafood processing capabilities for Sea Pal, Inc. (the applicant's company). The proposed building site is located above the ordinary high water line of the river.

On September 11, 1997, the Commission approved Coastal Development Permit No. 1-97-49 for the construction of a one-story, 20-foot-high, 2,400-square-foot fish processing plant that would produce a fish by-product for human consumption (Exhibit No. 4). The plant was proposed to replace a plant that had been destroyed by fire on an adjacent parcel on April 15, 1997. The Commission approved CDP No. 1-97-49 with seven standard conditions and four special conditions. Standard Condition No. 2 states in part that if development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. One of the special conditions required information to be submitted for the Executive Director's review and approval prior to permit issuance. Special Condition No. 1 of CDP No. 1-97-49 required submittal of final drainage and grading plans for the project consistent with the recommendations provided in the June 19, 1997 Geologic and Soils Investigation for the project prepared by Paoli Engineering. Although a "Notice of Intent to Issue Permit" was signed by the applicant and returned to Commission staff on September 25, 1997, the applicant did not provide the submittal required by Special Condition No. 1 for the Executive Director's review and approval within two years from the date on which the Commission voted on the application. In addition, no application for an extension of the permit has ever been submitted. Therefore, the permit expired on September 11, 1999 before it was ever issued. Nevertheless, after obtaining a conditional use permit for the plant from the County on December 4, 1997 to allow for packing and processing fish by-products for uses other than human consumption (County CDU No. 27-97), the applicant constructed the 20-foot-high, 2,400-square-foot fish processing plant as planned and now seeks after-the-fact authorization for its construction. Construction of the proposed project was completed in July of 1999.

The applicant is seeking an after-the-fact permit for the previously approved fish processing plant (Exhibit No. 5). The applicant has submitted as-built plans of the constructed plant showing that the structure conforms to the location, dimensions, and elevations approved by the Commission under expired CDP No. 1-97-49. The applicant also has submitted a letter dated

August 27, 2008 from David Paoli of Paoli Engineering (see Exhibit No. 6) confirming that the as-built structure conforms to the recommendations provided in the June 19, 1997 Geologic and Soils Investigation for the project prepared by Paoli Engineering (Exhibit No. 7), as had been previously required by Special Condition No. 1 of expired CDP No. 1-97-49.

Staff believes that the proposed project would not have significant adverse impacts on coastal resources including priority uses, flood hazards, marine resources, water quality, public access, or visual resources. Staff recommends Special Condition No. 1 to ensure that this permit is deemed issued upon Commission approval and that it will not expire, as development has already commenced and been completed.

In addition to acting on the permit itself, the Commission will need to act on a request by the applicant that the Commission reduce the application fee of twenty thousand dollars (\$20,000) for the after-the-fact permit request to three thousand dollars (\$3,000) based on an initial cost of \$75,000 for the fish processing plant (see Exhibit No. 9). Pursuant to Section 13055(a)(5) of the Commission's regulations, the permit filing fee shall be based on either the gross square footage of the development or the development cost, whichever is greater. In this case, based on the proposed size of the development (2,400 square feet), the filing fee would be \$10,000. The filing fee would be \$3,000 based on the project's \$75,000 projected development cost.

However, in this case the application is an after-the-fact permit application. Section 13055(d) of the Commission's regulations directs that fees for after-the-fact (ATF) permit applications shall be five times the regular permit application fee, unless the Executive Director reduces the fee to no less than two times the regular permit application fee (emphasis added). In this case, the Executive Director determined that it was appropriate to reduce the fee to two times the regular application fee (i.e., to \$20,000) since the application was able to be processed without significant additional staff review time. The applicant, however, is still seeking a further reduction.

Staff recommends that the Commission reduce the fee to ten thousand dollars (\$10,000), which is the current filing fee amount for new development of the proposed size and cost as the subject development. The Commission is authorized to reduce the filing fee pursuant to Section 13055(h)(1). Staff believes it is appropriate to reduce the fee in this case because (a) the application was able to be processed without significant additional staff review time; (b) the applicant did obtain prior approval from the Commission for the proposed development under expired CDP No. 1-97-49; and (c) the applicant has provided as-built plans demonstrating that the development was constructed according to plans approved by the Commission under CDP No. 1-97-49. Staff recommends Special Condition No. 2 to require that the applicant submit the appropriate fee within 60 days of permit issuance.

The Motions to adopt the Staff Recommendation are found on pages 4-5 below.

STAFF NOTES:

1. Standard of Review

The proposed project is located within an unincorporated area of Mendocino County in an area of the Commission's retained permit jurisdiction. The County of Mendocino has a certified Local Coastal Program, but the proposed project 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.

I. MOTIONS, STAFF RECOMMENDATIONS, & RESOLUTIONS:

A. MOTION, STAFF RECOMMENDATION, & RESOLUTION FOR APPROVAL OF COASTAL DEVELOPMENT PERMIT NO. 1-09-010 AS CONDITIONED

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-09-010 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 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.

B. MOTION, STAFF RECOMMENDATION, & RESOLUTION FOR REDUCTION OF APPLICATION FEE

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission direct the Executive Director to reduce the permit application fee for Coastal Development Permit No. 1-09-010 from twenty thousand dollars (\$20,000) to ten thousand dollars (\$10,000).

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Approval of this motion will result in the permit application fee being reduced to ten thousand dollars (\$10,000.00). The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Fee Reduction Request

The Commission hereby determines that the permit application fee for Coastal Development Permit No. 1-09-010 shall be reduced to ten thousand dollars (\$10,000.00).

II. STANDARD CONDITIONS: See Appendix A.

III. SPECIAL CONDITIONS:

1. Permit Expiration & Condition Compliance

Because the proposed development has already commenced and been completed, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

2. Submittal of Application Filing Fee

WITHIN 60 DAYS OF ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-09-010, the permittee shall submit the entire application fee applicable to the project pursuant to the resolution adopted by the Commission.

IV. FINDINGS & DECLARATIONS

A. Site Description

The project site is located along the northern bank of the Noyo River estuary east of the Highway One Noyo River Bridge, at 32380 and 32390 North Harbor Drive within the lower Noyo Harbor area (see Exhibit Nos. 1-3). Noyo Harbor is largely an unincorporated area of Mendocino County adjacent to the City of Fort Bragg. Noyo Harbor is developed with a variety of priority coastal-dependent, coastal-related, and visitor-serving uses, including numerous commercial and sports fishing docks, wharves, marinas, and drayage facilities, fishing guide charters, restaurants, and related commercial retail interests.

The project site is located within the historic Noyo Harbor, which has been historically used as a harbor for commercial fisherman with fish processing facilities, boat mooring facilities, as well

as recreational boating. The site is located on a flat waterfront parcel situated east of the Noyo Bridge. The entire property has been previously disturbed and developed, and it contains no environmentally sensitive habitat other than the adjacent Noyo River estuary. The area is not designated as a highly scenic area in the Mendocino County LCP, and there are only partial views of the estuary through the development from North Harbor Drive.

The subject site is an approximately 0.62-acre lot developed with several commercial buildings and facilities that provide fish and seafood processing capabilities for Sea Pal, Inc. (the applicant's company). The proposed building site is located above the ordinary high water line of the river.

B. Project History & Description

On September 11, 1997, the Commission approved Coastal Development Permit No. 1-97-49 for the construction of a one-story, 20-foot-high, 2,400-square-foot fish processing plant that would produce a fish by-product for human consumption (Exhibit No. 4). The plant was proposed to replace a plant that had been destroyed by fire on an adjacent parcel on April 15, 1997. The authorized structure would be connected to the existing water and sewer lines at the site. At the time that the Commission acted on the CDP application, the site already contained a number of commercial buildings associated with fish processing, such as an ice house and a smokehouse. The authorized new structure would be located at the south end of the property, set back from the edge of the river and above the ordinary high water line.

The Commission approved CDP No. 1-97-49 with seven standard conditions and four special conditions. Standard Condition No. 2 states in part that if development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. One of the special conditions required information to be submitted for the Executive Director's review and approval prior to permit issuance. Special Condition No. 1 of CDP No. 1-97-49 required submittal of final drainage and grading plans for the project consistent with the recommendations provided in the June 19, 1997 Geologic and Soils Investigation for the project prepared by Paoli Engineering. Although a "Notice of Intent to Issue Permit" was signed by the applicant and returned to Commission staff on September 25, 1997, the applicant did not provide the submittal required by Special Condition No. 1 for the Executive Director's review and approval within two years from the date on which the Commission voted on the application. In addition, no application for an extension of the permit has ever been submitted. Therefore, the permit expired on September 11, 1999 before it was ever issued. Nevertheless, after obtaining a conditional use permit for the plant from the County on December 4, 1997 to allow for packing and processing fish by-products for uses other than human consumption (CUP No. 27-97), the applicant constructed the 20-foot-high, 2,400-square-foot fish processing plant as planned and now seeks after-the-fact authorization for its construction. Construction of the proposed project was completed in July of 1999.

The applicant is seeking an after-the-fact permit for the previously approved fish processing plant (Exhibit No. 5). The applicant has submitted as-built plans of the constructed plant showing that the structure conforms to the location, dimensions, and elevations approved by the Commission under expired CDP No. 1-97-49. The applicant also has submitted a letter dated

August 27, 2008 from David Paoli of Paoli Engineering (see Exhibit No. 6) confirming that the as-built structure conforms to the recommendations provided in the June 19, 1997 Geologic and Soils Investigation for the project prepared by Paoli Engineering (Exhibit No. 7), as had been previously required by Special Condition No. 1 of expired CDP No. 1-97-49.

C. Locating & Planning New Development

Summary of Coastal Act Policies:

Coastal Act Section 30250 states, in applicable part, the following:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

...

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

Consistency Analysis

The proposed development is located in an unincorporated area of Mendocino County adjacent to the City of Fort Bragg. The property is planned and zoned Fishing Village (FV). Principal uses permitted on land zoned FV under the County's certified Coastal Zoning Code (CZC) include Coastal-Related Support Services, Coastal-Dependent Industrial (which includes processing of fish products for human consumption), and Passive Recreation. Conditional uses for the FV zoning designation under the CZC include Employee Caretaker Housing, Government Administrative Services, both on-site and off-site Alternative Energy Facilities, Major Impact Services and Utilities, Minor Impact Utilities, Water-Dependent Commercial Recreation, Research Services, Coastal-Related Industrial (which includes processing of fish products for uses other than human consumption), and Fisheries Byproducts Packing and Processing. The proposed project is consistent with the FV land use and zoning designations in that the proposed project is a coastal-dependent industry (fish processing plant) that produces a fish by-product for human consumption as well as for uses other than human consumption. The applicant obtained a conditional use permit from the County (U-27-97) to authorize the plant to process fish by-products for uses other than human consumption.

The proposed project is connected to the City of Fort Bragg's treated water system and will be served by the City's existing water and sewer lines. As described in the Findings below, the

proposed project will not have significant adverse impacts on coastal resources including priority uses, flood hazards, marine resources, water quality, public access, or visual resources.

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

D. Priority Uses

Summary of Coastal Act Policies:

Coastal Act Section 30234 states the following:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Coastal Act Section 30222 states the following:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Consistency Analysis:

The Noyo Harbor, located along the lower ½-mile of the Noyo River east of Highway One, is the locus of a large commercial and recreational fishing port. The applicant's property is zoned "Fishing Village" under the Mendocino County's certified LCP. This district is intended to ensure that the limited available space on the flats at Noyo is reserved for industries that must be on or near the water. The Noyo Harbor area currently supports commercial fishing, recreational boating, and coastal dependent industrial uses.

The subject property accommodates activities that support the commercial fishing industry consistent with the priority use policies of the Coastal Act. In addition to the proposed 2,400-square-foot fish-processing facility (which has already been constructed), current facilities at the site include a 1,540-square-foot fish house, a 758-square-foot smoke house, a 1,035-square-foot ice house, and a gravel parking lot. The proposed project involves authorization of a 2,400-square-foot, 20-foot-high fish processing plant that processes fish off-loaded from commercial fishing vessels in Noyo Harbor to produce a fish by-product for human consumption as well as for uses other than human consumption. The proposed project does not represent a change in use or intensity of use at the site. Furthermore, the proposed project supports a priority use in Noyo Harbor.

Therefore, the Commission finds that the proposed project involves a use that must be located on or near the water and which supports the commercial fishing industry consistent with Sections 30234 and 30222 of the Coastal Act.

E. Flood Hazards

Summary of Coastal Act Policies:

Coastal Act Section 30253 states in applicable part:

New development shall do all of the following:

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

Consistency Analysis:

Coastal Act Section 30253 requires in applicable part that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard and neither create nor contribute significantly to erosion or geologic instability.

The proposed fish processing plant will be located adjacent to the Noyo River above the ordinary high water line, in an area classified on the FEMA Flood Insurance Rate Map for this area as being within Zone C, an area of minimal flooding. Neither a Flood Plain Elevation Certificate nor a Flood Hazard Zone Development Permit is required for projects in Zone C by FEMA or the County.

Paoli Engineering surveyed the site and indicated that the development could be safely constructed at the site, but made recommendations regarding site drainage and grading (Exhibit No. 7). The applicant has submitted as-built plans and a letter dated August 27, 2008 from David Paoli (Exhibit No. 6) confirming that the as-built structure conforms to the recommendations provided in the June 19, 1997 Geologic and Soils Investigation for the project (Exhibit No. 7), as had been previously required by Special Condition No. 1 of expired CDP No. 1-97-49 (Exhibit No. 4).

Therefore, the Commission finds that the proposed project would minimize risks to life and property from flood hazards and is consistent with Section 30253 of the Coastal Act.

F. Protection of Marine Resources & Coastal Water Quality

Summary of Coastal Act Policies:

Coastal Act Section 30231 states the following:

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.

Consistency Analysis:

The applicant requests after-the-fact authorization for the construction of a 2,400-square-foot fish processing plant, which was constructed without the benefit of a valid coastal development permit in 1999. The building site is located adjacent to the Noyo River and above the ordinary high water line. No waste from the fish processing plant is proposed to be discharged into the river. The facility is connected to the Fort Bragg sewer and water systems, and waste from the facility is contained to avoid odors and spillage and ultimately is disposed of into the city sewer system. Furthermore, the applicant has stated (Exhibit No. 8) that upon completion of the project in 1999, construction debris was removed from the site by Fort Bragg Disposal and transferred to licensed landfill facilities. Thus, the proposed project will not result in construction debris polluting the river.

Therefore, the Commission finds that the project minimizes adverse impacts to the water quality of Noyo Harbor and is therefore consistent with Section 30231 of the Coastal Act.

G. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. In applying Sections 30210, 30211 and 30212, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject site is located on the Noyo River, an arm of sea. The proposed project will not block or otherwise interfere with public access to the site. In addition, there is no existing waterfront trail along the site that would be affected by the proposed project. Furthermore, public access exists nearby the site, including Ocean Front Park on the West side of Noyo Bridge, which contains a public restroom, parking lot, and a beach.

Therefore, the Commission finds that the development as conditioned does not have any significant adverse effect on public access, and that the development as proposed without new public access is consistent with the coastal access requirements of Coastal Act Sections 30210, 30211, and 30212.

H. Visual Resources

Summary of Coastal Act Policies:

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be

visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas...shall be subordinate to the character of its setting.

Consistency Analysis:

The subject site is located on the north side of the Noyo River. It is not in an area designated as “highly scenic” in the Mendocino County certified Land Use Plan. As described above, the site is presently developed with a fish house, a smoke house, an ice house, and a gravel parking lot, in addition to the proposed fish processing plant, which was constructed in 1998-1999.

The project will not have significant adverse impacts on views to the ocean and Noyo River estuary, because the principal views through the site to the water from North Harbor Drive will be retained. Furthermore, the proposed project will not involve any significant grading or excavation. Thus, the project would not alter any natural landforms.

Therefore, the Commission finds that the proposed development will be fully consistent with the visual resource protection requirements of Section 30251 of the Coastal Act.

I. Alleged Violation

Although the applicant obtained approval for the proposed development from the Commission under CDP No. 1-97-49, the permit was never issued prior to its expiration, and the development proceeded without the benefit of a valid coastal development permit. Commission staff was alerted to a potential violation on the property, and after reviewing the site’s permit history, Commission enforcement staff sent a letter to the applicant on July 31, 2008 stating that the fish operating plant was operating without a valid coastal development permit and requesting that the applicant submit materials necessary to demonstrate compliance with the special conditions of CDP 1-97-49. On August 27, 2008, the applicant’s engineer, David Paoli, submitted a letter (Exhibit No. 6) and as-built plans for the completed fish processing plant structure confirming that the structure was built according to the recommendations contained in the June 19, 1997 Geologic and Soils Investigation prepared for the project. On December 8, 2008 Commission enforcement staff sent another letter to the applicant stating that CDP No. 1-97-49 expired prior to being issued and requesting that, in order to resolve the alleged Coastal Act violation, the applicant apply for an after-the-fact permit for the unpermitted fish processing plant. Commission staff and the applicant agreed to the deadline of March 1, 2009 for submittal of the after-the-fact permit application. The applicant submitted the permit application to Commission staff on February 17, 2009.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies 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. Special Condition No. 1 ensures that this permit is deemed issued upon Commission approval and that it will not expire, as development has already commenced and been completed.

J. Reduction of Application Fee

When the applicant originally applied for a coastal development permit to construct the proposed fish processing plant in 1997 (CDP No. 1-97-49), the application filing fee at that time was six hundred dollars (\$600), which the applicant paid in full. Since the original permit expired prior to being issued, the applicant applied for the subject permit to authorize the after-the-fact development on February 17, 2009. The Commission's new fee schedule went into effect on March 14, 2008.

Pursuant to Section 13055(a)(5) of the Commission's regulations, the permit filing fee shall be based on either the gross square footage of the development or the development cost, whichever is greater. In this case, based on the proposed size of the development (2,400 square feet), the filing fee would be \$10,000. The filing fee would be \$3,000 based on the project's \$75,000 projected development cost.

Section 13055(d) of the Commission's regulations directs that fees for after-the-fact (ATF) permit applications shall be five times the regular permit application fee, unless the Executive Director reduces the fee to no less than two times the regular permit application fee (emphasis added). The Executive Director may reduce the fee if it is determined that either (1) the ATF application can be processed by staff without significant additional review time (as compared to the time required for the processing of a regular permit,) or (2) the owner did not undertake the development for which the owner is seeking the ATF permit.

In this case, the Executive Director determined that it was appropriate to reduce the fee to two times the regular application fee (i.e., to \$20,000) since the application was able to be processed without significant additional staff review time. The applicant submitted the current application as requested by staff in a timely manner and has cooperated to obtain authorization for the fish processing plant structure.

The applicant has requested that the Commission reduce the application fee for the permit request from twenty thousand dollars (\$20,000) to three thousand dollars (\$3,000), which the applicant states is based on an initial cost of \$75,000 for the fish processing plant (see Exhibit No. 9). Section 13055(h)(1) of the Commission's regulations allows for modifications of the prescribed fees where requested by resolution of the Commission.

As a general rule, the Commission does not support application fee waiver requests. The Commission's fee schedule is not directly structured for "at-cost" recovery of the staff time actually spent on applications and thus tends to charge applicants less than the amount of the Commission resources that are expended in processing an application. In other words, application fees are already generally lower than the amount it costs the Commission to process the application. In part, this is in recognition of the larger public service being provided to the people of the State, including applicants, for a public airing and debate regarding proposed projects in the coastal zone.

In this particular case, however, the Commission finds that as (a) the application was able to be processed without significant additional staff review time; (b) the applicant did obtain prior approval from the Commission for the proposed development under expired CDP No. 1-97-49, and (c) the applicant has provided as-built plans demonstrating that the development was

constructed according to plans approved by the Commission under CDP No. 1-97-49, the Commission hereby directs that the permit application fee for CDP No. 1-09-010 be reduced to ten thousand dollars (\$10,000), which is the current filing fee amount for new development of the proposed size and cost as the subject development. The Commission attaches Special Condition No. 2 to require that the applicant submit the appropriate fee within 60 days of permit issuance.

K. California Environmental Quality Act

Mendocino County was the lead agency on the project for the purposes of CEQA review. The County completed a Mitigated Negative Declaration for the project, which was approved by the County Planning Commission on December 4, 1997.

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. 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. Mitigation measures that will minimize or avoid all significant adverse environmental impact 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 would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

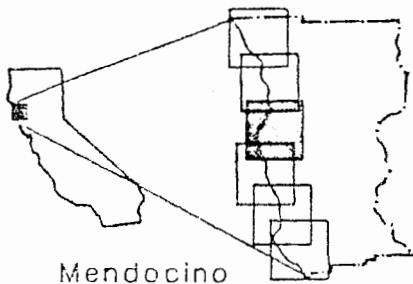
V. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Assessors Parcel Map
4. Expired CDP No. 1-97-49
5. Project Plans
6. August 27, 2008 Letter from David Paoli
7. July 19, 1997 Geologic and Soils Investigation by David Paoli
8. Memo from Amy Wynn, Agent, regarding Debris Disposal
9. Request for Application Filing Fee Reduction

APPENDIX A

Standard Conditions:

1. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
2. 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.
3. 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.



Mendocino

EXHIBIT NO. 1
APPLICATION NO.
1-09-010
SCHNAUBELT
REGIONAL LOCATION

APPROXIMATE
LOCATION

PACIFIC

MACERRICHER BEACH
STATE PARK

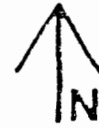
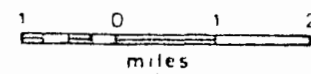
Fort Bragg

Noyo

COASTAL

BOUNDARY

ZONE



California Coastal Commission

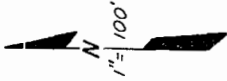
LOCATION MAP

County of Mendocino

SUBJECT PARCEL:

18-14

1-000
1-015
1-038
76-004



Por. Sec. 18 T.18N. R.17W. M.D.B. & M.

1-038 76-004

NOYO RIVER

Noyo River

58
2.00 A.±

2
4.30 A.±

44

State Hwy 1

SUBJECT PARCEL

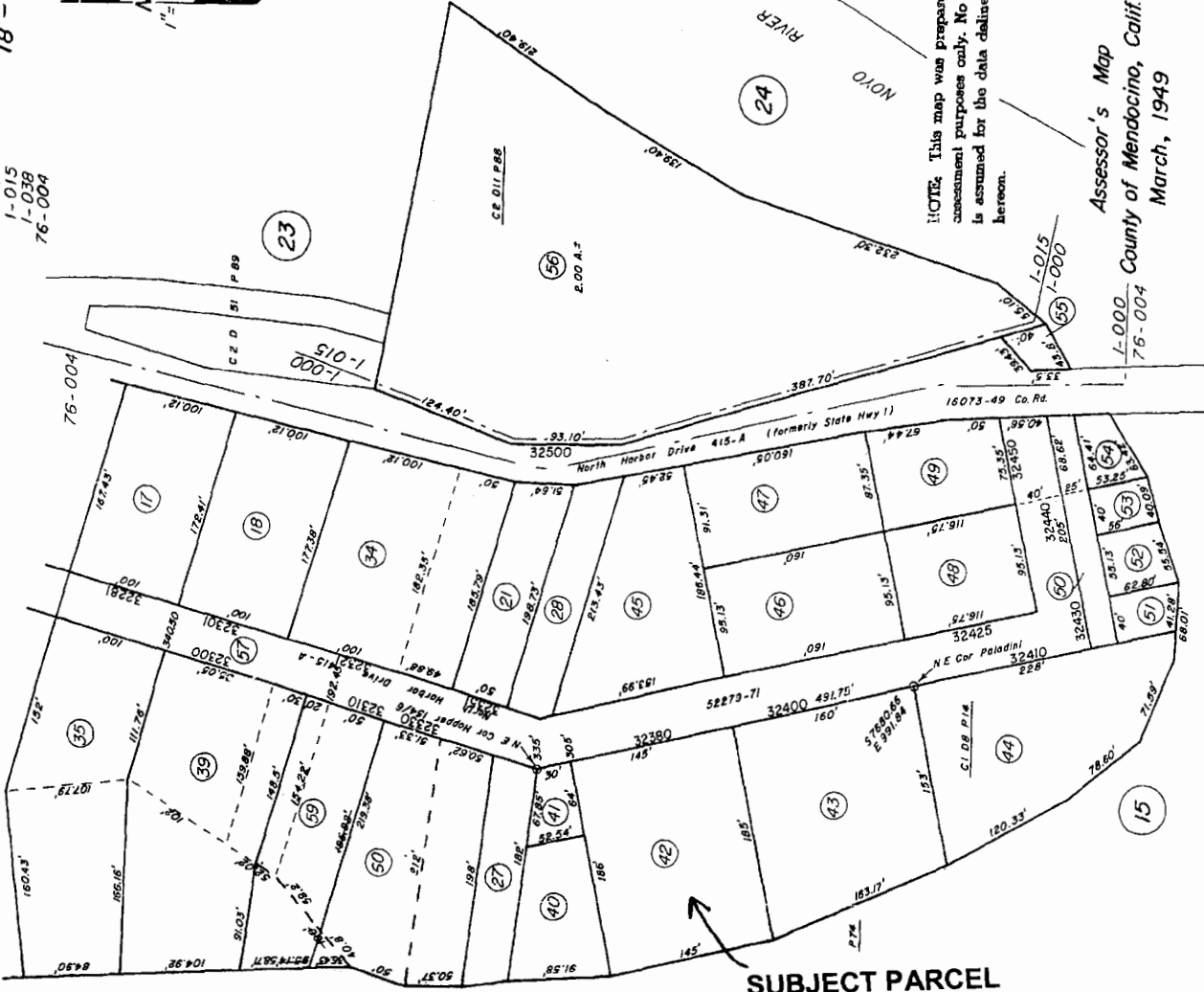
1-038 76-004

EXHIBIT NO. 3
APPLICATION NO.
1-09-010
SCHNAUBELT
ASSESSOR'S PARCEL MAP

NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.

Assessor's Map
County of Mendocino, Calif.
March, 1949

1-000
76-004



CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

Th 4b

RSM



Filed:	August 18, 1997
49th Day:	October 6, 1997
180th Day:	February 14, 1998
Staff:	Jo Ginsberg
Staff Report:	August 22, 1997
Commission Hearing:	September 11, 1997
Commission Action:	

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 1-97-49

APPLICANT: RICHARD AND YVETTE SCHNAUBELT

AGENT: Bud Kamb

PROJECT LOCATION: Along the Noyo River, at 32390 North Harbor Drive, in an unincorporated portion of Fort Bragg, APN 018-140-42.

PROJECT DESCRIPTION: Construct a 2,400-square-foot, 20-foot-high fish processing plant that produces a fish by-product for human consumption, to replace a similar facility destroyed by fire on an adjacent site.

Lot area:	31,900 square feet
LCP designation:	Fishing Village (FV)
Zoning:	FV

LOCAL APPROVALS RECEIVED: Mendocino County LCP Consistency Review; Noyo Harbor District approval.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; Mendocino County Use Permit Application #CDU 27-97.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions the coastal development permit application for the proposed project on the basis that it is consistent with the policies of the Coastal Act.

EXHIBIT NO. 4**APPLICATION NO.**

1-09-010

SCHNAUBELT

EXPIRED CDP NO. 1-97-049
(1 of 17)

STAFF NOTE

Mendocino County has a certified Local Coastal Program, and therefore has coastal permit authority within its coastal zone jurisdiction. However, the proposed project is located within the Commission's area of original jurisdiction, so the project is subject to the Coastal Commission's permit authority, and the Coastal Act is the standard of review.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will be in conformity with the provisions of the Mendocino County Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Final Foundation and Drainage Plans:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering in the Geologic and Soils Investigation for Sea Pal, Inc., dated June 19, 1997, including but not limited to the recommendation that the entire structure be constructed on engineered fill approved by the engineer. The property shall be developed in accordance with the final plans approved by the Executive Director.

1-97-49

RICHARD AND YVETTE SCHNAUBELT

Page Three

2. Water and Sewer Service.

PRIOR TO OCCUPANCY of the site, the applicant shall submit for review and approval of the Executive Director evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project.

3. Local Approvals:

PRIOR TO CONSTRUCTION, the applicant shall submit for the review and approval of the Executive Director evidence that the Fort Bragg Fire Protection Authority has approved the building plans for the development.

4. Disposal of Construction Debris:

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

IV. Findings and Declarations.

The Commission finds and declares the following:

1. Project and Site Description:

a. Site Description.

The subject site is a small lot adjacent to the Noyo River within Noyo Harbor in an unincorporated section of Fort Bragg. The site is currently developed with several commercial buildings and facilities that provide fish and seafood processing capabilities for Sea Pal, Inc. (the applicants' company). There is no sensitive habitat on the site.

b. Project History.

The proposed project consists of construction of a one-story, 20-foot-high, 2,400-square-foot fish processing plant that will produce a fish by-product for human consumption. The structure would be connected to the existing water and sewer lines at the site. The site already contains a number of commercial buildings associated with fish processing, such as an ice house and a smokehouse (see Exhibit No. 3). The proposed new structure would be located at the south end of the property, set back from the edge of the river and above the ordinary high water line.

A similar plant on an adjacent parcel leased by the applicants was recently destroyed by fire. The owner of the adjacent parcel did not wish to rebuild the destroyed structure, so the applicants are applying for a permit to replace the plant with a new facility on a parcel in their ownership.

Mendocino County requires a County use permit for coastal-related industries, but does not require a use permit for coastal-dependent industries. The County has determined that fish processing of products for other than human consumption (such as fertilizer, soil amendments, etc.) is considered a coastal-related industrial use, and requires a use permit in the Fishing Village zoning district. Fish processing when the product is for human consumption is considered a coastal-dependent industrial use and is considered a principal permitted use not subject to a use permit in the Fishing Village zoning district.

In an effort to begin construction as soon as possible, the applicant has applied to the Coastal Commission for a coastal permit for a structure that would produce fish by-products only for human consumption, which would not require a use permit from the County. At the same time, the applicant has applied to the County for a use permit (CDU 27-97) to allow packing and processing of fish by-products for uses other than human consumption at the subject site. At such time as a use permit is obtained, the applicant may apply to the Coastal Commission for an amendment to this coastal permit to allow packing and processing of fish by-products for such other uses, if it is deemed necessary.

c. State Agency Approvals.

The California Regional Water Quality Control Board has indicated no concerns with the proposed project. The State Lands Commission indicates that State Lands has no direct role in reviewing the proposed project, as the land is part of an area that is administered by the Noyo Harbor District pursuant to a legislative grant. (The Noyo Harbor District has approved the project.)

2. Planning and Locating 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, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed project will be served by existing Fort Bragg City water and sewer lines, and will provide adequate parking (24 parking spaces). Because the City of Fort Bragg suffers from a water shortage, the City is requiring retrofitting of the existing two toilets on the site to ultra low-flow (1.6

gallons per flush or less) to minimize water usage. The City has indicated that it has notified the County of Mendocino that the issuance of a building permit for the proposed project must be conditioned to require installation of ultra low-flow toilets to replace the two existing toilets on the subject property. The Commission has thus attached to this permit Special Condition No. 2, which requires that the applicant submit evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project.

The Commission thus finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30250(a) to the extent that services will be provided and the project will not have significant adverse effects on coastal resources such as groundwater.

3. Hazards:

Coastal Act Section 30253 states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard, and shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

The proposed fish processing plant will be located adjacent to the Noyo River above the ordinary high water line, in Zone C, which is classified on the FEMA map for this area as an area of minimal flooding.

The fish processing plant will replace a plant located on an adjacent parcel which suffered extensive damage due to a fire. The proposed project will utilize potentially hazardous materials (additives for the fertilizer), necessitating additional fire protection measures, such as construction of a contained room within the building built to certain fire safety standards to house the hazardous materials. The Fort Bragg Fire Protection Authority has indicated that fire code requirements will be addressed when final plans are submitted to the building department for approval. To ensure consistency of the project with fire regulations and minimize the potential for fire hazard, the Commission has attached Special Condition No. 3, which requires that prior to construction, the applicant submit evidence that the Fort Bragg Fire Protection Authority has approved final building plans for the development.

Paoli Engineering surveyed the site and indicated that the development could be safely constructed at the site, but made recommendations regarding site drainage and grading. To ensure that the project will not result in any geologic hazard, the Commission attaches Special Condition No. 1, which requires that the applicant submit final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering in the Geologic and Soils Investigation for Sea Pal, Inc., dated June 19,

1997, including but not limited to the recommendation that the entire structure be constructed on engineered fill approved by the engineer.

The Commission thus finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253, as it will minimize the potential for any hazards.

4. Public Access:

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

In its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to offset a project's adverse impact on existing or potential public access.

The proposed project consists of construction of a fish processing plant adjacent to the Noyo River. The project will not adversely affect existing public access within the harbor, the County's land use maps do not designate the subject parcel for public access, and there is no evidence of public prescriptive use of the site. Since the proposed development will not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act.

6. Protection of Coastal Waters:

Coastal Act Section 30233 states that the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to eight specific uses.

Section 30231 of the Coastal Act states that the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored.

The subject site is located adjacent to the Noyo River. However, the proposed project will be located inland of the ordinary high water line, and thus will not include any new fill in the river. In addition, no waste from the fish processing plant will be discharged into the river, so there will be no impacts to the water quality of the river. Further, to ensure that no construction debris pollutes the river, the Commission attaches Special Condition No. 4, which requires that all construction debris be removed from the site upon completion of the project.

The Commission thus finds that the proposed project, as conditioned, will have no adverse impacts to the Noyo River, consistent with Coastal Act Policies 30233 and 30231, as no fill is proposed and water quality of the river will not be impaired by discharges of waste and debris from the proposed development.

7. Mendocino County LCP:

As noted above, Mendocino County has a certified Local Coastal Program, and therefore issues its own coastal permits for those areas within its coastal zone jurisdiction. However, the proposed project is located within the Commission's area of original jurisdiction, so the project is subject to the Coastal Commission's permit authority, and the Coastal Act is the standard of review. The certified LCP is merely advisory. Nonetheless, the Commission finds the proposed project to be consistent with the policies of the LCP, as described below.

The subject site is designated Fishing Village (FV) in the Mendocino County LCP. The minimum lot area for Fishing Village districts is 6,000 square feet within water and sewer districts. The subject site, which is 31,900 square feet, is within the City of Fort Bragg water and sewer district, and is thus a legal conforming lot.

The proposed project is for a coastal-dependent industrial use, which is a principal permitted use in the Fishing Village designation, pursuant to Zoning Code Section 20.392.010.

Policy 3.9-1 of the LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage

disposal when considering applications for Coastal Development Permits. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized. Policy 3.8-9 states that commercial developments and other potential major water users that could adversely affect existing surface or ground water supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies.

The subject site will be served by the City of Fort Bragg water and sewer. Due to a water shortage, the City is requiring that the applicant retrofit the existing toilets on the site for ultra low-flow, which will be a condition of the County building permit. As noted above, the Commission attaches to this permit Special Condition No. 2, requiring that the applicant submit evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project. The Commission thus finds that the proposed project, as conditioned, is consistent with LUP Policy 3.9-1, 3.8-1, and 3.8-9, as it will be located where services are available and it will have no adverse impacts on coastal resources such as surface or ground water supplies.

LUP Policy 4.9-3 states that development on the flat lands within the Noyo Harbor area shall be limited to uses which are directly related to coastal-dependent industries of fishing and boat-building. The Commission finds that the proposed project, which is for construction of a fish processing plant, is consistent with LUP Policy 4.9-3.

Zoning Code Section 20.500.010 states that new development in the coastal zone shall minimize risk to life and property in areas of high geologic, flood and fire hazard; assure structural integrity and stability; and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. As noted above, to ensure consistency of the project with local fire regulations and minimize the potential for fire hazard, the Commission has attached Special Condition No. 3, which requires that prior to construction, the applicant submit evidence that the Fort Bragg Fire Protection Authority has approved final building plans for the development. To ensure that the project will not result in any geologic hazard, the Commission attaches Special Condition No. 1, which requires that the applicant submit final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering. The Commission thus finds that the proposed project, as conditioned, is consistent with Zoning Code Section 20.500.010.

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement. LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval.

As noted above, the project will not adversely affect public access. Since the proposed development will not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the LCP.

Section 20.472.035(F) of the Zoning Code states that for manufacturing or industrial uses, one parking space is required for every employee working on the largest shift, plus ten customer or visitor parking spaces, plus parking for each of the vehicles operated from or on the site. The subject site provides 24 spaces to serve 5 workers, 10 visitors, and one vehicle, consistent with Section 20.472.035(F) of the County Zoning Code.

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

9. California Environmental Quality Act (CEQA).

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the policies of the Coastal Act and the Mendocino County LCP. Mitigation

measures, including requirements that (1) final drainage and grading plans for the project that are consistent with the recommendations made by Paoli Engineering in the Geologic and Soils Investigation be submitted, and the property be developed in accordance with the final plans approved by the Executive Director; (2) the applicant submit evidence, such as a copy of an approved building permit from Mendocino County, that the city of Fort Bragg has committed to provide water and sewer service for the project; (3) the applicant submit evidence of approval of building plans by the Fort Bragg Fire Protection Authority; and (4) all construction debris be removed from the site upon completion of the project, will minimize all adverse environmental impacts.

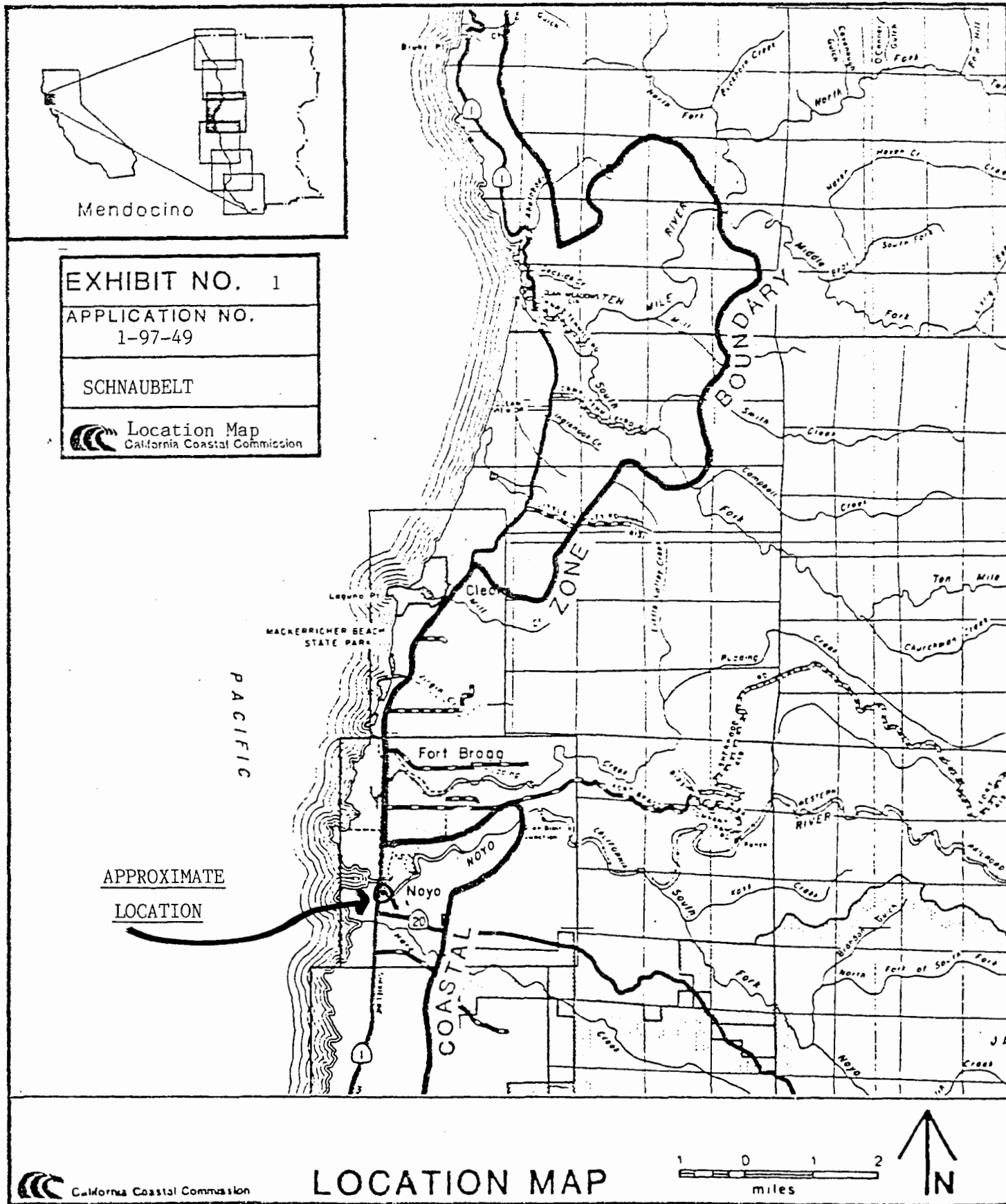
As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

9586p

ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



Vicinity Map

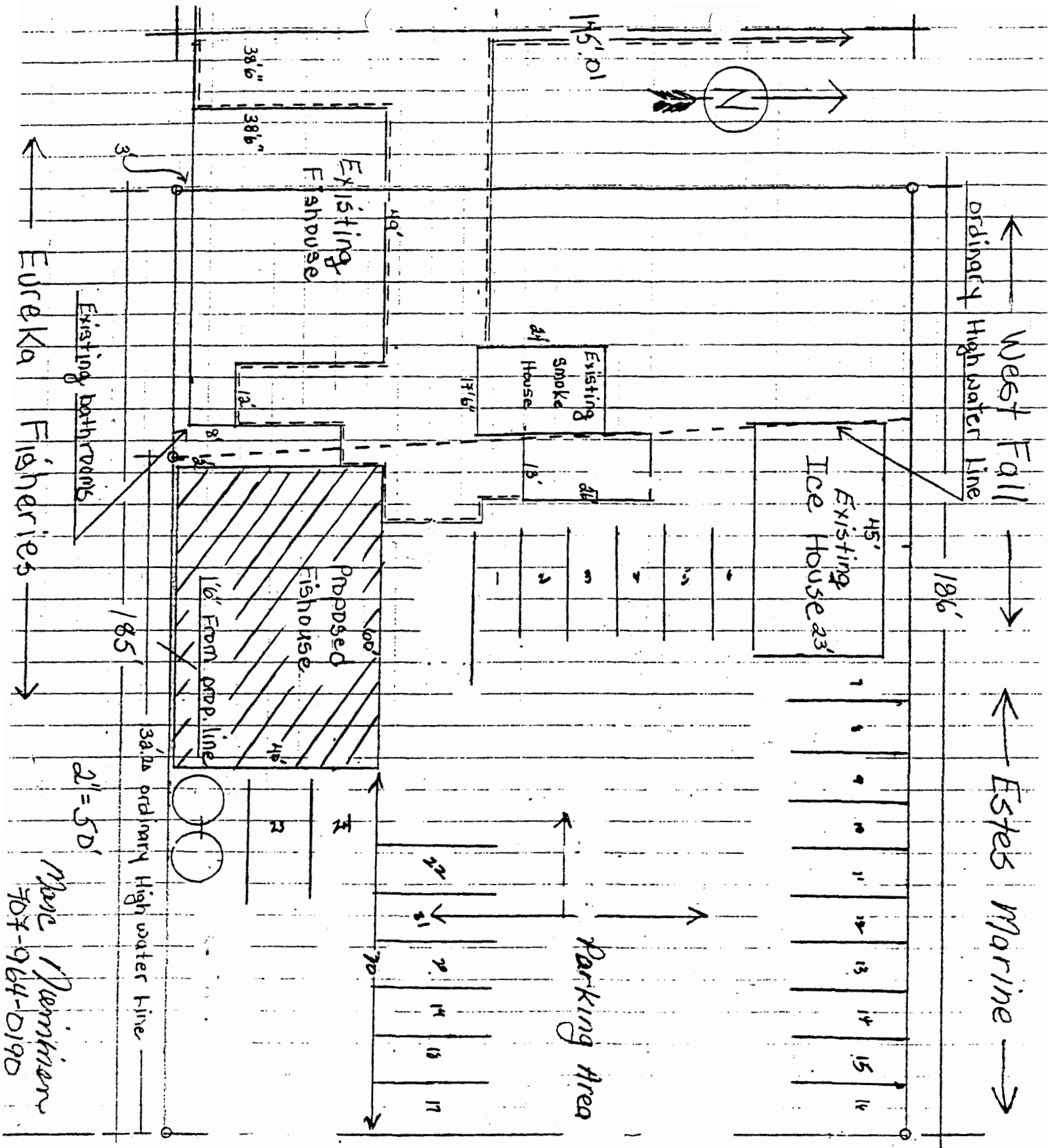


EXHIBIT NO. 3

APPLICATION NO.
1-97-49

SCHNAUBELT

Site Plan

North Harbor Drive

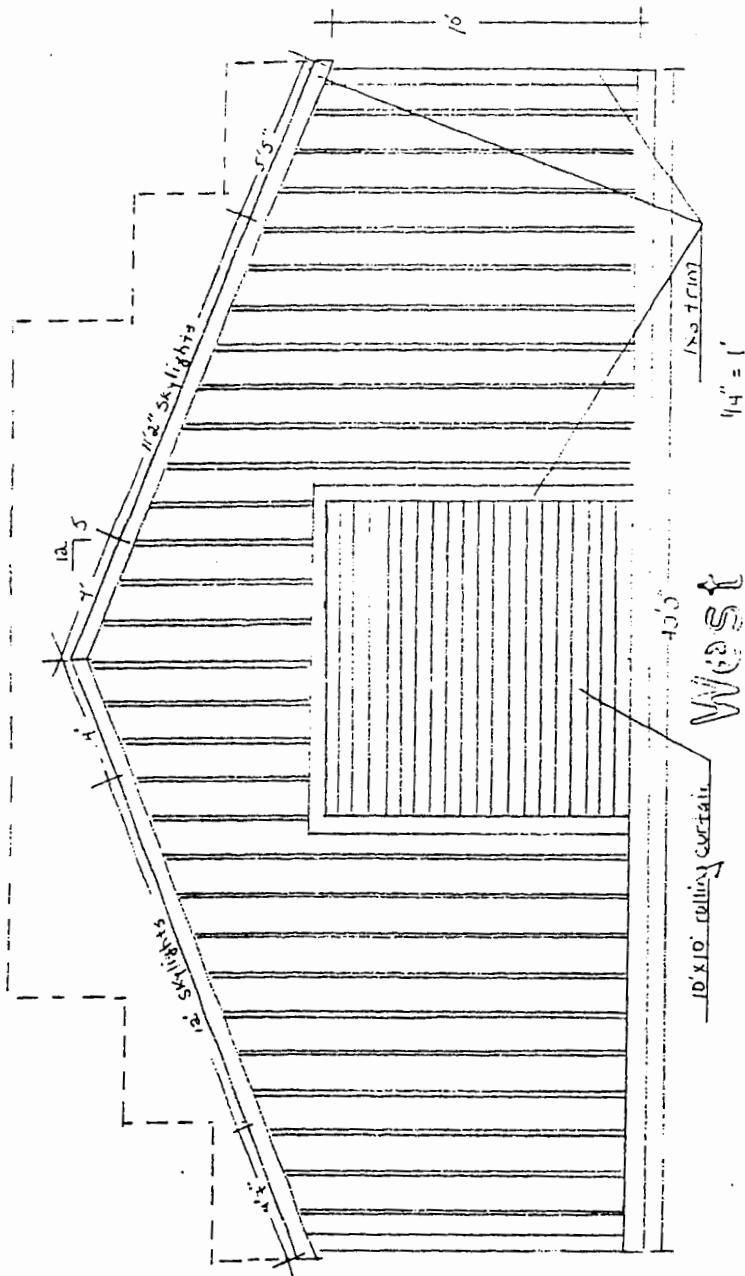


EXHIBIT NO. 4

APPLICATION NO.
1-97-49

SCHNAUBELT

Elevation Plans

South

1/4" = 1'

Fiberglass Shingles

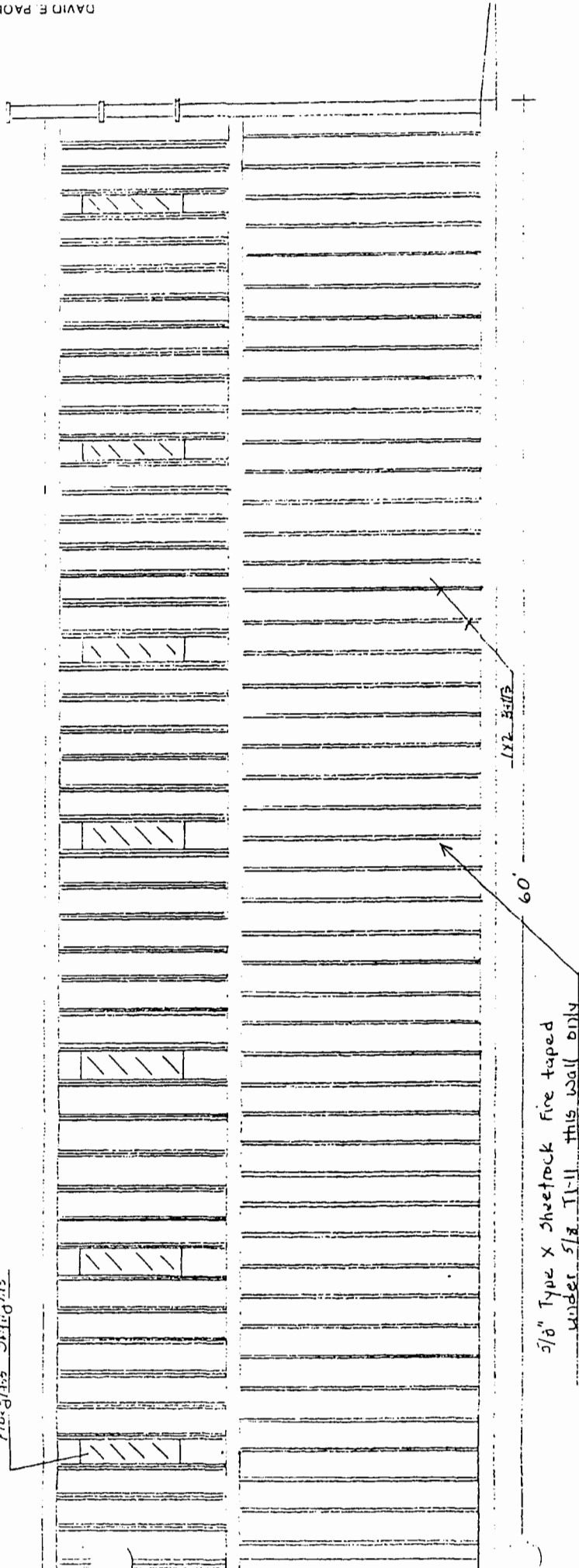
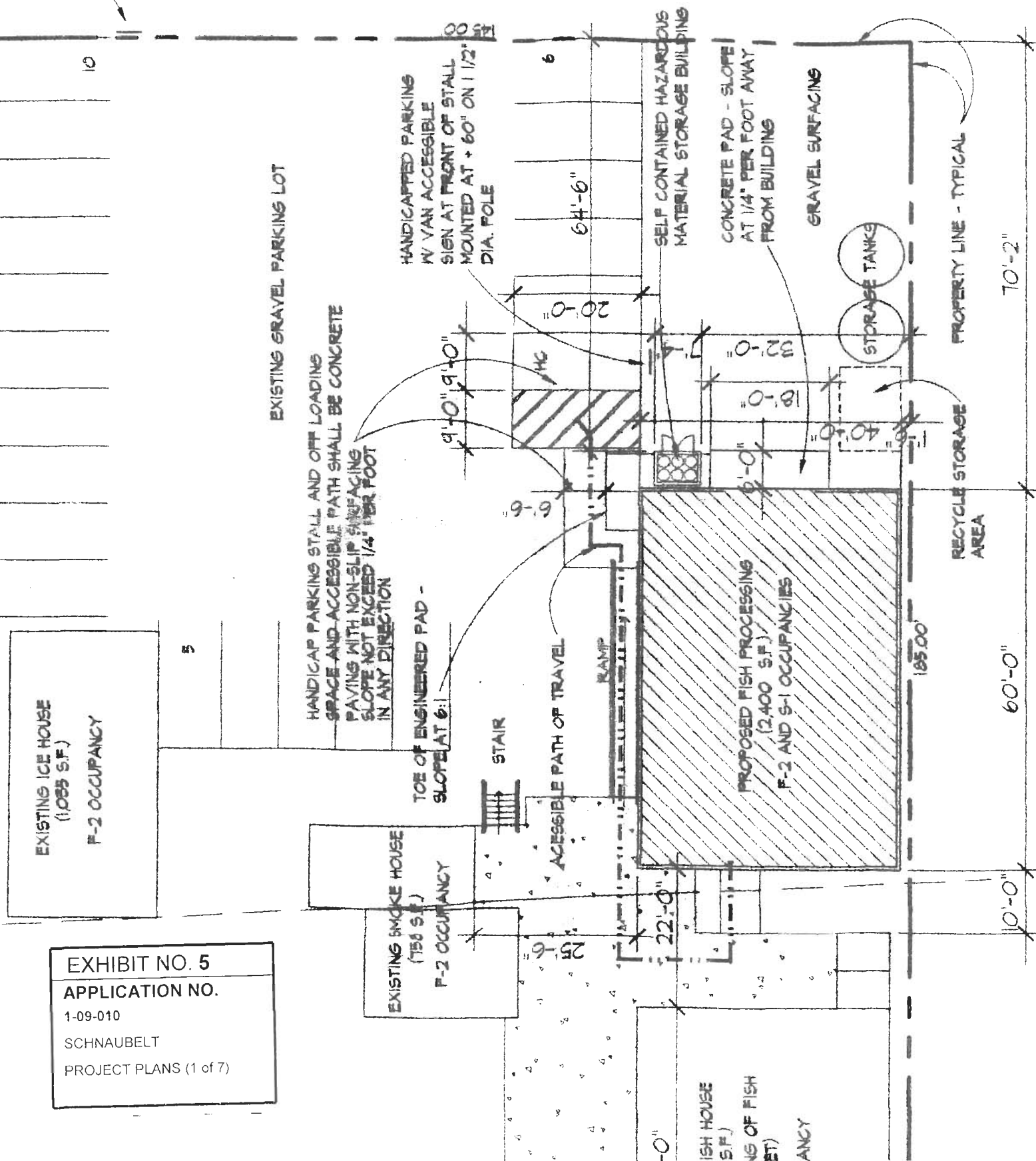


EXHIBIT NO.	4
APPLICATION NO.	1-97-49
SCHNAUBELT	
Elevation Plans	

NORTH HARBOR DRIVE

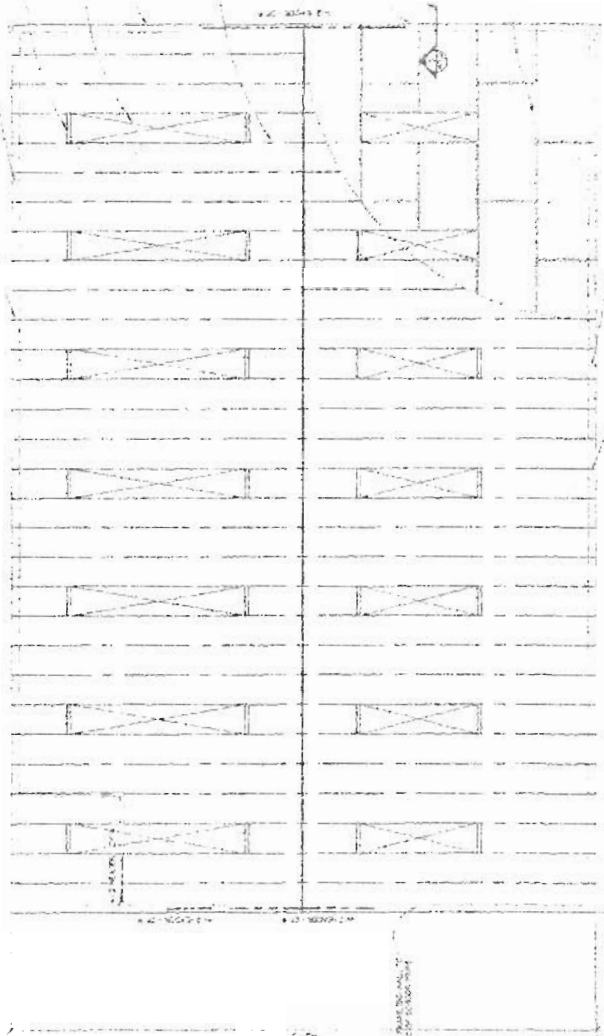


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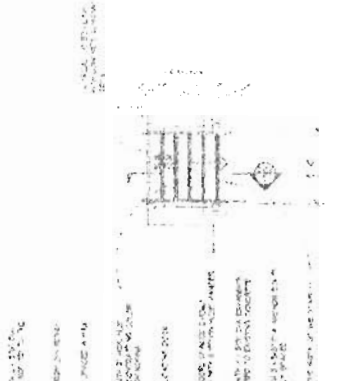


FLOOR PLAN

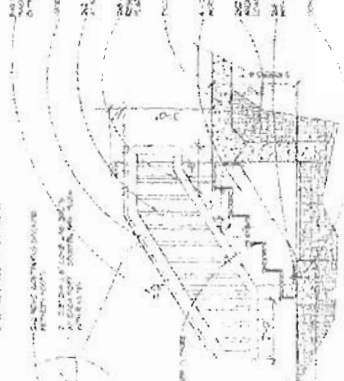
ROOF FRAMING PLAN

[illegible]

1 STAIR PLAN



2 STAIR SECTION



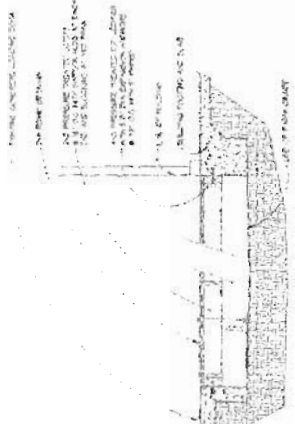
3 RAMP SECTION



4 FOOTING DETAIL



5 DECK DETAIL



5 BUILDING ANCHOR DETAIL

4 HOLDOWN DETAIL

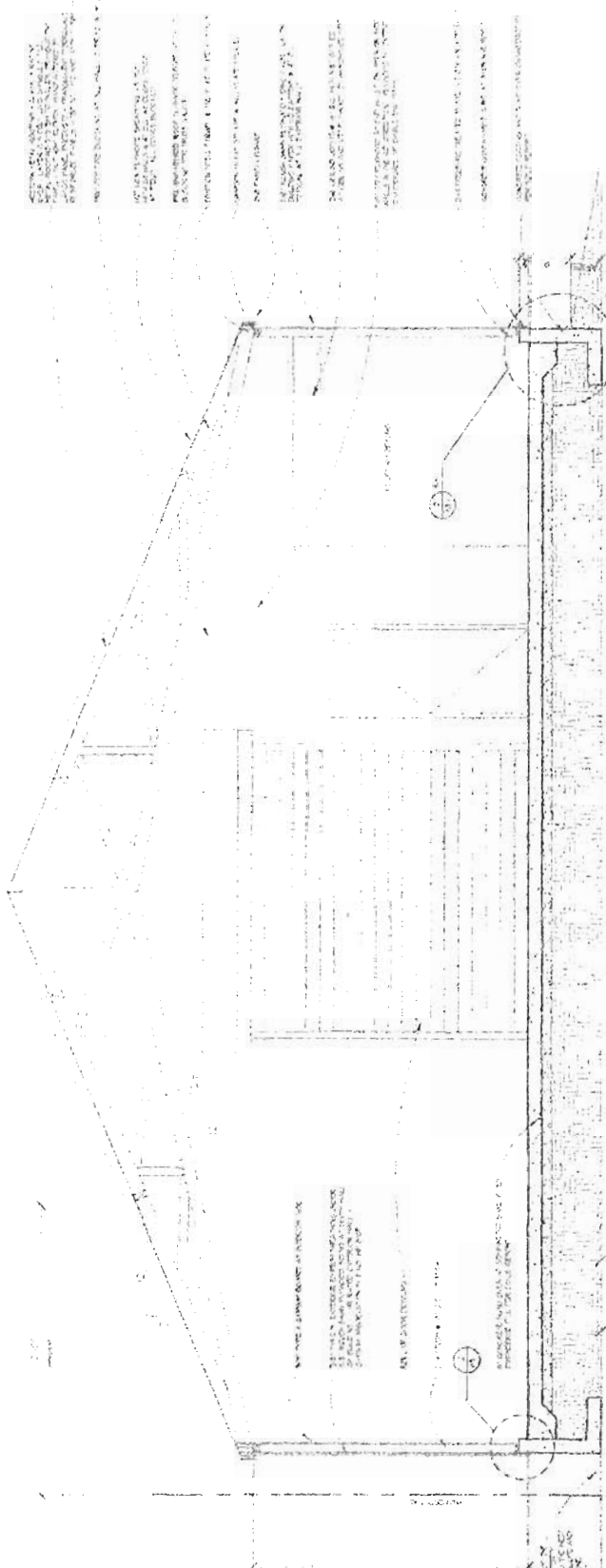
3 FOOTING DETAIL

2 FOOTING DETAIL

1 BUILDING SECTION

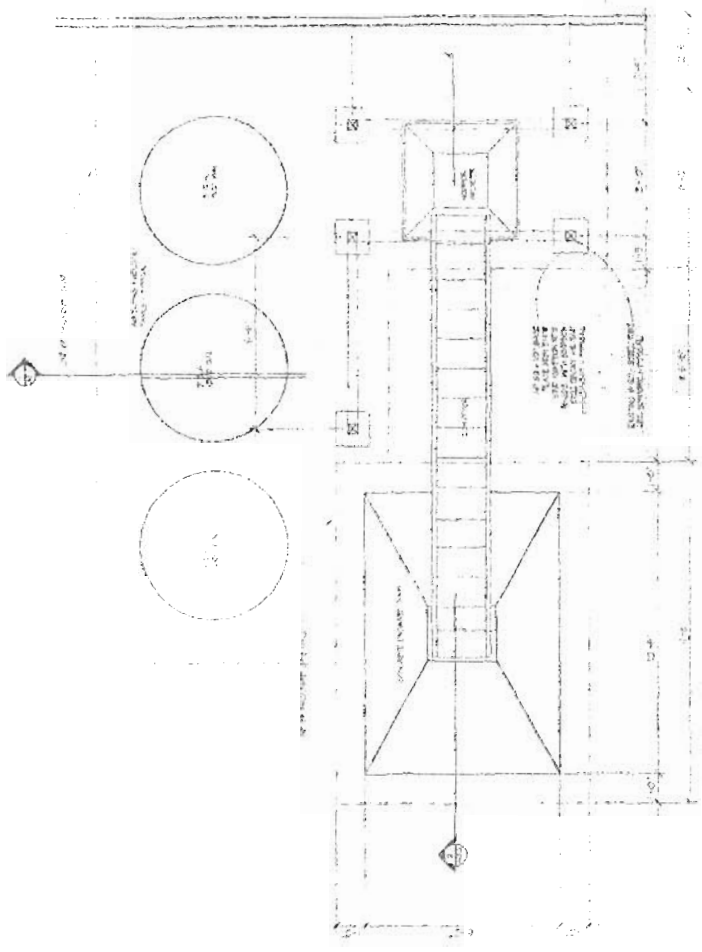
SCALE 1/4" = 1'-0"

1. ALL DIMENSIONS ARE IN FEET AND INCHES
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE
 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE

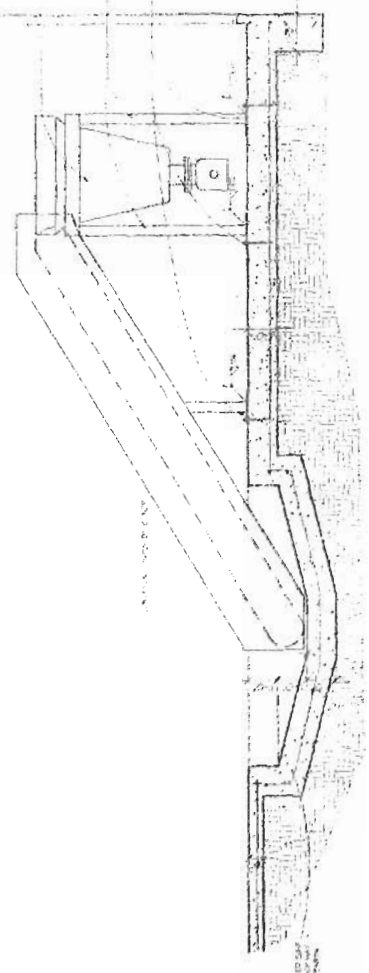


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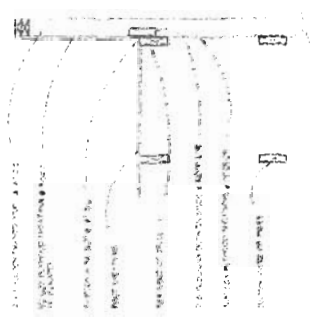
1 PLAN VIEW AT CONVEYOR

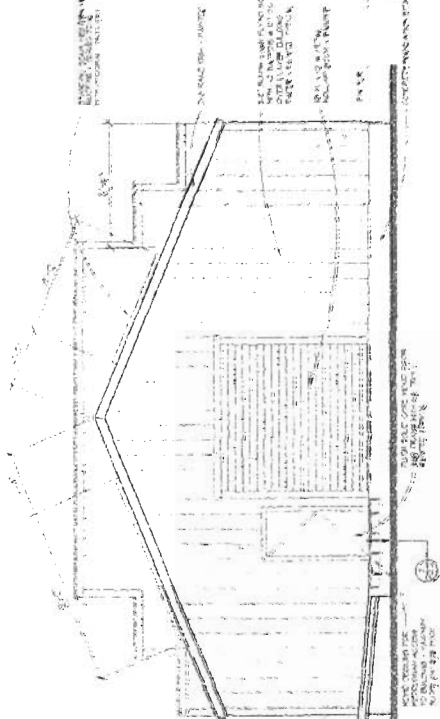


2 SECTION AT CONVEYOR

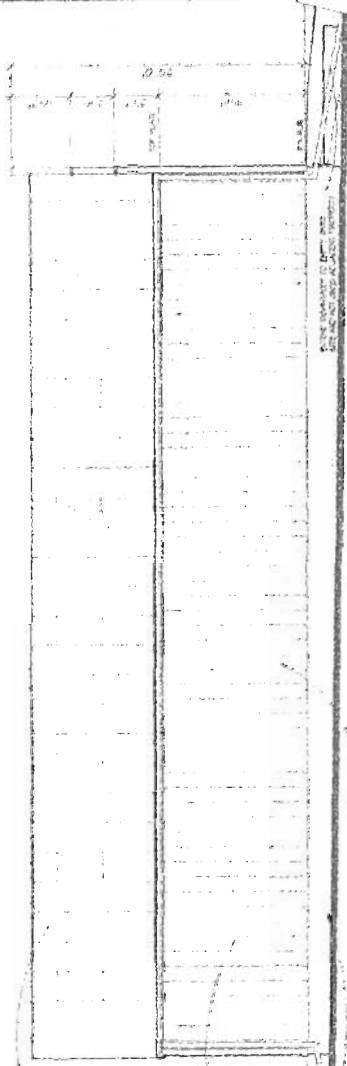


3 PARAPET SECTION

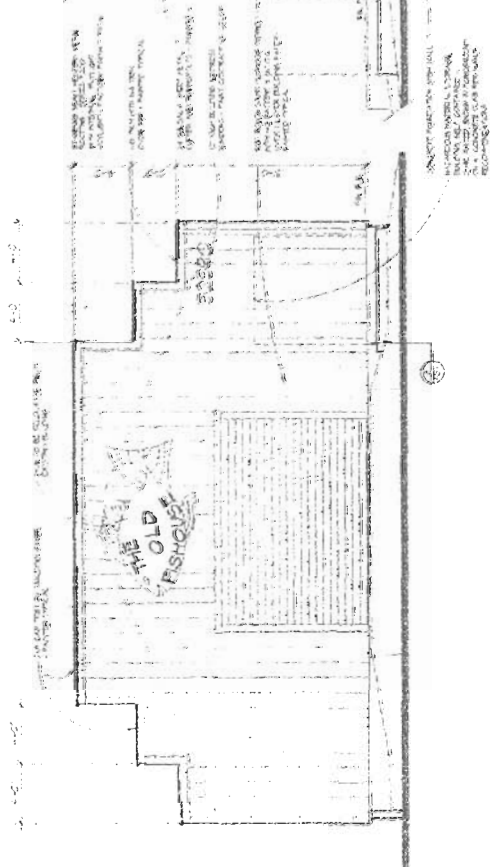




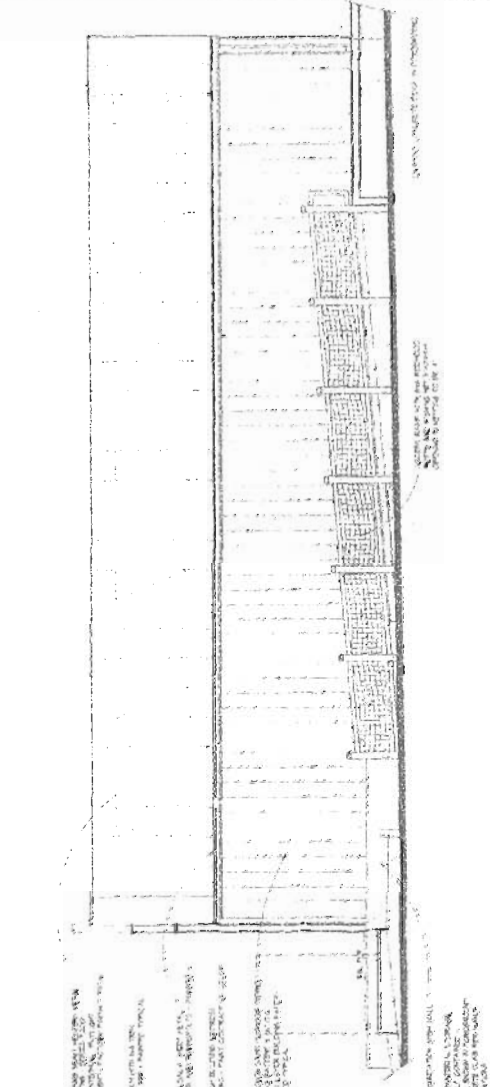
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION

Nichols & Medburg
Rosendo

A41

747

Paoli Engineering & Surveying

DAVID E. PAOLI

535 E Chestnut St., Fort Bragg, CA 95437

Phone: 707-964-5225 -- Fax: 707-961-1452

E-mail: engineersurvey@yahoo.com

CALIFORNIA REGISTERED CIVIL ENGINEER/LAND SURVEYOR - RCE 18341

OREGON REGISTERED CIVIL ENGINEER - NO. 8426

OREGON PROFESSIONAL LAND SURVEYOR - NO. 1289

August 27, 2008

Nancy Cave
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105

Re: Violation File V-1-08-007 (Schnaubelt)

Dear Ms. Cave:

Richard and Yvette Schnaubelt have supplied me with a copy of your July 31, 2008 certified letter, the September 11, 1997 Staff Report and the September 12, 1997 Notice of Intent to Issue Permit.

I have reviewed my file and find a site plan, a floor plan, a building section and elevations prepared by the architectural firm Nichols, Melburg and Rossetto, date November 24, 1997. Although there is no single grading and drainage plan, each of the pages cited deals with items in my recommendations. I am sending you a copy of these plans and have highlighted the pertinent items.

To compare the as-built structure with my recommendations, I made a site review of the project on August 6, 2008. I found the following, compared with my recommendations on pages 9 and 10 of my report:

- A. The concrete floor slab is 24 inches above the existing grade.
- B. I don't know what type of imported fill was used. The architectural plans call for engineered fill compacted per my recommendations.
- C. Based on the plans, foundation bearing pressure would be less than 1000 pounds per square foot.
- D. No action required.
- E. Slope away from the building complies with my recommendations.
- F. Footing at the south side of the building appears to comply with my recommendations.
- G. Rainfall runoff is collected in gutters that outlet 6 or more feet from the building.
- H. Per the architect's plans, a special foundation is used under the holding tanks.

In conclusion, those items I can see are in compliance with my recommendations, and the items I cannot see are shown on the plans as complying with my recommendations.

If you have any questions, please call me at 707-964-5225.

Sincerely,

David E. Paoli

David E. Paoli
Professional Engineer/Land Surveyor

PES: Job 97-37 Schnaubelt

Enclosures

Cc: Richard & Yvette Schnaubelt

EXHIBIT NO. 6

APPLICATION NO.

1-09-010

SCHNAUBELT

AUGUST 27, 2008 LETTER
FROM DAVID PAOLI

**GEOLOGIC
AND
SOILS INVESTIGATION
FOR
SEA PAL, INC.
IN**

Mendocino County, California

**A.P. No. 018-140-42
32390 North Harbor Drive, Fort Bragg**

EXHIBIT NO. 7
APPLICATION NO. 1-09-010 SCHNAUBELT JULY 19, 1997 GEOLOGIC & SOILS INVESTIGATION (1 of 11)

PREPARED FOR:

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PREPARED BY:

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707-964-5225
Job No. 97-37**

David E. Paoli

**DAVID E. PAOLI, R.C.E. 18341
License Expiration: 6-30-97**

June 19, 1997

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1. INTRODUCTION

A limited geologic and soils investigation has been made of a portion of the property at 32390 N. Harbor Drive, Fort Bragg. The field investigation was made on June 12, 1997. The reason for the investigation is as follows:

This property and the property immediately adjacent to the south are occupied by buildings and facilities that provide fish and seafood processing capabilities for Sea Pal. The building on the adjacent property was recently damaged by fire, and that part of the processing plant is out of service. The owner of Sea Pal is proposing to construct a new, single-story building, 38 feet wide by 60 feet long, to house the burned-out operation. The site plan showing the existing structures and the proposed new building is shown on Exhibit "A."

It is proposed that the new building will have a concrete slab-on-grade foundation, wood frame and plywood siding, and a metal roof. Processing machinery inside the building will include a grinder, conveyor assembly, and liquid holding tanks. The holding tanks, five feet in diameter and up to ten feet high, will provide the heaviest anticipated fixed loads in the building.

2. GEOLOGIC CONDITIONS, GENERAL

These lots are adjacent to the Noyo River, in the tidewater section of the river, and within a third of a mile of the river mouth and Noyo Bay. Many of the existing buildings and docks are built on piles over the old river channel. Other buildings, loading ramps and parking areas are on fill material. Since much of this area has been used for fish processing since the turn of the century, filling over floodplains and even parts of the river channel has occurred over the decades, most of it taking place before 1950. Only minor government control and supervision was used, and the site preparation, fill materials and compaction effort were largely left to the owner and his construction contractors to decide what should be done.

Exhibit A shows the ordinary low tide and high tide lines as established by the State of California decades ago. Note that the proposed new structure is outside of these tide lines.

Before this area was converted to industrial/commercial purposes, it was undoubtedly a floodplain of the Noyo River. It was probably marshy, with thick reeds, water grasses and other wetland vegetation, such as can be seen upstream about a third of a mile or more. The soils were silts and fine sands, progressively deposited during winter overflows. They were wet, soft, contained high percentages of decaying organic materials, and were of low strength for building.

The San Andreas Fault is approximately eight miles west of this site. Any building on this site will have a design life that may subject it to the maximum credible seismic event, which is judged to be 8.3 on the Richter Scale.

The San Andreas Fault and other faults on the Pacific Rim generate tsunamis (tidal waves). The Mendocino County Hazards Map shows a tsunami hazard zone in and around Noyo Bay, but it does not extend upstream to this project location.

An agency of the federal government (FEMA) has identified areas along lakes and streams throughout the United States that are subject to flooding. According to the FEMA map for this area, the proposed building site is in a Zone C, which is classified as an area of minimal flooding.

3. SITE - TOPOGRAPHY AND SOILS CONDITIONS

The site as it presently exists is basically flat, with perhaps a small slope for drainage from North Harbor Drive to the Noyo River. Perhaps 20 percent of the lot is covered with structures, with the remainder covered with storage containers, machinery and parking/loading areas.

Three test holes were dug with a backhoe in the vicinity of the proposed building. Their location is shown on Exhibit A. A log of the test holes is given below:

Test Hole A	
Depth	Remarks
0" - 06"	Dark brown compacted base rock
6" - 33"	Dark brown, average density sand with ½" diameter pebbles, damp to wet, probably old fill material
33" - 48"	Grey-brown sandy silt, wet, low strength, probably native material

Test Hole B	
Depth	Remarks
0" - 20"	Brown pebbly sand, compact, dry to damp, probably fill material
20" - 60"	Blue-grey silt and sandy silt, wet, compressible, straw, reeds and other organics throughout, probably native material

Test Hole C	
Depth	Remarks
0" - 27"	Brown pebbly sand, compact, dry to damp, probably fill material
27" - 63"	Blue-grey silt, wet, compressible, straw, reeds and other organics throughout, probably native material

Although the profiles are not identical, basically the top two feet of the present material is a satisfactory material for building and foundation. Below that is a wet, soft silt with significant percentages of organic material. The thickness of this soft layer is unknown, but it is likely that it extends approximately to the depth of the river bottom, or at least ten feet.

4. IMPACT OF BUILDING ON SITE

The property is presently one hundred percent developed with either buildings, open-air storage, parking or loading docks. The impact of a new building on site should be minimal.

5. CONCLUSIONS AND RECOMMENDATIONS

It is technically feasible to build a one-story commercial building of the type previously described on this site. The recommended parameters as follow:

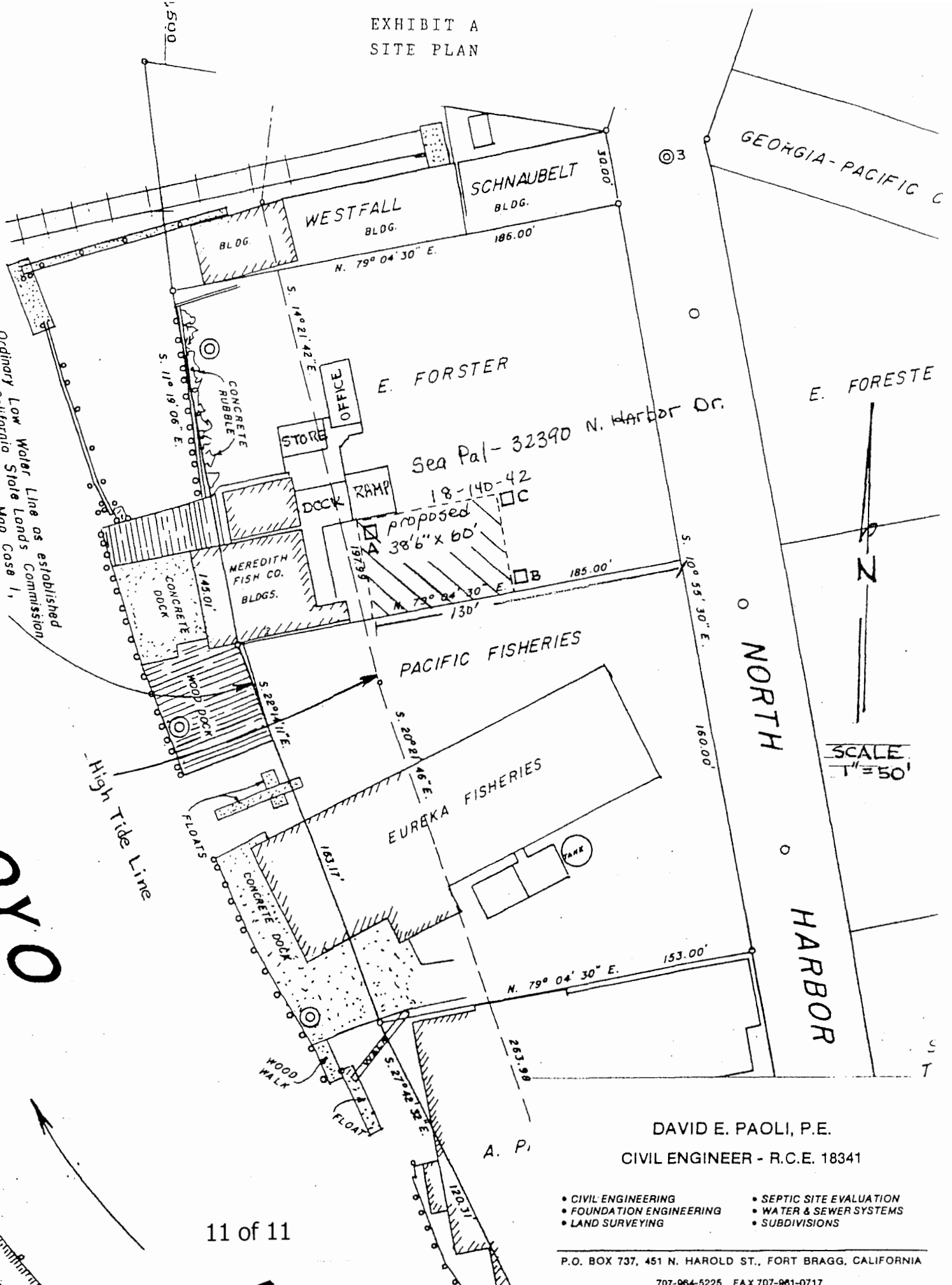
- A. Due to the relatively thin top layer of existing soil that has suitable properties for a building foundation, it is recommended that the entire structure be constructed on engineered fill. I recommend that the top of the concrete floor slab be no lower than 24 inches above the existing grade where this structure will be placed. This amount of engineered fill on top of the existing fill should lower the potential of liquefaction of the underlying wet silts to an acceptable range
- B. Imported fill material must be approved by the engineer. Subgrade must meet 90 percent of optimum density. Imported fill should be placed in 8-inch lifts and compacted to 95 percent of optimum density, ASTM D-1557 test method. A vibratory roller compactor is recommended for compacting the subgrade and engineered fill.
- C. Foundation bearing pressure should be limited to 1,000 pounds per square foot, lateral bearing to 100 psf, lateral sliding to 130 psf.
- D. A foundation drain is not required.
- E. Engineered fill sloping away from the outside of the building should slope no steeper than six horizontal to one vertical.
- F. The portion of the foundation adjacent to the south property line will either have the bottom of footing at existing grade, or the engineered fill will extend on to the neighboring property through agreement, If the footing is to be at existing grade, use design values for bearing, lateral and sliding of one-half that recommended in C. above for this south foundation.

- G. Rainfall runoff should be collected in gutters which outlet a minimum of six feet from the building.
- H. Special foundation design will be required under the liquid holding tanks. Again, bearing is to be limited to 1,000 psf.

EXHIBIT A
SITE PLAN

Ordinary Low Water Line as established
by the California State Lands Commission
Map 42, Mendocino

NOYO



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MEMO

April 21, 2009

Melissa Kraemer, Coastal Planner
North Coast District
California Coastal Commission
710 E Street, Suite 200
Eureka CA 95501

RE: CDP #1-09-010 (Schnaubelt)

SITE: 23280 & 32390 North Harbor Drive
Fort Bragg, CA 95437
APN 018-140-42

Dear Melissa,

Thank you for your call today regarding the Schnaubelt application, asking how the disposal of the construction debris was handled on this project.

SPECIAL CONDITION #4: *Disposal of Construction Debris: All construction debris shall be removed from the site upon completion of the project. Placement of any surplus materials or debris in the coastal zone at a location other than a licensed landfill will require a coastal development permit.*

- I have spoken with the contractor who built the Sea Pal facility pursuant to the approved plans. Jerry Matson, of Matson Construction, had an on-site container provided and serviced by Fort Bragg Disposal, a licensed disposal hauler and transfer facility. Fort Bragg Disposal, a division of Waste Management, transfers all of its waste to licensed landfill facilities. Fort Bragg Disposal removed all construction debris from the site upon completion of the project. Therefore, Special Condition #4 has been satisfied.

COMPLETION OF CONSTRUCTION: Construction for the Fish Processing plant commenced in January 1998 and was finalized by the County Building Department on July 12, 1999 (please refer to the "Approved Building Permit" enclosure in my April 10, 2009 submittal to Bob Merrill for further detail).

Please let either Norman or I know if you have any more questions and/or need more information.

All the best,



Amy

EXHIBIT NO. 8
APPLICATION NO.
1-09-010
SCHNAUBELT
MEMO FROM AMY WYNN, AGENT, REGARDING DEBRIS DISPOSAL

Encl: n/a

CC: Richard & Yvette Schnaubelt, applicants; Norman de Vall & Associates, Permit Agent

Norman L. de Vall & Assoc.
Planning and Land Use Consultants
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(707) 877-3551 877-1861 357-5555
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March 19, 2009

California Coastal Commission
North Coast District Office
Attn.: Bob Merrill
710 E Street, Suite 200
Eureka, California 95501
(707) 445-7833 445-7877

EXHIBIT NO. 9
APPLICATION NO.
1-09-010
SCHNAUBELT
REQUEST FOR APPLICATION
FILING FEE REDUCTION
(1 of 2)

re: V-1 08-007 Schnaubelt
32380, 32390 N. Harbor Dr.
Noyo, Fort Bragg
APN 018-140-42
CDP App. No. 1-09-010

REQUEST FOR WAIVER

Dear Mr. Merrill,

Thank you for your letter of March 17, 2009 regarding the above noted Application. We have initiated our response to Items 1, 2, 3, 4 and 6.

Regarding Item 5, on behalf of Richard and Yvette Schnaubelt, we are requesting that the fee for After-the-Fact Application be reduced to \$3,000, based on the initial cost of the Fish Processing Plant and request be placed on a northern California agenda of the Commission at the soonest possible time.

It is imperative that the Commission know that the applicant relied solely upon their then Land Use and Planning Consultant, Bud Kamb, of Mendocino, who has since closed his business and is no longer in the area. Efforts to rebuild the file have met with no results as the applicants have been informed that the files "no longer exist".

Therefore responding to the Commissions request regarding Items 1, 2, 3, 4 and 6 may take some time. Therefore we wish to assure the Commission that responding to the Notice of Violation and completing the requested items is of high priority.

We look forward in working with you to complete this Application.

Sincerely,

Norman L. de Vall
Agent for the Applicant

cc: Richard and Yvette Schnaubelt

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