

CALIFORNIA COASTAL COMMISSION

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 Staff: Bill Van Beckum
 Staff Report: February 28, 1997
 Hearing Date: March 13, 1997
 Commission Action:

STAFF REPORT: APPEAL

LOCAL GOVERNMENT: Marin County

DECISION: Approval with Conditions

APPEAL NO.: **A-1-MAR-96-81**

APPLICANT: **RALPH GARSIDE**

PROJECT LOCATION: 20 Ocean Avenue, Bolinas, Marin County,
 APN 193-172-04.

PROJECT DESCRIPTION: (1) legalize an 18-ft.-high and 900-sq.-ft. barn, a 13.5-ft.-high and 1,137-sq.-ft. single-family residential addition, an 18-ft.-high and 747-sq.-ft. aviary, a bluff-face gazebo, and a series of bluff-face decks, cable-attached retaining walls, and stair landing areas; (2) fill an excavated area intended for a swimming pool; (3) remove an existing spa; and (4) construct a breezeway to connect an aviary to the residence.

APPELLANTS: Ralph Garside and Paul Kayfetz

SUBSTANTIVE FILE DOCUMENTS: Marin County Local Coastal Program; Marin County CP No. 96-014/UP 96-015/TP 96-008.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeals have been filed because the appellants have not raised any substantial issues with the local government's action and its consistency with either the certified LCP or the access policies of Chapter 3 of the Coastal Act.

The appellants' contentions are summarized on Page 4 of this report. The appellants contend that the development does not conform to the policies of the LCP regarding shoreline protection (Contentions 1, 2.a and 2.b), geologic hazards (Contentions 1 and 2.d), visual resources (Contention 2.c), and potable water supply (Contention 2.e). The contentions do not raise substantial issues about the approved project's conformity with either the certified LCP or the public access policies of the Coastal Act.

First, the project as approved by the County does not raise a substantial issue with LCP requirements regarding the authorization of shoreline protective works. The County's decision to conditionally approve the bluff face retaining walls consistent with the requirements of LCP Shoreline Protection Policy 5 and Ordinance Section 22.56.130(K)(2)(a). Based on geologic investigations of the site, the Board found that the retaining walls will help reduce erosion and cliff retreat and thus help protect existing authorized residential development. The project as approved by the County also requires measures to ensure that the removal or retention of cables connecting the walls together does not create a hazardous situation.

Second, the project as approved by the County does not raise a substantial issue with LCP requirements regarding blufftop setback considerations associated with geologic hazards. The County's decision to conditionally approve the previously unauthorized barn, provided it would be relocated, and to require removal of other unauthorized structures which do not meet the LCP's bluff setback requirements, included findings supported by a geotechnical report and demonstrating that the project as approved would be consistent with LCP requirements for bluff top setbacks (Shoreline Protection and Hazards Policy 1 and Ordinance Section 22.56.130(K)(1)).

Third, the project as approved by the County does not raise a substantial issue with LCP requirements regarding visual resources. The County's decision to conditionally approve the bluff face retaining walls included findings demonstrating consistency of retaining wall development with LCP Ordinance Section 22.56.130(O)(3) requirements concerning the visual impacts of structures from public viewing places. The Board found that the retaining walls, constructed of natural wood materials, will not result in significant alterations to the physical environment and will have minimal impact on the visual setting of the coastal bluff.

The motion to adopt the Staff Recommendation of No Substantial Issue is found on Page 3.

STAFF NOTE:

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission because (1) the proposed project is located between the sea and the first public road paralleling the sea, (2) portions of the development are located within 300 feet of a beach and top of the seaward face of the coastal bluff, and (3) the development includes uses not designated as "principal permitted uses" under the certified LCP.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending No Substantial Issue, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would proceed to a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the permit application, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed, pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below. Staff recommends a YES vote on the following motion:

A-1-MAR-96-81
RALPH GARSIDE

Page 4

MOTION:

I move that the Commission determine that Appeal No. A-1-MAR-96-81 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

To pass the motion, a majority of the Commissioners present is required. Approval of the motion means that the County permit action is final.

II. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received an appeal of Marin County's December 3, 1996 decision to approve this project from the applicant, Ralph Garside, and from an adjacent property owner, Paul Kayfetz. See Exhibits 10 and 11 for the full texts of the appellants' contentions. Other correspondence sent to the Commission by or on behalf of the appellants since the County's decision is attached as Exhibits 13 and 14. Each appellant's contentions are summarized below.

1. Ralph Garside

Mr. Garside's contentions are essentially that the County's approval of cliff retaining walls was subject to improper and unwarranted conditions (requiring the removal of several existing developments) inconsistent with LCP policies on shoreline protection and hazard areas.

2. Paul Kayfetz

Mr. Kayfetz makes the five following contentions in his appeal:

a. The approved retaining walls are not "required" by the LCP to protect existing structures and exacerbate erosion (Contention 2.a);

b. The cabling of the retaining walls to earth anchors is not required to preserve existing structures and has caused cliff cracking that threatens structures on the Kayfetz property (Contention 2.b);

c. The retaining walls detract from the natural appearance of coastal bluffs, inconsistent with LCP visual resources provisions (Contention 2.c);

d. The proposed relocation of the horse barn still places it within the bluff setback zone provided by the LCP (Contention 2.d); and

e. Use of the top floor of the barn as a residential apartment violates LCP provisions requiring the provision of potable water (Contention 2.e).

B. PROJECT SETTING AND DESCRIPTION

The subject site is a 2.45-acre oceanfront parcel in the town of Bolinas (Exhibits 1-3, Location Maps). Approximately 1.48 acres of the site consists of a beach and the near-vertical face of a coastal bluff, which rises to approximately 110 feet. The remainder of the site consists of a nearly level blufftop, approximately 42,000 square feet in area, on which is located a one-story, single-family residence and accessory structures, including a garage, horse barn, workshop/aviary, and deck with spa. An excavated area once intended for a swimming pool is located next to the deck and residence. These blufftop developments are shown on Exhibit 4, Blufftop Site Plan.

A wooden stairway leads from the residence down to the beach. The stairway descends past a series of wood retaining walls, decks, a gazebo, and landing areas constructed at various points on the bluff face between the top edge of the bluff and the beach. These developments are depicted on Exhibit 5, Bluff Face Site Plan and Exhibit 6, Retaining Walls' Profiles. The thirteen or so wood retaining walls vary in height from 3- to 5-feet, and are attached to 8"-10" diameter wood posts driven into the bluff face on the ocean-facing side of the walls. Most of the walls are attached to each other by exposed metal cables. The cables connect each wall to the wall immediately upslope of it and to the wall immediately downslope of it.

The property was initially developed in the mid-1950s, with construction of the residence (originally at 1,477-1,687 - square-feet), the 600 square-foot detached garage, and a 288 square-foot detached workshop. No coastal development permit was required for these structures because they were built before the 1972 Coastal Initiative and enactment of the Coastal Act of 1976.

In December 1978, the Coastal Commission granted Coastal Development Permit No. 299-78, which authorized the placement of 1,000 tons of rock to construct a 4-foot-high, 280-foot-long riprap seawall at the toe of the bluff. All of the other developments on the site were also constructed since the passage of the Coastal Act, but without benefit of a coastal development permit either from the Commission, prior to effective certification of the County's LCP in 1981, or from the County following effective certification. This unpermitted development includes the enlargement of the residence (to its current +/-2,614 square-foot size), and the construction of all other developments on the blufftop and bluff face.

As a result of Code Enforcement Hearing negotiations with the County begun in September 1995, the applicant submitted an application to the County, in April 1996, seeking coastal permit approval of the unpermitted development.

C. LOCAL GOVERNMENT ACTION

On October 7, 1996, the Marin County Planning Commission held a public hearing to review the coastal permit application to legalize the development that had been built without coastal permits. The application included requests to:

A-1-MAR-96-81
RALPH GARSIDE

Page 6

(1) legalize an 18-ft.-high, 900-sq.-ft. barn, a 13.5-ft.-high and +/- 1,137-sq.-ft. single-family residential addition, an 18-ft.-high and 747-sq.-ft. aviary addition to the detached workshop, a bluff-face gazebo, and a series of bluff-face decks, cable-attached retaining walls, and stair landing areas; (2) fill an excavated area intended for a swimming pool; (3) remove an existing spa; and (4) construct a breezeway to connect the aviary to the residence.

At the conclusion of the hearing, the Planning Commission voted unanimously to approve the project with conditions. The Planning Commission's decision allowed retention of the bluff-face retaining walls and the horse barn, provided that the barn would be relocated to maintain adequate setbacks from the edge of the bluff, into the building envelope indicated in Exhibit 7. Revised Barn Location. The Planning Commission decision also required the removal of the residential addition and the bird aviary addition (the hatched areas on Exhibit 8. Residential & Aviary Additions), and the removal of all rear yard decking, the gazebo, stairs, and stair-landing areas. As noted in the Planning Commissions adopted Findings, the developments required to be removed:

... violate the standards of the Marin County Code and are inconsistent with the goals, policies and objectives of the Marin Countywide Plan, the Local Coastal Program, and Bolinas Community Plan because: (1) there is no approved domestic water supply for the illegal structures because the Bolinas Community Public Utility District denied the property owner's request for an Expanded Water Use Permit based on historic and current usage on the subject property; (2) the subject illegal development does not comply with the established setback standards contained in Section 22.56.130(K) of the Marin County Code; and (3) the illegal construction disrupts and detracts from the scenic beauty of the landscape within the coastal zone, an identified significant resource.

The applicant subsequently filed an appeal of the Planning Commission's decision. On December 3, 1996, the County Board of Supervisors held a public hearing on the appeal and voted unanimously to deny the appeal, thus sustaining the Planning Commission's decision. The Board's adopted Resolution, containing the adopted findings, Board Minutes and twenty conditions of project approval, is attached as Exhibit 9. Board of Supervisors Transmittal.

Notice of the County's final action was received by the Coastal Commission on December 9, 1996. The decision was then appealed to the Commission by the applicant and adjacent property owner within ten working days of receipt of notice of final local action. See Exhibits 10 and 11. Garside and Kayfetz Appeals. On December 30, 1996, the applicant waived his right to a hearing within 49 days of the filing of an appeal (Exhibit 15).

D. SUBSTANTIAL ISSUE ANALYSIS

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. Upon further review, however, the Commission finds that these contentions do not raise a substantial issue.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

As discussed above, the grounds identified in Section 30603 for an appeal of a local government action are limited to whether the action taken by the local government conforms to the standards in the LCP and the public access policies found in the Coastal Act. The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal.Code Regs., tit. 14, section 13115(b).) In the absence of more detailed standards in the Coastal Act or the accompanying regulations for determining whether an appeal raises a substantial issue, the Coastal Act affords the Commission considerable discretion to determine when to exercise its appellate jurisdiction over local coastal permit decisions. If the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's underlying coastal permit decision.

Moreover, it also is significant that the Coastal Act sets out "minimum" standards and policies with which local governments must comply. (Yost v. Thomas (1984) 36 Cal.3d 561, 572.) Local governments also have the discretion to adopt LCP provisions of local interest that are more restrictive than, but not in conflict with, the Act. (Ibid.) Where these local interest provisions are the only ones implicated by an appeal there is no compelling reason for the Commission to exercise its appellate authority. A rule requiring that the Commission hear an appeal merely because there is a dispute over an LCP provision might require the Commission to intervene in the permitting process even where both of the conflicting LCP interpretations satisfied Coastal Act policies.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by Marin County presents no substantial issue.

1. Contention 1: The County's "approval of cliff retaining walls which are necessary to stabilize cliff and protect existing residence and accessory structures was subject to improper and unwarranted conditions" that require the removal of several developments, inconsistent with LCP chapter III

policies on shoreline protection and hazard areas. The development that the applicant cites in his objection to the County's conditional approval includes "severing of retaining wall tie backs, removal of stairs, decks and landings, removal of a portion of an existing residential structure."

Discussion:

Chapter III of Marin County's LCP for the County's Unit I segment, the southern portion of the County's coastline including the town of Bolinas, is entitled "Shoreline Protection and Hazard Areas." Although this chapter contains a total of nine policies regarding shoreline protection and hazard areas, the applicant only specifically cites (in Exhibit 10, Garside Appeal) the provisions of one policy (Policy No. 5). This policy incorporates, nearly verbatim, Coastal Act Sec. 30235 into the LCP. Policy No. 5 states:

The following policy from Section 30235 of the Coastal Act is incorporated into the County LCP:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted when required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP), or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

LCP development standards to implement Shoreline Protection and Hazard Areas Policy No. 5 are contained in Section 22.56.130(K)(2) of the Marin County Code. Section 22.56.130(K)(2) states, in part:

Standards and Requirements for Shoreline Protective Works.

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted only when:

- a. Required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP).
- b. No other non-structural alternative is practical or preferable.
- c. The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.
- d. The structure will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.

A-1-MAR-96-81
RALPH GARSIDE

Page 9

- e. There will be no reduction in public access, use, and enjoyment of the natural shoreline environment, and construction of a structure will preserve or provide access to related public recreational lands or facilities.
- f. The structure will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built....

Design standards for all shoreline structures. The design and construction of any shoreline structure shall:

- a. Make it as visually unobtrusive as possible;
- b. Respect natural landforms to the greatest degree possible;
- c. Include mitigation measures to offset any impacts on fish and wildlife resources caused by the project;
- d. Minimize the impairment and movement of sand supply and the circulation of coastal waters;
- e. Address the geologic hazards presented by construction in or near Alquist-Priola earthquake hazard zones; and
- f. Provide for the reestablishment of the former dune contour and appearance.

(The mid-portion of Section 22.56.130(K)(2) is not quoted because it relates only to shoreline protective structures located on beaches.)

In approving retention of the bluff-face retaining walls, the Board found (Exhibit 9, Board Resolution, Section VIII.K.-Shoreline Protection) that:

The geotechnical report and the County Public Works Department both recommend that the retaining walls situated along the face of the bluff be retained because: (1) the subject walls do not have an adverse effect on the slope stability; (2) removal of the existing retaining walls located on the face of the coastal bluff would not improve the stability of the bluff; and (3) removal of these structures would unnecessarily expose additional areas to the effects of wind and water erosion decreasing slope stability and substantially increasing the potential for health and safety hazards for occupants of the subject property and persons traveling along the beach below.

Accordingly, the retaining walls may be approved subject to conditions which require submittal of a geotechnical report which evaluates the design characteristics, footings, and drainage for the existing retaining walls and identifies which walls, if any, could be safely

removed without substantially increasing erosion and decreasing public safety legalization of engineered retaining walls would reduce bluff erosion and promote public safety for occupants of the subject property ... consistent with Section 22.56.130(K)(2)(a) of the Marin County Code.

The Board of Supervisors found consistency with ordinance Section 22.56.130(K)(2), the provision which implements Policy No. 5, as a reason to allow the retaining walls. It is not clear why the applicant cites Policy No. 5 in his appeal contention as a policy which the County inconsistently applied in requiring the removal of certain other developments, such as the additions to the house. As noted above, Policy No. 5 requires the approval of retaining walls to protect existing structures in specified situations. The Board could not utilize Policy No. 5 to require the removal of developments, especially the type of non-protective accessory development required to be removed. The Board could only utilize Policy No. 5 to justify the retention of the retaining walls.

The County's conditions requiring removal of various structures were instead based on considerations of inadequate water supplies, adverse impacts on coastal visual resources, and, relevant to this particular appeal contention, non-compliance with "setback standards contained in Section 22.56.130(K) of the Marin County Code."

While Section 22.56.130(K)(2) provides standards for the construction of shoreline protection works, it is Section 22.56.130(K)(1) of the County's coastal zoning ordinance which provides the required standards pertaining to "bluff top set-backs." These are the standards the LCP ordinances set forth to implement the provisions of another of the Unit I LCP "shoreline protection and hazard policies," Policy No. 1. This policy is not specifically cited by the applicant in his appeal, but is one which the Board considered in making the findings necessary to justify conditions requiring the removal of several of the site's developments. Policy No. 1 requires, in part, that:

New structures shall be set back from the Bolinas ... bluffs a sufficient distance to ensure with reasonable certainty that they are not threatened from cliff retreat within their economic life expectancies. Adequate setback distances will be determined from information contained in required geologic reports and the setback formula established below. These setbacks will be of sufficient distance to eliminate the need for shoreline protective works.

The measures, contained in ordinance Section 22.56.130(K)(1), for implementing this policy include the "setback formula" described in Policy No. 1:

Setback (meters) = structure life (yrs.) X retreat rate (meters/yr.).
In areas where vigorous sliding is taking place, an additional 15 meters should be added as a safety factor.

Section 22.56.130(K)(1) also requires that:

The retreat rate shall be determined by a geotechnical investigation conducted by a professional engineer or registered geologist which explicitly examines the site's geotechnical capability to adequately support the proposed development. The report shall include the historic and projected rate(s) of bluff retreat attributable to wave and/or surface runoff erosion.

The applicant's geotechnical consultant (E. Vincent Howes, Salem Howes Associates Inc.) has prepared an evaluation of slope stability and cliff retreat for the property, according to the requirements of LCP ordinance Section 22.56.130(K)(1), that concludes in a report to the applicant dated August 14, 1996:

the academically suggested average (retreat) rates ... of 0.3 to 0.6 meters per year is appropriate for long term evaluation at this location. Applying that rate to the formula the setback should be between 12 and 24 meters. At the time the "illegal" structures were completed the edge of the bluff was at least 12 meters away. However, since December 1995 we consider the edge of the bluff to be at the edge of the main house foundation.

In attaching conditions requiring removal of the site's "illegal" structures, the Board of Supervisors referenced this report in the Board's Findings (Exhibit 9, Resolution, Section VIII.K.-Shoreline Protection) that:

According to the geotechnical report prepared by Salem Howes Associates Inc. ... the structures should have a setback of between 12 and 24 meters (29.36 feet and 78.72 feet, respectively). However, this report identifies the edge of the bluff to be at the edge of the main house foundation, and therefore the established minimum setback cannot be met for either the residential additions or any of the detached accessory structures. Consequently, all illegally constructed development except for the existing site retaining walls, cannot be approved.

The Board of Supervisors additionally found (Exhibit 9, Resolution, Section VIII.E.) that "conditions of this project approval require removal of all improvements located along the face of the subject bluff which provide private access (down) to the beach shoreline to eliminate potential safety hazards."

As noted above, the applicant objects to the County's conditional approval, requiring the "severing of retaining wall tie backs, removal of stairs, decks and landings, (and) removal of a portion of an existing residential structure." This listing of removal requirements, which are included as conditions of approval attached to the County's coastal permit for the reasons discussed above, is accurate except that the "severing of retaining wall tie backs" was not stated as such in the County's conditions. Rather, Condition No. 2 of County Coastal Permit 96-014 states:

2. Within 30 days of the date of approval, the applicant shall disconnect the retaining wall cables from the retaining walls and brace the retaining walls so that they continue to provide erosion control, or shall submit a geotechnical evaluation prepared by a licensed, third-party, civil engineer demonstrating one of the following: (1) that the cables are the only means available to support the retaining walls; (2) that disconnecting the cables from the retaining walls would result in instability of the cliff; or (3) that the location of the tie back cables is such that they are not near, and would not adversely impact, the scarps that traverse the subject and immediately adjoining properties.

This condition is intended to address concerns, on the one hand, that the applicant has questioning the ability of the retaining walls to provide continued slope protection if they were no longer secured together by the existing connecting cables, and concerns, on the other hand, that the applicant's neighbor to the west has regarding perceived geological risks if the cables were to be left connected.

At the December 3, 1996 public hearing, the Board of Supervisors heard testimony on this matter from both Mr. Garside and Mr. Kayfetz before voting unanimously to require, as a condition of approval, the condition quoted above (Condition 2) that, instead of conclusively requiring the applicant to remove the cables as alleged in Mr. Garside's appeal, provides the applicant with an alternative. Specifically, Condition 2 provides the applicant the option of submitting a new, "third-party" geotechnical evaluation that would allow the cables to stay in place and not be cut if the new evaluation could show "that the location of the tie back cables is such that they are not near, and would not adversely impact, the scarps that traverse the subject and immediately adjoining properties."

The County's imposition of Condition No. 2 is evidence that the County's has considered the potential impacts in a manner consistent with LCP Policy No. 1 requirements relating to geologic hazards. The County's condition requiring removal of development inconsistent with LCP established bluff top set-backs is also supported by (1) the extent and scope of development located inconsistent with LCP established bluff top set-backs; (2) the potential for numerous other property owners to seek similar approval; and (3) the fact that the geologic concerns at issue involve public safety.

For these various reasons discussed above, the Commission finds that with respect to the grounds on which the applicant filed his appeal, Marin County's conditioned approval of the project does not raise a substantial issue of conformity with the certified LCP or the public access policies of the Coastal Act.

2. Contention 2.a.: The cliff retaining walls allowed by the permit are not "required" to protect existing structures, and exacerbate erosion because they are cabled together and are causing the cliff to slide as a unit.

Discussion:

As previously discussed, LCP Shoreline Protection and Hazard Policy No.5 and Ordinance Section 22.56.130(K)(2) govern the approval of the retaining walls, as follows:

Policy No. 5:

The following policy from Section 30235 of the Coastal Act is incorporated into the County LCP:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted when required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP), or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 22.56.130(K)(2):

Standards and Requirements for Shoreline Protective Works.

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted only when:

- a. Required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP).
- b. No other non-structural alternative is practical or preferable.
- c. The condition causing the problem is site specific and not attributable to a general erosion trend, or the project reduces the need for a number of individual projects and solves a regional erosion problem.
- d. The structure will not be located in wetlands or other significant resource or habitat area, and will not cause significant adverse impacts to fish or wildlife.
- e. There will be no reduction in public access, use, and enjoyment of the natural shoreline environment, and construction of a structure will preserve or provide access to related public recreational lands or facilities.
- f. The structure will not restrict navigation, mariculture, or other coastal use and will not create a hazard in the area in which it is built....

Design standards for all shoreline structures. The design and construction of any shoreline structure shall:

- a. Make it as visually unobtrusive as possible;
- b. Respect natural landforms to the greatest degree possible;
- c. Include mitigation measures to offset any impacts on fish and wildlife resources caused by the project;
- d. Minimize the impairment and movement of sand supply and the circulation of coastal waters;
- e. Address the geologic hazards presented by construction in or near Alquist-Priola earthquake hazard zones; and
- f. Provide for the reestablishment of the former dune contour and appearance.

(The mid-portion of Section 22.56.130(K)(2) is not quoted because it relates only to shoreline protective structures located on beaches.)

LCP shoreline protection and hazard areas Policy No. 5 requires cliff retaining walls "when required to ... protect existing structures." The Board's Resolution included findings (Exhibit 9, Resolution, sections VIII.K. and VI) that:

The geotechnical report (Salem Howes Associates Inc., dated August 14, 1996) and the County Public Works Department both recommend that the retaining walls situated along the face of the bluff be retained because ... (3) removal of these structures would unnecessarily expose additional areas to the effects of wind and water erosion decreasing slope stability and substantially increasing the potential for health and safety hazards for occupants of the subject property ... legalization of engineered retaining walls would reduce bluff erosion and promote public safety for occupants of the subject property ... consistent with Section 22.56.130(K)(2)(a) of the Marin County Code; and

the project, as modified by conditions, is consistent with Local Coastal Program-Unit 1 because: (1) the subject structures help to protect the existing approved residential development from cliff retreat

The August 14, 1996 Salem Howes Associates geotechnical report, which incorporated the results of on-site investigations, and which was cited in the Board's findings, states:

The site improvements including the drainage and stepped retaining walls from the beach have all had a positive impact on the stability of the bluff and we strongly recommend that they remain in place with continued

maintenance Removal of existing "illegal" structures would expose additional areas to the effects of wind and water erosion and decrease slope stability.

The Board's findings clearly make the point that the retaining walls reduce erosion and cliff retreat and thus help protect the site's existing residential development and occupants of the residence, consistent with Policy No. 5. The Board's interpretation of the retaining walls' consistency with Policy 5 is also reasonable given the evidence in the record that removal of the retaining walls would substantially increase the potential for health and safety hazards for occupants of the subject property.

The appellant, Mr. Paul Kayfetz, has not presented any evidence from on-site investigations that would support his other assertion in Contention 2.a that the cliff retaining walls "exacerbate erosion because they are cabled together and are causing the cliff to slide as a unit." Although Mr. Kayfetz' geotechnical consultant, Donald H. Hillebrandt, wrote the County Planner, Andrea Fox (August 27, 1996) to comment on reports prepared by Salem Howes Associates for the Garside property, Mr. Hillebrandt's comments primarily relate to the cables' affects on "overall stability of the slope" (see Contention 2.b below). In fact, Mr. Hillebrandt's letter's only reference to erosion states "At best, they (the walls on the Garside slope) are providing localized erosion control, as stated on page 4 in the August 14, 1996 Salem Howes Associates report."3.

The Commission therefore finds that with respect to the grounds on which the appellant filed his appeal, Marin County's conditioned approval of the retaining walls does not raise a substantial issue of conformity with the certified LCP or the public access policies of the Coastal Act.

3. Contention 2.b.: The cabling of the retaining walls to earth anchors is not required to preserve existing structures and has caused cliff cracking that threatens structures on the Kayfetz property.

Discussion:

This contention relates to the alleged situation graphically depicted in the "conceptual cross section showing damage being caused by tying sinking block across crack to undamaged land," attached to a letter to the County from Mr. Donald H. Hillebrandt, dated September 30, 1996 (Exhibit 12).

As previously discussed, LCP Shoreline Protection and Hazard Policy No.5 and Ordinance Section 22.56.130(K)(2) mandate the approval of retaining walls and other such construction in specified situations. Policy No. 5 states:

The following policy from Section 30235 of the Coastal Act is incorporated into the County LCP:

A-1-MAR-96-81
RALPH GARSIDE

Page 16

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline process shall be permitted when required to serve coastal-dependent uses or to protect existing structures (constructed before adoption of the LCP), or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Policy No.5, and the implementing provisions of Ordinance Section 22.56.130(K)(2), do not include any such mandates for cables or other construction that does not alters natural shoreline processes. Cables are not specifically mentioned in these LCP sections, nor are cables similar to the types of construction that are mentioned in these sections. Moreover, it is unclear why the appellant would reference a policy which mandates approval to support an argument that such development should not be allowed. Regardless, approval of the cables would not be governed by Policy No. 5.

In addition, the County's action to approve the retaining walls did include consideration of the affect the cables may have on slope stability. In the minutes from the County Planning Commission's hearing on the project, it is recorded that at that hearing a representative for Mr. Kayfetz submitted the "conceptual cross section" (Exhibit 12) described above, and that in response to one of the Planning Commissioner's question regarding a "secondary scarp" depicted on the cross section, Mr. Sia Mohammadi of the County Public Works Department had stated that a) there is no evidence that a second scarp exists on the subject property, and b) based upon the engineering studies on file, if a second scarp does exist, it would not affect the first scarp because the cables are merely holding the retaining walls in place to provide surface earth erosion control.

In any event, as described earlier (Contention 1. Discussion) the County's conditional approval of the retaining walls allows continued cable connections between the walls only if it can be demonstrated by a new, third-party geotechnical evaluation that no geological hazards would result from maintained connections (County Condition No. 2). As previously discussed, the County's imposition of Condition No. 2 is evidence of the County's consideration of geologic impacts in manner consistent with LCP Policy No. 1. The Commission therefore finds that with respect to the grounds on which the appellant filed his appeal, Marin County's conditioned approval of the retaining walls does not raise a substantial issue of conformity with the certified LCP or the public access policies of the Coastal Act.

4. Contention 2.c.: The retaining walls detract from the natural appearance of coastal bluffs from public viewing places, inconsistent with LCP visual resources provisions.

Discussion:

Chapter IV of Marin County's LCP for the County's Unit I segment, entitled "Public Services and New Development," includes a one paragraph section on

Visual Resources that cites Coastal Act Sec. 30251's "concern ... to protect public views to scenic resources from public roads, beaches, trails, and vista points" but does not incorporate Sec. 30251 into the LCP. The single policy in Chapter IV that relates to visual resources, Policy No. 21, limits new construction in Bolinas to twenty-five feet in height, and requires that views "of the ocean, Bolinas Lagoon, or the national or State parklands from Highway 1 or Panoramic Highway" not be impaired or obstructed. Concerns with the impacts of coastal development on the views from public viewing areas in general are also expressed in the LCP in its zoning ordinance provisions, specifically in Section 22.56.130(O)(3) which states:

The height, scale, and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places.

The various structures constructed on the bluff face that are visible from the public beach at the base of the subject property are shown on Exhibit 5, Bluff Face Site Plan and Exhibit 6, Retaining Walls' Profiles. As described earlier, the bluff face development includes a wooden stairway which descends past thirteen or so wood retaining walls, a gazebo, and a series of decks and landing areas. As discussed earlier, the County's decision on the project application includes conditions requiring the removal of all bluff face construction except the retaining walls.

The bluff face development on the Garside property not only obscures significant portions of the bluff face, but does so in a busy manner, consisting as it does of many intersecting and overlapping vertical, horizontal and diagonal elements that do not blend into the bluff face's topography. As conditioned by the County, however, for the removal of all development from the bluff face other than the natural wood retaining walls required to be approved by Hazard Policy 5, the view of the bluff face will not be significantly obstructed consistent with the development standards of the certified LCP

In approving retention of the 3- to 5-foot-high wood retaining walls while requiring removal of all other development from the bluff face, the Board found (Exhibit 9, Board Resolution, Section VIII.O.-Visual Resources) that:

Pursuant to Section 22.56.130(O) of the Marin County Code, structures shall be designed to be compatible with the character of the surrounding natural and/or built environment. The existing unauthorized construction is not consistent with this development standard in that it detracts from the natural appearance of the coastal bluff, resulting in a substantial demonstrable negative aesthetic effect from public viewing places. However, as modified by recommended conditions which require removal of all unauthorized construction situated at the edge of the coastal bluff (except for existing site retaining walls and the

relocated barn structure) this finding can be made because, pursuant to Section 22.56.130(O)(3) of the Marin County Code, the scale and design of the remaining structures would protect visual resources from public viewing places and the development would conform with the identified Marin Countywide Plan policies and Title 22 zoning development standards.

The Board of Supervisors additionally found (Exhibit 9, Board Resolution, Section IV) that:

as modified by conditions, this project would not have a potentially significant impact on the environment ... because the bluff retaining walls would not result in significant ... alterations to the physical environment. In particular, the retaining walls are constructed with natural wood materials which minimizes the extent to which they would change the visual setting of the coastal bluff.

The County's decision to allow the retaining walls therefore included consideration of the walls' visual impacts and findings that support the conclusions that the visual impacts from leaving the walls in place would be minimal. The County's determination that allowing the retaining walls to remain would not have a significant adverse impact on visual resources is also supported by (1) the fact that the retaining walls are not visible from Highway 1 or any other public road, (2) the principal views from the vantage point where the bluff is visible, the beach at the base of the bluff, are towards the ocean and up and down the coast, not back towards the bluff, (3) there are other cliff retaining walls and shoreline protective devices along other parts of the bluff on other property, and (4) the beach in this location is less used than other nearby beach areas, such as the beach a quarter mile to the east at the foot of Brighton Avenue. The Commission therefore finds that with respect to the grounds on which the appellant filed his appeal, Marin County's conditioned approval of the retaining walls does not raise a substantial issue of conformity with the certified LCP or the public access policies of the Coastal Act.

5. Contention 2.d.: The proposed relocation of the horse barn still places it within the bluff setback zone provided by the LCP.

Discussion:

As discussed previously, County conditions require the removal of certain of the site's blufftop structures because, as stated in the Board's Findings (Exhibit 9, Board Resolution, Section VIII.K.-Shoreline Protection), the minimum blufftop setbacks required by LCP ordinance Section 22.56.130(K)(1) could not be met:

According to the geotechnical report prepared by Salem Howes Associates Inc. ... the structures should have a setback of between 12 and 24 meters (29.36 feet and 78.72 feet, respectively). However, this report identifies the edge of the bluff to be at the edge of the main house

A-1-MAR-96-81
RALPH GARSIDE

Page 19

foundation, and therefore the established minimum setback cannot be met for either the residential additions or any of the detached accessory structures.

However, the same Finding continues:

Further, as modified by conditions of approval, continued use of the existing, two-story barn would comply with the bluff top setbacks established through the Marin County Code and Local Coastal Program if it is relocated farther away from the edge of the coastal bluff.

Condition No. 1 of the County's permit for the project (CP No. 96-014) states, in applicable part, "approval hereby permits legalization of ... the relocated two-story, detached barn as marked by hand on Exhibit 'B'." The County's Exhibit "B" was attached to the County's December 3, 1996 staff report as "BOS Attachment 7," and is reproduced in this staff report as Exhibit 7, Revised Barn Location. The Exhibit shows the barn's present location, at the east end of the applicant's property, and a triangular-shaped building envelope as the location to which the barn must be re-located in order to meet LCP setback requirements. The County's Exhibit "B" indicates a 40-foot blufftop setback for the "revised barn location."

The 40-foot setback falls within the acceptable 29.36- to 78.72-foot range cited above in the Board's Finding (VIII.K.-Shoreline Protection) and established pursuant to Shoreline Protection and Hazard Areas Policy No. 1 and Ord. Section 22.56.130(K)(1). The Board's decision to conditionally approve the barn thus was supported by findings of consistency with LCP blufftop setback requirements.

The appellant contends, however, that "when the actual rate of retreat documented in 3 years of the applicant's own geologist's report, rather than ... (the) general historic rate for area, is utilized" the proposed barn relocation still places it within the setback zone.

The appellant, however, has not submitted any materials that further describe or quantify the alternative "actual rate" of retreat he contends would make a difference in determining required setbacks. The rate of retreat that the Board utilized in applying the requirements of LCP ordinance Section 22.56.130(K)(1) is the rate that the applicant's own geologist, in his report dated August 14, 1996 (see Contention No. 1 discussion above), has stated "has been measured since 1859" and "is appropriate for long term evaluation at this location."

As relocating the barn as required by the County would maintain an adequate setback distance from the bluff based on information contained in the required geologic report, the Commission finds that with respect to the grounds on which the appellant filed his appeal, Marin County's conditioned approval does not raise a substantial issue of conformity with the certified LCP or the public access policies of the Coastal Act.

6. Contention 2.e.: Use of the top floor of the barn as a residential apartment without a potable water supply violates LCP requirements for the provision of potable water before permitting such use.

Discussion:

Marin County's coastal ordinance Sec. 22.56.130(A) states that "Coastal project permits shall be granted only upon a determination that water service to the proposed project is of an adequate quantity and quality to serve the proposed use." Although at some earlier dates the barn's upper floor has been occupied as living quarters, the Board of Supervisors made a specific use permit Finding for the barn (Exhibit 9, Board Resolution, Section X) that "the structure would not be used as habitable floor area and would not result in privacy impacts to surrounding properties." The appellant's contention of LCP inconsistency is thus misfounded, since LCP requirements relating to potable water supplies do not apply to barns that are used as barns.

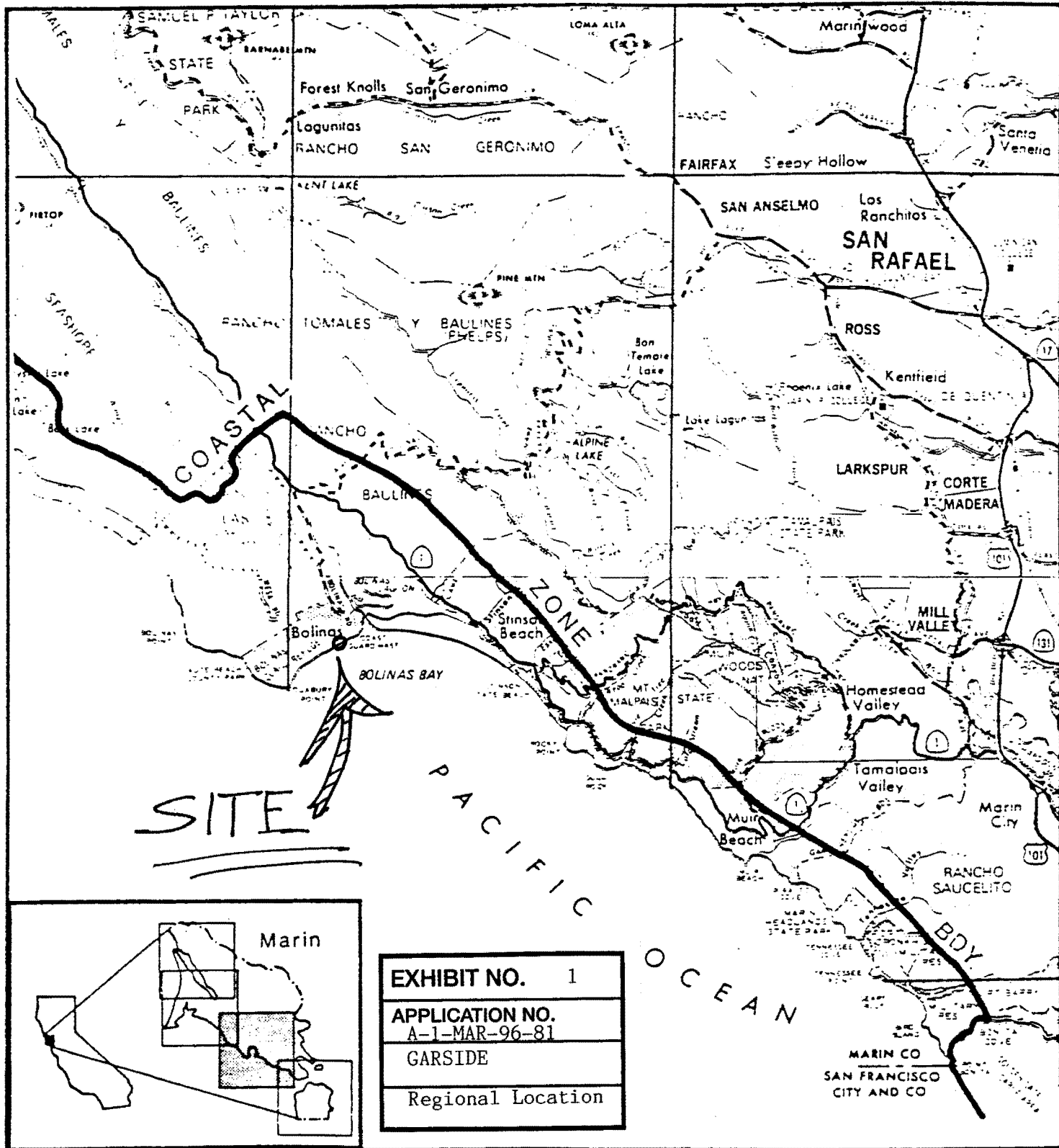
The Commission therefore finds that with respect to the grounds on which the appellant filed his appeal, Marin County's conditioned approval does not raise a substantial issue of conformity with the certified LCP or the public access policies of the Coastal Act.

E. CONCLUSION

In summary, for the reasons stated above, the Commission finds that the project as approved and conditioned by the County of Marin raises no substantial issue with respect to the grounds on which the appeals have been filed.

Exhibits

1. Regional Location Map
2. Site Location Map
3. Parcel Map
4. Blufftop Site Plan
5. Bluff Face Site Plan
6. Retaining Walls' Profiles
7. Revised Barn Location
8. Residential & Aviary Additions
9. Board of Supervisors Resolution Transmittal
10. Garside Appeal
11. Kayfetz Appeal
12. Hillebrandt Letter (9/30/96)
13. Garside Letter (2/6/97)
14. Hillebrandt Letter (12/7/96)
15. Applicant's Time Waiver



SITE

EXHIBIT NO.	1
APPLICATION NO.	A-1-MAR-96-81
GARSDIE	
Regional Location	

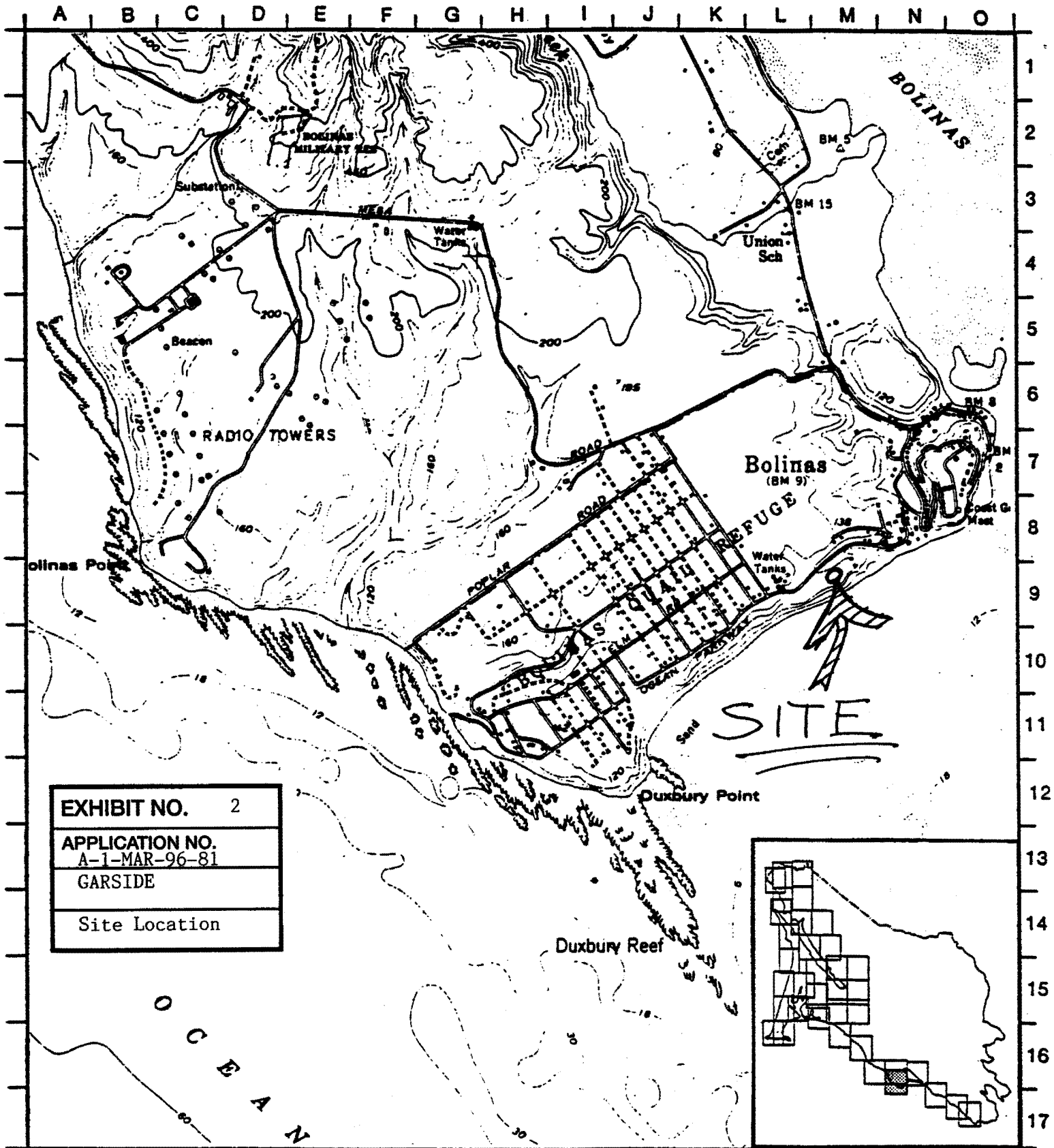
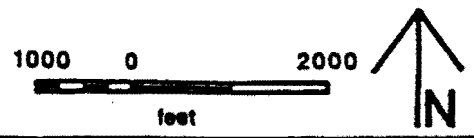
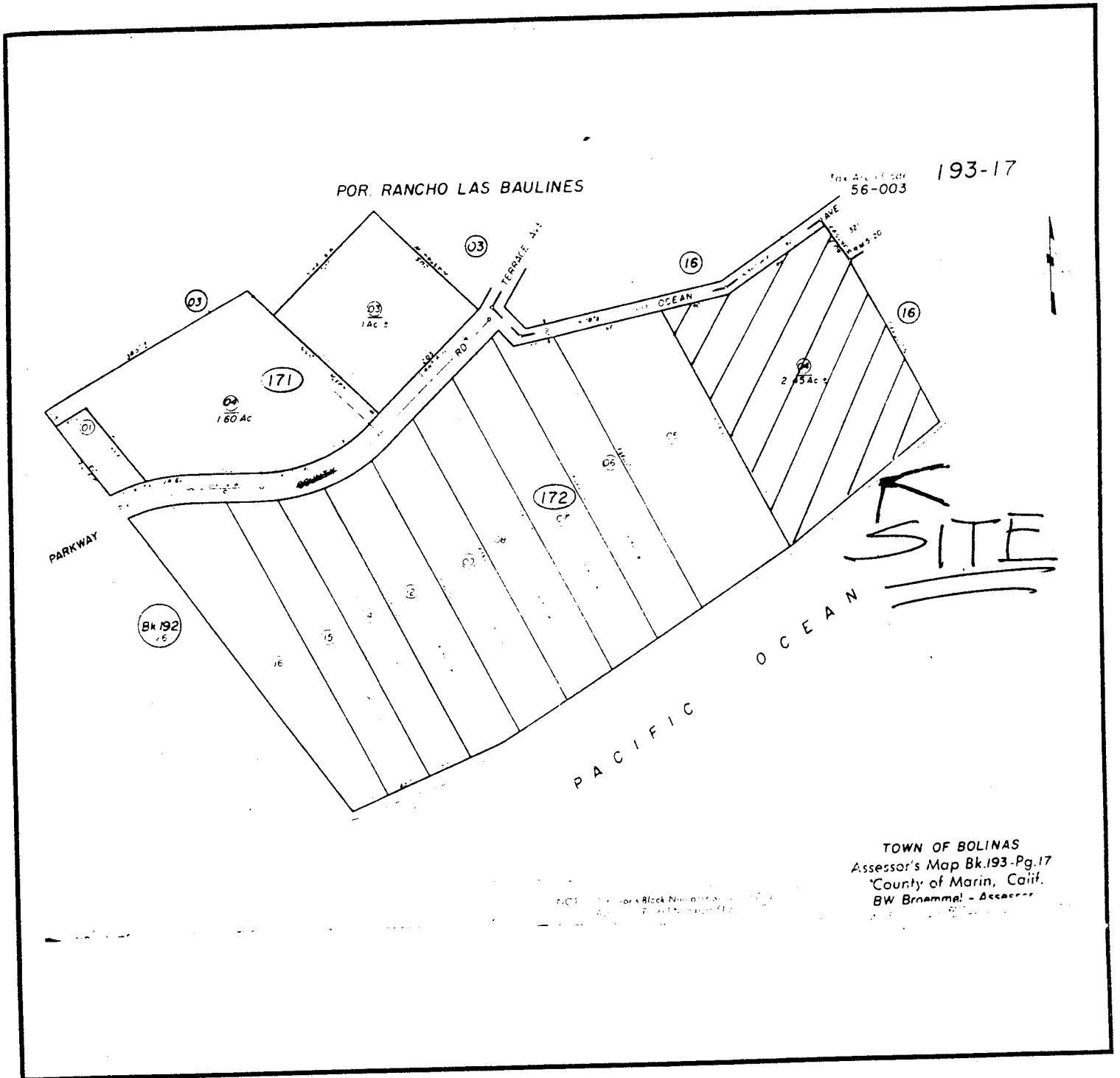


EXHIBIT NO.	2
APPLICATION NO.	A-1-MAR-96-81
	GAR SIDE
Site Location	



 California Coastal Commission

**Marin County
Community Development Agency
Parcel Map**



TOWN OF BOLINAS
Assessor's Map Bk.193-Pg.17
County of Marin, Calif.
BW Brummel - Assessor

EXHIBIT NO.	3
APPLICATION NO.	A-1-MAR-96-81
	GARSIDE
	Parcel Map

GARSIDE CP 96-014/UP 96-015/TP 96-008
20 Ocean Ave., Bolinas
Assessor's Parcel #193-172-04
October 7, 1996
(Not to Scale)

ATTACHMENT #3

REVISIONS



PEACOCK DESIGNS
Blufftop 5/30/96
(415) 968-0202
P.O. Box 129 • Bolinas, CA 94924

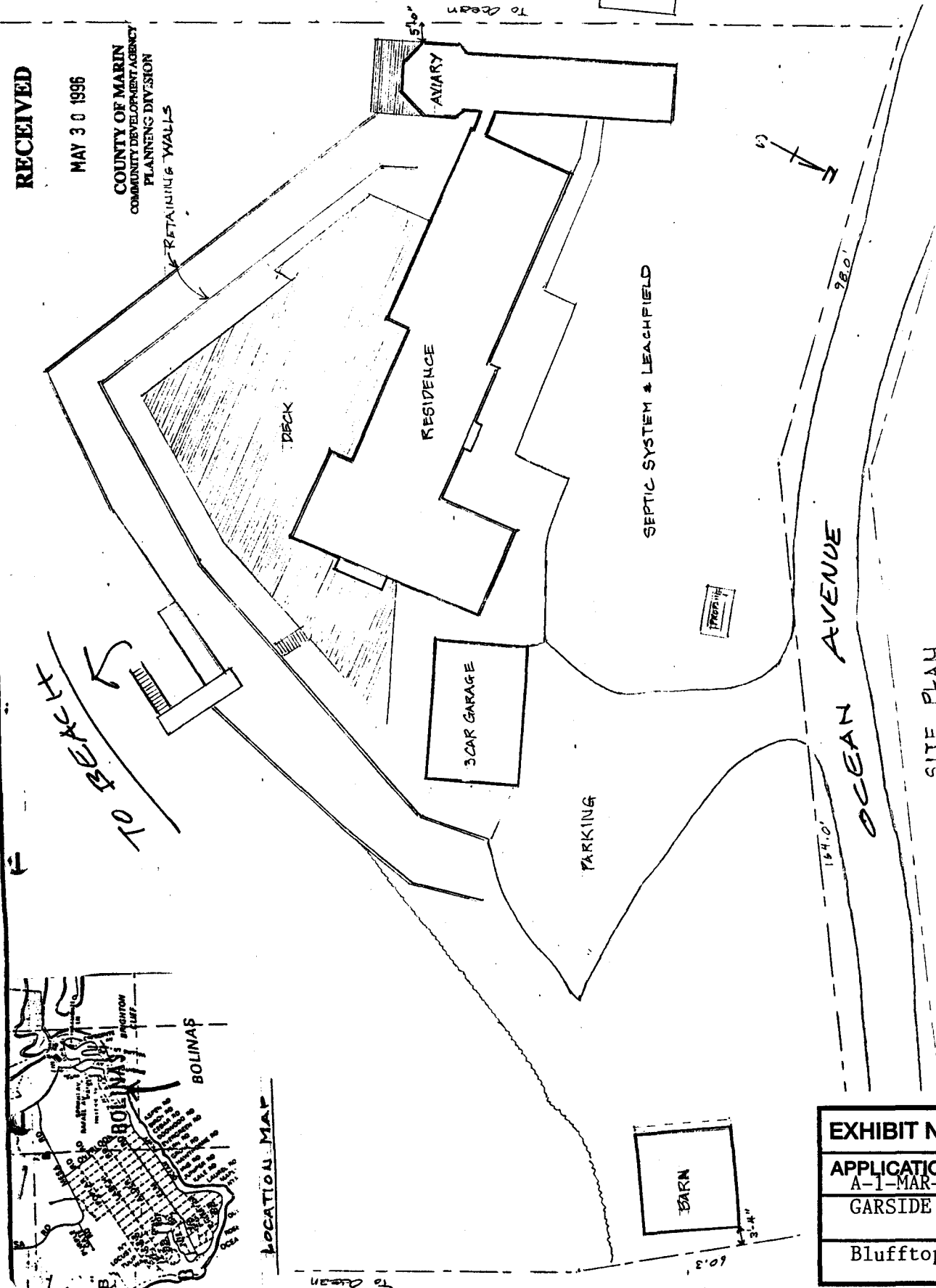
RUTH GARSIDE Residence
20 Ocean Ave. Bolinas, Ca.
AP# 193-172-04
SITE PLAN / LOCATION MAP

DATE 5-20-96
SHEET NO. 1
7

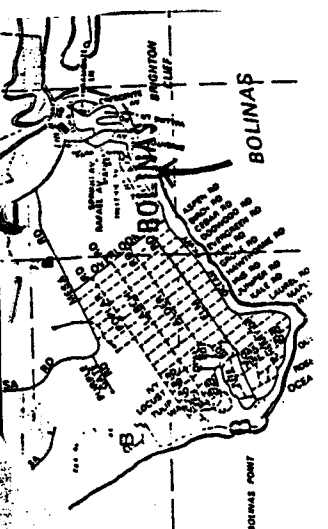
RECEIVED
MAY 30 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

RETAINING WALLS

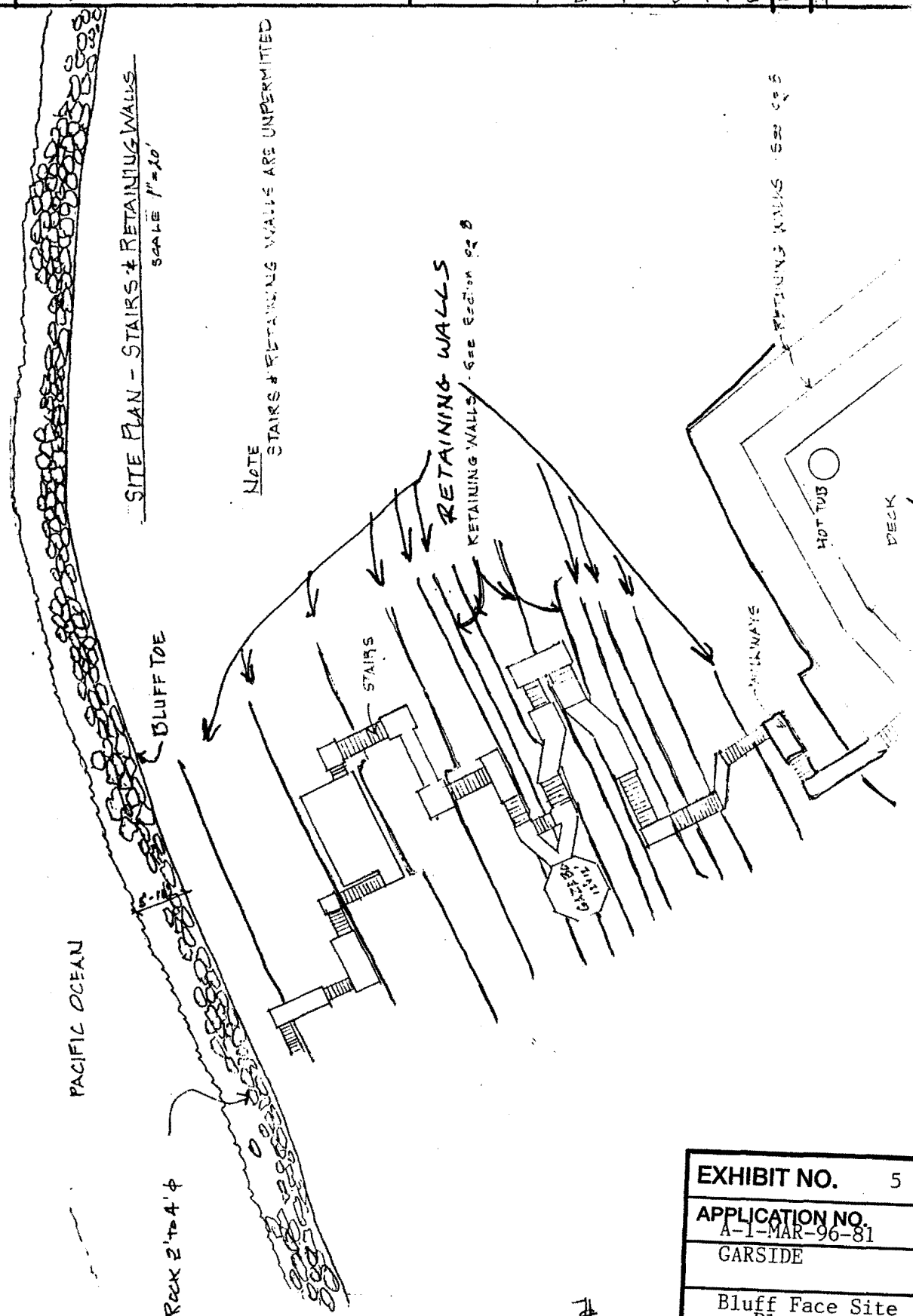


TO BEACH



LOCATION MAP

EXHIBIT NO.	4
APPLICATION NO.	A-1-MAR-96-81
	GARSIDE
Blufftop Site Plan	



SITE PLAN - STAIRS & RETAINING WALLS
SCALE 1"=10'

NOTE STAIRS & RETAINING WALLS ARE UNPERMITTED

RETAINING WALLS
RETAINING WALLS - SEE SECTION 02 B

RETAINING WALLS - SEE 02 B

TO HOUSE

PACIFIC OCEAN

BLUFF TOE

RIP RAP - ROCK 2' TO 4' &

STAIRS

HOT TUB

DECK

WALKWAY

LIMIT

EXHIBIT NO.	5
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Bluff Face Site Plan	



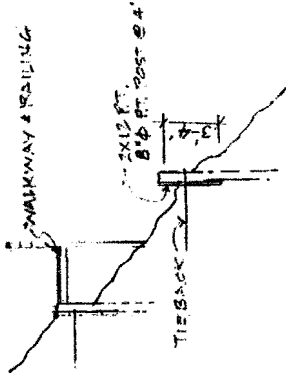
PEACOCK DESIGNS

Ray Peacock 5/10/96
4151 868-0202
PO Box 129 ■ Bolinas, CA 94924

Ralph Garbide Residence
20 Ocean Ave., Bolinas CA
APR 193-17E-CA
R. + J. Garbide 11/11/8

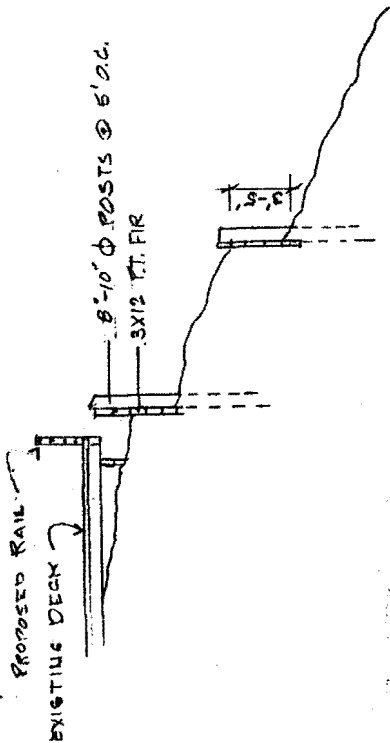
DATE 5-20-96
SCALE 1/4" = 1'-0"

77
77



SECTION - TOP LOWER WALLS

EXHIBIT NO.	6
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Retaining Walls' Profiles	



SECTION - UPPER RETAINING WALL
2x12 FT. MIN.



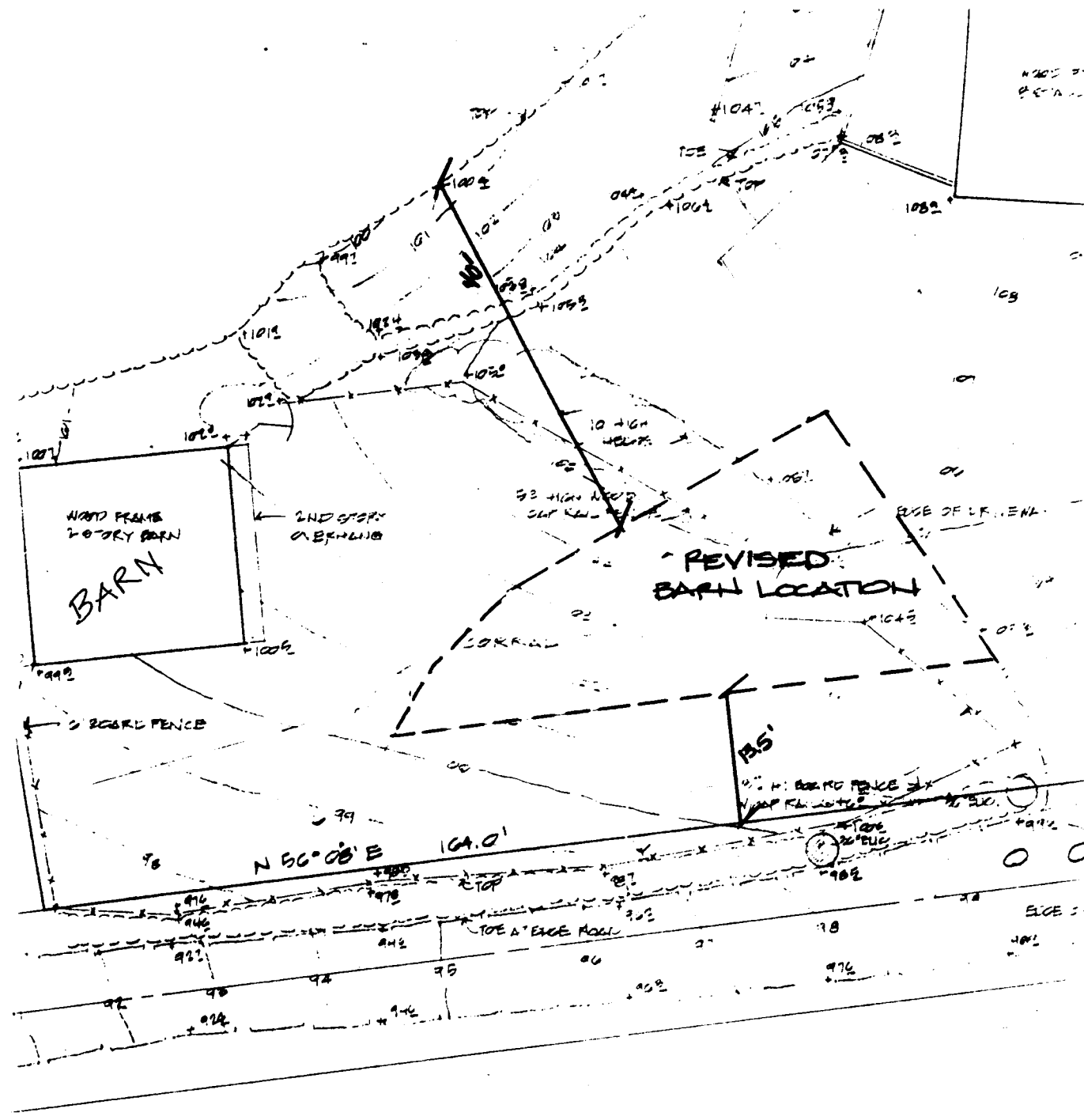


EXHIBIT NO.	7
APPLICATION NO.	A-1-MAR-96-81
	GARSDALE
	Revised Barn Location

8-12-96



PEACOCK DESIGNS

Raymond

P.O. Box 129 • Bolinas, CA 94924

(415) 998-0202

Ralph Garbide Residence
20 Ocean Ave Bolinas, Ca.
AP# 193-172-04
SITE PLAN / LOCATION MAP

DATE
5-20-96

SHEET NO.

1 OF 8

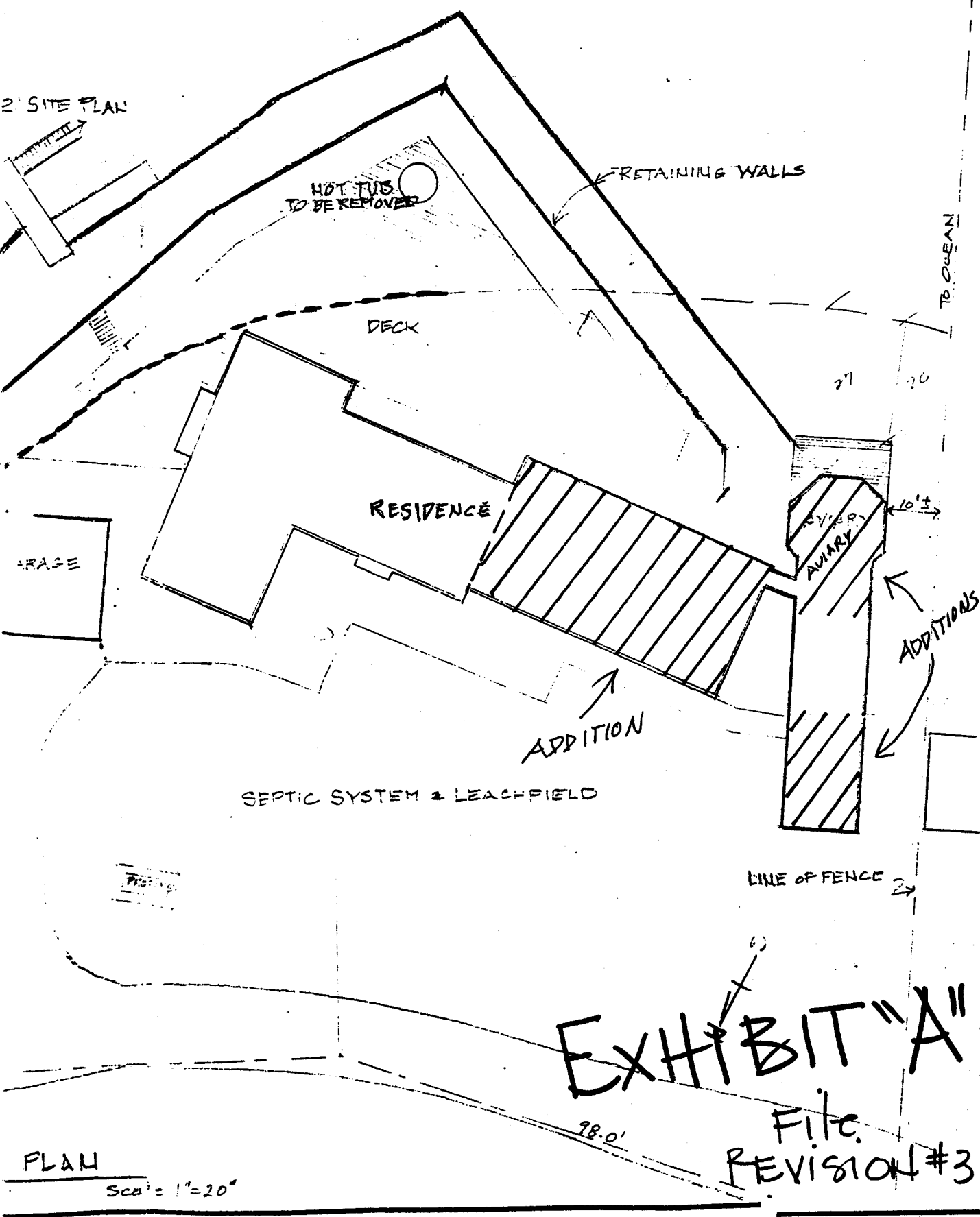
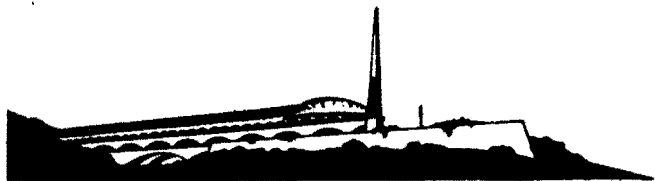


EXHIBIT "A"

File
REVISION #3

EXHIBIT NO.	8
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Residential & Aviary Additions	



ADMINISTRATION BUILDING
 SUITE 315, 3501 CIVIC CENTER DR.
 SAN RAFAEL, CALIFORNIA 94903-4193
 TELEPHONE (415) 499-7331
 FAX (415) 499-3645
 TDD (415) 499-6172

THE BOARD OF SUPERVISORS OF MARIN COUNTY

December 6, 1996

RECEIVED
 DEC 09 1996

CALIFORNIA
 COASTAL COMMISSION

Mr. Bill Van Beckum
 Coastal Planner
 California Coastal Commission
 45 Fremont, Suite 2000
 San Francisco, CA 94105-2219

RE: Garside - 20 Ocean Ave., Bolinas, CA

Dear Mr. Van Beckum:

Pursuant to the request of the Marin County Board of Supervisors, and Andrea Fox, Planner with the Marin County Community Development Agency, I am enclosing a copy of the minutes of the Board meeting of December 3, 1996, and a copy of adopted Resolution 96-165, A Resolution Denying the Garside Appeal and Sustaining the Decision of the Planning Commission to Substantially Deny and Partially Approve the Garside Coastal Permit, Use Permit, and Tidelands Permit - 20 Ocean Avenue, Bolinas.

Sincerely,

Diane Sauer

Diane Sauer
 Deputy Clerk
 Marin County Board of Supervisors:

cc: Marin County Board of Supervisors
 Andrea Fox, Planner, Community Development Agency

EXHIBIT NO. 9
APPLICATION NO. A-1-MAR-96-81
GAR SIDE Resolution
Transmittal (Page 1 of 13 pages)

2ND VICE-CHAIRMAN
 JOHN KRESS
 SAN RAFAEL
 1ST DISTRICT

CHAIRMAN
 HAROLD C. BROWN
 SAN ANSELMO
 2ND DISTRICT

ANNETTE ROSE
 SAUSALITO
 3RD DISTRICT

GARY GIACOMINI
 SAN GERONIMO
 4TH DISTRICT

VICE-CHAIRMAN
 HARRY J. MOORE
 NOVATO
 5TH DISTRICT

CLERK
 MARTIN J. NICHOLS
 REGULAR MEETING
 TUESDAY, 9 A.M.

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 96-165

A RESOLUTION DENYING THE GARSIDE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION TO SUBSTANTIALLY DENY AND PARTIALLY APPROVE THE GARSIDE COASTAL PERMIT, USE PERMIT, AND TIDELANDS PERMIT 20 OCEAN AVENUE, BOLINAS

ASSESSOR'S PARCEL NO. 193-172-04

SECTION I: FINDINGS

- I. WHEREAS, Ralph Garside has submitted a Coastal Permit, Use Permit, and Tidelands Permit application requesting approval to legalize: 1) an 18 foot high, 900 square foot barn; 2) a 13.5 foot high, 1,137 square foot residential addition; 3) an 18 foot high, 747 square foot aviary; and 4) a series of decks, retaining walls, gazebo, stairs, and landing areas located in the rear yard of the subject property, providing private access to the beach. In conjunction with the project proposal the applicant intends to fill the existing excavated area which was intended for an at-grade swimming pool, remove an existing spa, and construct a new breezeway to connect the aviary to the single-family dwelling. The subject property is 2.45 acres in size, however, much of the property is comprised of a vertical bluff and beach area. The subject property is located at 20 Ocean Avenue, Bolinas, and is further identified as Assessor's Parcel #193-172-04.
- II. WHEREAS, the Marin County Board of Supervisors held a duly noticed public hearing on December 3, 1996, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS, the Marin County Board of Supervisors finds that the subject residential addition, bird aviary addition, barn structure, and deck, stairs, stair-landings and gazebo structures violate the standards of the Marin County Code and are inconsistent with the goals, policies and objectives of the Marin Countywide Plan, the Local Coastal Program, and Bolinas Community Plan because: (1) there is no approved domestic water supply for the illegal structures because the Bolinas Community Public Utility District denied the property owner's request for an Expanded Water Use Permit based on historic and current water usage on the subject property; (2) the subject illegal development does not comply with the established setback standards contained in Section 22.56.130(K) of the Marin County Code; and (3) the illegal construction disrupts and detracts from the scenic beauty of the landscape within the coastal zone which is an identified significant resource according to the Marin County Local Coastal Program.
- IV. WHEREAS, the Marin County Board of Supervisors finds that as modified by conditions, this project would not have a potentially significant impact on the environment, and therefore qualifies for a Categorical Exemption from the California Environmental Quality Act, pursuant to Section 15303, Class 3 of the 1992 State CEQA Guidelines, because the bluff retaining walls would not result in significant grading, tree removal, changes in water courses, air pollution, noise, visual impacts, and other alterations to the physical environment. In particular, the retaining walls are constructed with natural wood materials which minimizes the extent to which they change the visual setting of the coastal bluff.
- V. WHEREAS, the Marin County Board of Supervisors finds that the project, as modified by conditions, is consistent with the goals, policies, and objectives of the Marin Countywide Plan because: (1) it authorizes construction which protects people and property from geologic hazards; (2) the approved construction minimizes potential visual impacts from off-site locations to the greatest extent feasible by only authorizing construction which is necessary to promote public health and safety; (3) the approved construction would minimize grading and excavation in a geologically-sensitive location; and (4) the site retaining walls would minimize the risk of geologic hazards to acceptable levels as determined by the Department of Public Works.

CCC need 12/9/96

- VI. WHEREAS, the Marin County Board of Supervisors finds that the project, as modified by conditions is consistent with the Local Coastal Program-Unit I because: (1) the subject structures help to protect the existing approved residential development from cliff retreat; (2) the project protects scenic and visual resources of coastal areas to the greatest extent possible because it involves removal of all unnecessary, unauthorized development which compromises stability of the coastal bluff; (3) the project minimizes grading in a geologically-sensitive area; and (4) no demand on the existing water supply would be generated by legalization of the existing site retaining walls.
- VII. WHEREAS, the Marin County Board of Supervisors finds that the project, as modified by conditions of project approval, is consistent with the Bolinas Community Plan because: (1) the project represents legalization of site retaining walls which help to reduce surface erosion, thereby protecting existing authorized residential development in a geologically unstable area; (2) the project protects scenic and visual resources of coastal areas to the greatest extent possible because it involves removal of unnecessary, unauthorized development which compromises stability of the coastal bluff; and (3) no demand on the existing water supply would be generated by legalization of the existing site retaining walls.
- VIII. WHEREAS, the Marin County Board of Supervisors finds that excepting the site retaining walls, the proposed project is inconsistent with the mandatory findings to approve the Coastal Permit (Section 22.56.130 of the Marin County Code) because:

A. Water Supply:

Adequate water is not available for the proposed residential improvements. The subject property is provided water service by the Bolinas Community Public Utility District (BCPUD) and approval of the subject illegal residential construction requires an Expanded Water Use Permit from BCPUD. The BCPUD reviewed the proposed project and denied the property owner's request for the Expanded Water Use Permit for the following reasons: (1) the number of inhabitants of the property is greater than would be expected for a single-family dwelling; (2) there was a tripling of water usage occurring at the time of the illegal construction suggesting that water consumption is relative to the type and size of the improvements; (3) the current water usage is more than double the amount the Board of Director's would establish as a maximum allowance for the subject property; and (4) the applicant has not demonstrated that the septic system has the loading capacity to handle the average water use for the past 10-12 years, raising concerns that over use of the septic system may be contributing to the erosion problem and may threaten the District's water lines located in Ocean Avenue.

Pursuant to Section 22.56.130(A) of the Marin County Code, Coastal Permit approval shall only be granted upon a finding that water service to the proposed project is of an adequate quantity and quality. As indicated above, the BCPUD will not provide additional water service to accommodate the subject property and, therefore, this finding cannot be made.

B. Septic System Standards:

The Environmental Health Services Division has indicated that the current septic system appears to be functioning adequately and that legalization of the existing illegal residential improvements does not result in an additional bedroom, and consequently would not require any modifications to the current septic system. However, according to the property owner, the 1981-82 winter storms felled approximately three trees located on, and immediately adjacent to, the subject property which resulted in damage to the septic system leachlines. As acknowledged in the Stipulated Judgment, property owner extended the leachlines and enlarged the leachfield area to accommodate a four-bedroom dwelling, without the benefit of the necessary septic permits. Therefore, Environmental Health has recommended conditions of project approval which require that the property owner: (1) submit a septic system evaluation which demonstrates the system is working in good condition and does not pose a threat to the public health; (2) file a deed restriction with the Marin County Recorder's Office which renders the bird aviary and barn structures as non-habitable floor area; and (3) apply for, and receive a septic permit for the illegal upgrade of the septic

system leachlines. Upon compliance with these stated conditions and removal of the unauthorized residential additions, the improvements on the subject property would be consistent with Section 22.56.130(B) of the Marin County Code.

C. Grading and Excavation:

As modified by conditions of project approval, this permit would authorize legalization of the existing site retaining walls and relocation of the barn structure only, thereby minimizing grading and excavation to the greatest extent feasible. Further, conditions of project approval require that construction activities conform with the Department of Public Works erosion and sediment control requirements established in Section 23.08 of the Marin County Code.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of high archaeological sensitivity. The proposed project is not likely to disturb cultural resources because grading would be limited to removal of illegal residential construction, relocation of the existing horse barn, and possible maintenance of the existing site retaining walls only. Regardless, because the subject and surrounding properties are in a high archaeological sensitivity zone, a recommended condition of project approval requires that, in the event that cultural resources are uncovered during site preparation, all work be stopped immediately, and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate mitigation measures.

E. Coastal Access:

This finding is not applicable because the subject property is situated at the edge of a vertical coastal bluff and conditions of this project approval require removal of all improvements located along the face of the subject bluff which provide private access to the beach shoreline to eliminate potential safety hazards.

F. Housing:

The proposed residential construction would not impact the availability of housing stock in Bolinas.

G. Stream Conservation Protection:

This finding can be made because the U.S. Geological Survey Maps, Bolinas Quadrangle, indicates that no blue-line streams are situated on or near the subject property.

H. Dune Protection:

This finding is not applicable because the project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat:

Review of the Natural Resources Map for Unit I of the Local Coastal Program and California Natural Diversity Data Base, prepared by the State Department of Fish and Game indicates that the subject property is located within a sensitive area which provides habitat for the Federally endangered Monarch Butterfly (*Danus plexippus*). The Monarch Butterfly roosts along the coastline from northern Mendocino to Baja California in wind-protected eucalyptus, Monterey pine, and/or cypress tree groves. The project, as modified by conditions of project approval, would not require removal of any trees or disruption of identified habitat.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare and endangered plants. A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is not located in the habitat area for any rare or endangered plant species.

K. Shoreline Protection:

The rear portion of the subject property is comprised of a coastal bluff which has an average retreat rate of 0.3 to 0.6 meters per year according to the geotechnical reports prepared for the subject property. Pursuant to Section 22.56.130(K) of the Marin County Code, new structures shall be set back from coastal bluff areas a sufficient distance to ensure with reasonable certainty that they are not threatened from cliff retreat within their economic life expectancies. The formula used to determine a sufficient distance from the edge of the coastal bluff is as follows: $\text{Setback (meters)} = \text{structure life (normally at least 40 years)} \times \text{retreat rate (meters/year)}$. According to the geotechnical report prepared by Salem Howes Associates Inc., dated August 14, 1996 (Attachment 14), the structures should have a setback of between 12 and 24 meters (29.36 feet and 78.72 feet, respectively). However, this report identifies the edge of the bluff to be at the edge of the main house foundation, and therefore the established minimum setback cannot be met for either the residential additions or any of the detached accessory structures. Consequently, all illegally constructed development except for the existing site retaining walls, cannot be approved.

The geotechnical report and the County Public Works Department both recommend that the retaining walls situated along the face of the bluff be retained because: (1) the subject walls do not have an adverse effect on the slope stability; (2) removal of the existing retaining walls located on the face of the coastal bluff would not improve the stability of the bluff; and (3) removal of these structures would unnecessarily expose additional areas to the effects of wind and water erosion decreasing slope stability and substantially increasing the potential for health and safety hazards for occupants of the subject property and persons traveling along the beach below.

Accordingly, the retaining walls may be approved subject to conditions which require submittal of a geotechnical report which evaluates the design characteristics, footings, and drainage for the existing retaining walls and identifies which walls, if any, could be safely removed without substantially increasing erosion and decreasing public safety. Further, as modified by conditions of approval, continued use of the existing, two-story barn would comply with the bluff top setbacks established through the Marin County Code and Local Coastal Program if it is relocated farther away from the edge of the coastal bluff. In combination, the elimination of the illegal habitable and usable structures and legalization of engineered retaining walls would reduce bluff erosion and promote public safety for occupants of the subject property and people traveling along the beach below, consistent with the Coastal Permit standards for shoreline protection Section 22.56.130(K)(2)(a) of the Marin County Code.

L. Geologic Hazards:

The project site is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Alquist-Priolo Special Studies Zone Map. However, the subject property is comprised of a coastal bluff which is eroding at an average rate of 0.3 to 0.6 meters per year. The project, as modified by conditions of approval, would require removal of the illegal habitable and usable structures which violate standards of the Marin County Code and the Local Coastal Program and would legalize engineered retaining walls, thereby reducing bluff erosion and promoting public safety for occupants of the subject property and people traveling along the beach below (refer to finding K above).

M. Public Works Projects:

This finding is not applicable because the proposed project does not entail expansion of public roads, flood control projects, or utility services.

N. Land Division Standards:

The subject parcel is a legal lot of record. No land division or property line adjustment is proposed as part of this project.

O. Visual Resources:

Pursuant to Section 22.56.130(O) of the Marin County Code, structures shall be designed to be compatible with the character of the surrounding natural and/or built environment. The existing unauthorized construction is not consistent with this development standard in that it detracts from the natural appearance of the coastal bluff, resulting in a substantial demonstrable negative aesthetic effect from public viewing places. However, as modified by recommended conditions which require removal of all unauthorized construction situated at the edge of the coastal bluff (except for existing site retaining walls and the relocated barn structure) this finding can be made because, pursuant to Section 22.56.130(O)(3) of the Marin County Code, the scale and design of the remaining structures would protect visual resources from public viewing places and the development would conform with the identified Marin Countywide Plan policies and Title 22 zoning development standards.

P. Recreation/Visitor Facilities:

This finding is not applicable because the proposed project would not provide commercial or recreational facilities, and the project site is not governed by VCR (Village Commercial Residential) zoning regulations which require a mixture of residential and commercial uses.

Q. Historic Resource Preservation:

The project site is located outside of the historic preservation boundaries for the Bolinas community as identified in the Marin County Historic Study for the Local Coastal Program.

- IX. WHEREAS,** the Marin County Board of Supervisors finds that approval of the bird aviary addition is inconsistent with the mandatory findings to approve the Use Permit (Section 22.88.020(3) of the Marin County Code) because the establishment, maintenance or conducting of the use of this structure will be detrimental to the health, safety, morals, comfort, convenience or welfare of persons residing or working in the neighborhood of such use and will be detrimental to the public welfare or injurious to property or improvements in the neighborhood because: (1) the project is inconsistent with the goals, policies, and objectives of the Marin Countywide Plan, the Local Coastal Program, and the Bolinas Community Plan; (2) no domestic water supply is available to service the unauthorized residential improvements, including the bird aviary, as verified by the Bolinas Community Public Utility District; (3) the subject structure does not comply with the established minimum setbacks from the edge of bluff as required in Section 22.56.130(K) of the Marin County Code; (4) the bird aviary structure is situated near the edge of the coastal bluff which potentially poses a significant hazard to life and property and detracts from the natural appearance of the coastal bluff, thereby resulting in a substantial and demonstrable negative aesthetic effect from public viewing places; and (5) the project would not minimize or reduce the risk of geologic hazards to acceptable levels as determined by the Department of Public Works because it would authorize residential development on the edge of a bluff which is eroding at an average of 0.3 to 0.6 meters per year.

- X. WHEREAS, the Marin County Board of Supervisors finds that the continued use of a two-story, 18 foot high detached barn, which complies with the established setbacks, is consistent with the mandatory findings to approve the Use Permit (Section 22.88.020(3) of the Marin County Code) and would not be detrimental to persons residing or working in the Bolinas Community because: (1) the structure would maintain adequate setbacks to the coastal bluff, septic system, and property lines, thereby protecting coastal views and public safety; (2) the structure would not be used as habitable floor area and would not result in privacy impacts to surrounding properties; and (3) the structure is adequately screened from off-site locations due to topography, placement of existing legal development, and site vegetation.
- XI. WHEREAS, the Marin County Board of Supervisors finds that the legalization of the retaining walls situated along the face of the coastal bluff, as modified by conditions of project approval, is consistent with the mandatory findings to approve a Tidelands Permit (22.77.040 of the Marin County Code) because they: (1) are necessary to stabilize surface erosion, and removal of these walls would unduly increase erosion of the coastal bluff as determined by the County Public Works Department; (2) would not inhibit navigation or access to publicly owned lands; (3) would not increase the likelihood of water pollution or flooding of adjacent properties and would not impact habitats essential to fish, shellfish and/or other wildlife; (4) would not detract from the line of sight of the public toward the water or conflict with the scenic beauty of the shoreline; (5) would improve public health and safety by minimizing surface erosion, thereby protecting occupants of the subject property and people traveling along the shoreline below; (6) would be consistent with the goals, policies, and objectives of the Marin Countywide Plan, the Local Coastal Plan, and the Bolinas Community Plan; and (7) would not be detrimental to the public welfare and would not inhibit public access.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby denies the Garside appeal and sustains the Planning Commission decision substantially denying and partially approving the Garside Coastal Permit, Use Permit, and Tidelands Permit subject to the following conditions:

Marin County Community Development Agency-Planning Division

1. This Coastal Permit 96-014, Use Permit 96-015, and Tidelands Permit 96-008 approval hereby permits legalization of the existing site retaining walls situated along the coastal bluff in the rear of the subject property and the relocated two-story, detached barn as marked by hand on Exhibit "B". The subject parcel is approximately 2.45 acres in size is located at 20 Ocean Avenue, Bolinas and is further identified as Assessor's Parcel Number 193-172-04.
2. Within 30 days of the date of approval, the applicant shall disconnect the retaining wall cables from the retaining walls and brace the retaining walls so that they continue to provide erosion control, or shall submit a geotechnical evaluation prepared by a licensed, third-party, civil engineer demonstrating one of the following: (1) that the cables are the only means available to support the retaining walls; (2) that disconnecting the cables from the retaining walls would result in instability of the cliff; or (3) that the location of the tie back cables is such that they are not near, and would not adversely impact, the scarps that traverse the subject and immediately adjoining properties.
3. Within 60 days of the date of final approval the property owner shall:
 - a) Remove the decks, stairs, stair-landings, and gazebo situated within the rear and side yards of the subject property;
 - b) Submit a Building Permit application proposing removal of the house and aviary additions and relocation of the barn.
 - c) Relocate the horse corral fence to maintain a minimum side yard setback of 10 feet (however, if residential development is permitted on the immediately adjacent property to the east, the fence shall be relocated to maintain a 20 ft. setback.

- d) Submit an erosion control plan for the coastal bluff which removes all existing irrigation lines from the coastal bluff;
- e) Submit a geotechnical report as required in condition 13 below.
- f) Submit a Septic System Permit application to the Environmental Health Services Division.

Within 120 days of the date of final Coastal Permit, Use Permit, and Tidelands Permit approval the property owner shall obtain Building Permits and complete removal of the bedroom and aviary additions and relocation of the barn structure as shown on plans required in Condition 5 below.

The removal of the residential additions may be postponed upon written evidence by a civil engineer who certifies that demolition will result in instability of the coastal bluff beyond an acceptable level. Any such request for delay is subject to review and approval by the Marin County Department of Public Works.

- 4. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A": Ralph Garside Residence, 20 Ocean Avenue, Bolinas, CA except as modified below:
 - a) Revise the submitted site plan, floor plans, and elevations to reflect elimination of the 1,137 square foot residential addition and the additions to the bird aviary building which exceed the original 288 square-foot structure;
 - b) Revise the submitted site plan to reflect the removal of the existing decks situated within the rear and side yards of the subject property and removal of the stairways, stairway landings, and gazebo structures located along the edge of the coastal bluff; and
 - c) Relocation of the horse corral fence to maintain a minimum 10 foot side yard setback.
- 5. BEFORE ISSUANCE OF A BUILDING PERMIT for the two-story, 18 foot high barn, the applicant shall revise the site plan to demonstrate that the barn complies with the side and rear yard setback standards established by the governing C-R-A:B-2 zoning district, in the location generally depicted on Exhibit "B" as "Revised Barn Location" hand drawn by Planning staff. The final location shall be subject to review and approval of the Community Development Agency and Public Works Directors.
- 6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a hold harmless agreement with the County, in compliance with Marin County Code Section 22.56.130(L), agreeing to:
 - a) Waive any liability, cause of action, claim suit in law or equity or other right that the property owner may have otherwise had against the County of Marin, its officers, employees and agents, any other governmental agency involved with the issuance of the coastal development permit, or the public, which in any manner arises from the existence of geologic hazards or activities on the property and/or issuance of the coastal development permit, except as might arise from the sole negligence of the County of Marin, other governmental agencies or the public; and
 - b) Hold harmless and defend the County of Marin, its officers, employees and agents, any other governmental agency involved with the issuance of the coastal development permit, and the public, from any liability, cause of action, claim or suit in law or equity that may be brought as a result of the issuance of the coastal development permit, or arises in any manner from the existence of geologic hazards or activities on the property, excepting only as might arise from the sole negligence of the County of Marin, other governmental agencies or the public.

Nothing in this Waiver of Liability shall be construed as limiting, waiving, diminishing any other defenses or immunities which are otherwise available to the County of Marin, other governmental agencies or the public, including but not limited to the defenses and immunities contained in California Government Code Sections 818.2, 818.4, 818.6, 820.4, 821.2, 821.4, 865 or 867.
- 7. If archaeological resources are discovered during construction activity, all work at the site shall stop and the applicant shall contact the Marin County Environmental Coordinator. A registered archaeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency Director advancing appropriate measures to protect the resources discovered. No work at

the site may recommence without approval of the Community Development Agency Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Agency Director. If the report identifies significant resources, amendment of the permit may be required to implement measures to protect resources.

8. The required construction and demolition activity may only occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted on Sunday or Holidays. During removal and construction activities the applicant shall comply with the following development standards:
 - a) The applicant shall be responsible for ensuring that all construction vehicles, equipment and materials are stored on-site and off the street so that pedestrian and vehicles can pass safely at all times.
 - b) The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
 - c) During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
9. No trees existing on the subject property shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent reasonably safety hazards to people and property.
10. BEFORE FINAL INSPECTION, the applicant shall relocate the horse barn to approved location as required by Condition #5 above.
11. BEFORE FINAL INSPECTION, the applicant shall remove all existing irrigation lines located on the coastal bluff. The applicant shall call for a Community Development Agency staff inspection for verification of compliance with this condition at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent reinspections.
12. BEFORE FINAL INSPECTION, the applicant shall remove all junk and debris situated on the face of the coastal bluff.

Marin County Department of Public Works-Land Use and Water Resources

13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall retain the services of a registered civil/structural engineer to prepare a report addressing the structural adequacy of the existing wood retaining walls. The report shall include the existing design characteristics of the wall, footings, and drainage improvements. The report shall also include: a) structural calculations defining the capacity of the existing retaining walls; b) calculations showing the current loading on the retaining walls; and c) the impact of disconnecting the retaining walls from the existing earth anchors on the coastal bluff. Any recommended upgrading, improvements, or removal of unnecessary walls shall be mitigated prior to acceptance by the Department of Public Works. At a minimum, the back drainage for all the retaining walls will have to be properly installed to relieve the walls of potential hydrostatic pressure.
14. The applicant shall remove all stairs, decks, and the gazebo from the failing slope on the south side of the house as required by Condition 3 above. The removal shall consist of shearing the support posts at ground surface. Support posts shall not be excavated out of the ground on the cliff face.
15. The applicant shall re-grade the pool area to create positive drainage. There shall be no import of any material for re-grading or any other purposes. The grading shall be done under the direct supervision of the project soils engineer who prepared the above noted soils document.

16. The applicant shall extend the existing 12 inch drainage pipe, that currently discharges storm water on the cliff face, so that it will discharge non-erosively on the beach. A concrete-lined V-ditch on such a steep slope will not be acceptable.
17. The applicant shall have the soils engineer evaluate the structural suitability and extent of the large rip-rap seawall located at the toe of the bluff. Any recommended upgrading and/or improvements to the rip rap shall be mitigated prior to acceptance by the Department of Public Works.
18. The above requirements shall be noted on a detailed site plan prepared by the project engineer and submitted within 60 days of the date of this decision to the Department of Public Works for approval. Implementation of the above conditions shall be completed within 90 days of the approval of the submitted plans.

Marin County Community Development Agency-Environmental Health Services

19. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall file a deed restriction with the Marin County Recorder's Office which states that the bird aviary building may not contain a sleeping area and may not be used as habitable floor area.
20. WITHIN 90 DAYS OF THE DATE OF FINAL ACTION, the applicant shall apply for, and receive approval, for a septic system permit for the illegal expansion of the existing septic system.

SECTION III: VESTING AND PERMIT DURATION

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Coastal Permit, Use Permit, and Tidelands Permit approval by complying with all established timelines set forth in the above conditions of approval, or all rights granted in this approval shall lapse and the existing violations will be remanded back to the Community Development Agency-Enforcement Division for abatement proceedings.

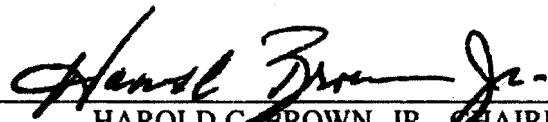
SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 3rd day of December, 1996, by the following vote to wit:

AYES: SUPERVISORS Harry J. Moore, Gary Giacomini, Annette Rose, John B. Kress,
Harold C. Brown, Jr., Chairman

NOES: NONE

ABSENT: NONE



HAROLD C. BROWN, JR., CHAIRMAN
BOARD OF SUPERVISORS

Attest:



Martin J. Nichols
Clerk of the Board

i:cur/aef/bos:garres doc

REGULAR MEETING OF THE MARIN COUNTY BOARD OF SUPERVISORS HELD TUESDAY,
DECEMBER 3, 1996, AT 10:09 A.M.

PRESENT: SUPERVISORS Harry J. Moore, Gary Giacomini (at 10:12 a.m.), Annette Rose,
John B. Kress, Harold C. Brown, Jr., Chairman

#9

APPROVAL OF MINUTES → → →

M/s Kress-Moore, to approve the minutes of the meetings of November 12 and
November 18, 1996, as circulated.

AYES: ALL

ABSENT: SUPERVISOR Giacomini

#10 BOARD OF SUPERVISORS' MATTERS

In Memoriam

Supervisor Rose reported on the recent death of Hal Edelstein, a former Mayor of
Tiburon who was instrumental in the building of the new library and in seeking funding for the
new town hall. M/s Rose-Kress, to determine that the need to take action arose subsequent to
the agenda being posted.

AYES: ALL

ABSENT: SUPERVISOR Giacomini

M/s Rose-Kress, to adjourn today's meeting in memory of Hal Edelstein.

AYES: ALL

ABSENT: SUPERVISOR Giacomini

Breast Cancer Education and Awareness

Supervisor Brown advised of a recent newspaper article which reported that both
San Francisco and San Mateo counties will be leading an effort by the nine Bay Area counties to
influence Sacramento in a unified way for breast cancer awareness and education. He asked the
County Administrator to look into the matter and make sure Marin county is a participant in that
effort. The County Administrator responded that Marin supported the legislation last year and
will continue to support future legislation.

#11 ADMINISTRATOR'S REPORT

The County Administrator stated that Item 14 on today's agenda requires a 4/5 vote.

(Supervisor Giacomini present at 10:12 a.m.)

#12 PRESENTATION OF THE 1996 CALIFORNIA ASSOCIATION OF LIBRARY TRUSTEES
AND COMMISSIONERS (CALTAC) ANNUAL AWARD TO SUPERVISOR ROSE AS THE
PUBLIC OFFICIAL IN THE STATE OF CALIFORNIA WHO HAS DONE THE MOST TO
PROMOTE AND STRENGTHEN LIBRARIES AND LIBRARY SERVICES

Jerry George, representing the California Association of Library Trustees and
Commissioners (CALTAC) addressed the Board with regard to the award. He advised that this
annual award is given to the public official in the State of California who has done the most to
promote and strengthen libraries and library services and that this is the first time that Marin
County has been a CALTAC award recipient. Mr. George also recognized two Library
Commissioners from the Third District, Carol Perot and Wyna Barron. Mr. George noted
Supervisor Rose's role in the expansion of the Belvedere-Tiburon and Mill Valley libraries and the

#29 YOON APPEAL OF THE PLANNING COMMISSION'S DENIAL OF THE YOON DESIGN REVIEW, MILL VALLEY

Pursuant to the recommendation of the Senior Planner in letter dated November 25, 1996, M/s Kress-Moore, to continue the above-captioned item to January 14, 1997, at 2:30 p.m.

AYES: ALL
ABSENT: SUPERVISOR Giacomini

→ #30 GARSIDE APPEAL OF THE PLANNING COMMISSION'S DECISION TO SUBSTANTIALLY DENY AND PARTIALLY APPROVE THE GARSIDE COASTAL PERMIT, USE PERMIT, AND TIDELANDS PERMIT, BOLINAS ←

Planner Andrea Fox summarized the information contained in her letter dated December 3, 1996, regarding the above-captioned item. Ms. Fox noted that a request for a continuance of this item had been received from Mr. Eric Miller, counsel for Mr. Garside, and recommended denying the continuance request citing potential public health and safety hazards.

(Supervisor Giacomini present at 2:44 p.m.)

Ms. Fox recommended that, after review of the administrative record and conduct of a public hearing, the Board deny the Garside appeal and sustain the decision of the Planning Commission substantially denying and partially approving the Garside Coastal Permit, Use Permit and Tidelands Permit subject to the conditions identified in the proposed resolution.

Supervisors Kress and Giacomini noted that the dispute has been ongoing for several years, and recommended denial of the continuance request.

Mr. Miller, outlined the merits of his request for continuance citing, lack of health and safety issues associated with a continuance, his need for a review of documents and adequate preparation time since he was only recently retained by Mr. Garside, his concern with timeframes for abatement, his uncertainty as to what is being abated, and his belief that, provided additional time, a reasonable compromise could be reached for voluntary abatement.

Mr. Vincent Howes, Geotechnical Engineer and Engineering Geologist for Mr. Garside contested a conceptual drawing of the subject property presented by Mr. Donald Hillebrandt, Geotechnical Consultant, on behalf of Mr. Paul Kayfetz, an immediately adjacent property owner, and stated his opinion that there was no immediate structural threat or threats to life and safety due to the retaining wall cables.

Discussion ensued as to the impact of leaving or removing the retaining wall cables at this time, and Mr. Howes' previous consulting work on the subject property.

In response to questions from the Board, Associate Civil County Engineer, Sia Mohammadi, recommended denying the continuance request.

M/s Kress-Giacomini, to deny request for continuance and proceed with public hearing.

AYES: ALL

The hearing was declared open to receive public testimony.

Mr. Miller stated as he was only recently retained, and was not adequately prepared for the hearing. Thereafter, Mr. Miller outlined his arguments for the appeal of the Planning Commission's decision including assertions that the process has been unfair, the Planning Commission decision was based on a misleading report, Mr. Garside's rights have been violated because of inadequate preparation time, select enforcement of code violations, and arbitrary and discriminatory actions by the County.

Mr. Neil Moran, attorney for Mr. Kayfetz, highlighted the unpermitted development on the Garside property using visual displays, and recommended the Board uphold the staff report and deny the appeal and further require immediate removal of the retaining wall cables.

Mr. Kayfetz identified areas on the visual displays of the property and the conceptual engineering drawing describing alleged damage to his property due to the cable tiebacks, commented on the geotechnical engineers' reports, and recommended that the tiebacks be removed.

Mr. Kayfetz responded to questions from the Board regarding dates of construction of the unpermitted structures.

Property owner, Mr. Ralph Garside, responded to questions from the Board regarding tieback installation.

Mr. Garside addressed the Board regarding construction timeframes and setbacks of the unpermitted structures, and commented on other unpermitted structures in the vicinity of his property.

The public hearing was closed.

Planning Services Coordinator, Scott Davidson, stated that an exhibit presented by Mr. Vincent Howes, Geotechnical Engineer, appeared to contradict information presented in the Hillebrandt geotechnical analysis regarding the impact of the retaining wall cables, stating that County does not object to leaving the retaining wall cables in place as long as they do not increase instability on the hillside. Mr. Davidson recommended that the provisions detailed in the proposed resolution regarding disconnecting the retaining walls be modified such that within 30 days of the date of approval, the applicant shall disconnect the retaining wall cables from the retaining walls and brace the retaining walls so that they continue to provide erosion control, or shall submit a geotechnical evaluation prepared by a licensed civil engineer demonstrating that the location of the tie back cables is such that they are not near, and would not adversely impact, the scarps that traverse the subject and immediately adjoining properties. In addition, Mr. Davidson also recommended that the professional evaluation be completed by a licensed, third-party, civil engineer.

Mr. Davidson also responded to comments regarding selective enforcement stating the County has consistently pursued zoning violations when it has been made aware of alleged violations, noting eight sites in the vicinity of the subject property which had recently been inspected.

In response to questions from the Board, Mr. Mohammadi, recommended support of staff's recommendations as amended.

M/s Giacomini-Kress, to (1) adopt Resolution No. 96-165 as amended, denying the Garside Appeal and sustaining the decision of the Planning Commission to substantially deny and partially approve the Garside Coastal permit, Use Permit, and Tidelands Permit; (2) direct staff to contact the California Coastal Commission regarding the Commission's enforcement procedures concurrent with the County's enforcement actions.

AYES: ALL

The meeting was adjourned at 3:37 p.m. in memory of Hal Edelstein.

SINE DIE

CHAIRMAN

ATTEST:

CLERK

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):
Ralph Garside c/o Eric D. Miller, Esq., Miller & Beck, 456 Montgomery St., #1200,
San Francisco, CA 94104

(415) 956-5400

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Marin County Planning Commission/Board of Supervisors

2. Brief description of development being appealed: Cliff retaining walls, tie backs, decks, stair landings and legalization of portion of existing residence and accessory structures.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 20 Ocean Ave., Bolinas, CA. A.P. #193-172-04

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: App. #1 Mar-96-188

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MAR-96-81

DATE FILED: 12/13/96

DISTRICT: NC

H5: 4/88

EXHIBIT NO.	10
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Garside Appeal	

RECEIVED

DEC 12 1996

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

Planning Commission October 7, 1996

6. Date of local government's decision: Board of Supervisors December 3, 1996
7. Local government's file number (if any): CP 96-0141, UP 96-015, TP 96-008

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Ralph Garside, 20 Ocean Ave., Bolinas, CA 94924

PO Box 867

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Paul Kayfetz, 8 Ocean Ave., Bolinas, CA 94924

PO Box 310

(2) B.B. Martinelli, 41 Ocean Ave., Bolinas, CA 94924

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)


State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Local Government approval of cliff retaining walls which are necessary to stabilize cliff and protect existing residence and accessory structures was subject to improper and unwarranted conditions including without limitation: severing of retaining wall tie backs, removal of stairs, decks and landings, removal of a portion of an existing residential structure that is a legal nonconforming use. Inconsistent with Marin County LCP §III, "LCP policies on Shoreline Protection and Hazard Areas" and P.R.C. §30235 which is incorporated by reference into the LCP.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date

12/12/96.

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Eric D. Miller, Esq. Miller & Beckto act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date

CA FORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Paul Kayfetz

P.O. Box 310

Bolinas CA

94924

(415) 868-0480

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: _____

County of Marin

2. Brief description of development being appealed: Application to legalize (1) 18' high, 900 sq. ft. barn; (2) 13.5-ft high, 1,137 sq-ft. residential addition; (3) 18-ft high, 747 sq ft detached house; (4) gazebos, decks, retaining walls, staircases & landings cabled together & attached to 11 33-ft earth anchors crossing into non-sliding portion of cliff.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 20 Ocean Ave., Bolinas. Assessor's Parcel # APN 193-172-04. Near Terrace Ave.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: Approved w/conditions

6 Dec 96.

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-96-81

DATE FILED: 12/23/96 BVB

DISTRICT: N. COAST

H5: 4/88

EXHIBIT NO. 11
APPLICATION NO. A-1-MAR-96-81
GARSDIE
Kayfetz Appeal

cc rec'd by fax 12/20/96

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: 6 Dec 96

7. Local government's file number (if any): CP 96-014/UP, 96-015/TP, 96-008

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant: Ralph Garside
20 Ocean Avenue
Bolinas CA 94924

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Neil Moran
Freitas et al.
1108 Fifth Avenue, 3rd Floor, San Rafael, CA 94901
- (2) Don Hillebrand
6219 Clive Avenue
Oakland, CA 94961
- (3) _____

- (4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

~~(1) Cliff retaining walls allowed by this permit are not "required" to protect existing structures (LCP, Section 12). In fact, they exacerbate erosion because they are cabled together & are causing the cliff to slide as a unit. (2) The cabling of these retaining walls to 11 33-ft earth anchors is not only not required to preserve existing structures, it has also caused a cracking of cliff extending to adjoining property & threatens structures on appellant's property. (3) Retaining walls detract from natural appearance of coastal bluff resulting in substantial & demonstrable negative aesthetic effect from public viewing places -- the local clam patch, as shown in photos produced at Board of Supervisors hearing by appellant, & violate portion of local coastal plan relating to those matters. (4) The proposed relocation of horse barn still places it within the bluff setback zone as provided in local Coastal Plan when the actual rate of retreat documented in 3 years of the applicant's own geologist's report, rather than using general historic rate for area, is utilized. (5) The residential apartment (450sq ft) allowed in top floor of barn does not have potable water available (see letter of local Public Utility District) & therefore violates local Coastal Plan provision requiring such a supply before permitting of a new structure.~~

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date 12-16-96

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Don Hillebrandt Associates - Geotechnical Consultants

6219 Clive Ave. • Oakland, CA 94611 • (510) 531-2655 • FAX (510) 531-2795

September 30, 1996
Project 2611-1A

Marin County Community Development Agency - Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903-4157

FOR THE
PLANNING COMMISSION
AUGUST 1, 1996

RE: Written Testimony - Garside
Response to Planning Commission Staff Report and
Salem Howes Associates' September 12, 1996 Letter
Garside Property @ 20 Ocean Avenue
Bolinas, California

Ladies and Gentlemen:

This letter is a response to your Staff Report that I received by facsimile late last Friday on September 27, 1996 that included a copy of Salem Howes Associates' September 12, 1996 letter. As you know, I submitted a letter to your agency on August 17, 1996 that outlined my geotechnical engineering opinions concerning the slope stability of the Garside Property at 20 Ocean Avenue and its effects on the adjacent Kayfetz property at 8 Ocean Avenue.

My review indicates that your Staff Report did not address the geotechnical concerns I have concerning the "deep tiebacks/land anchors/cablings" on the Garside property, as discussed under Items 3 and 4 in my August 27, 1996 letter. These conditions are illustrated on the attached Conceptual Cross-Section, Figure 1. Specifically, the Staff Report did not address the following:

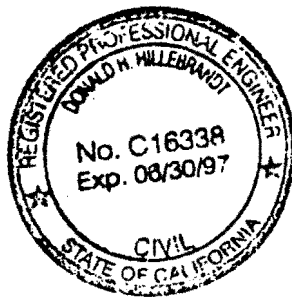
1. Landward - Seaward Cabling - The 11 approximately 33-foot long earth anchors that extend under the Garside house on the landward side of the "crack" are connected to cables tied to the retaining wall system on the seaward side of the "crack". These cables should be disconnected prior to this winter's rains to prevent a seaward side failure from pulling large portions of the landward side slope into the ocean. These cables should remain disconnected throughout the winter months and should not be reconnected unless a future detailed geologic/engineering study somehow indicates they are warranted.

EXHIBIT NO.	12
APPLICATION NO.	A-1-MAR-96-81
	GARSIDE
	Hillebrandt Letter (9/30/96)

2. Cabling and Interconnections on Seaward Side - The cabling and other interconnections (such as retaining walls, stairways, decks) that are located entirely on the seaward side of the "crack" should be disconnected and altered so that a localized failure on the slope does not cause the entire slope to slump as a monolithic block.

My review of the Salem Howes Associates' September 12, 1996 letter indicates they have ignored the 120- to 150- foot long second, more inboard scarp that was described in my August 17, 1996 letter and shown on the Conceptual Cross Section, Figure 1. This second scarp is the direct result of the anchoring systems and supports my above opinions that cabling and other interconnections on the slope should be disconnected.

If you have any questions regarding my response to your Staff Report and/or the Salem Howes Associates' September 12, 1996 letter, please call me.



Very truly yours,

DON HILLEBRANDT ASSOCIATES

Donald H. Hillebrandt
C.E. 16338
G.E. 400

Attachment:

Figure 1 - Conceptual Cross Section

Copies:

Addressee (1 by facsimile and 1 by mail)

Dept. of Public Works - Land Use and Water Resources (1 by facsimile)
Attn: Mr. Nate Galambos

Calif. Coastal Commission - North Coast Area (1 by facsimile)
Attn: Mr. Bill Van Beckum - Coastal Planner

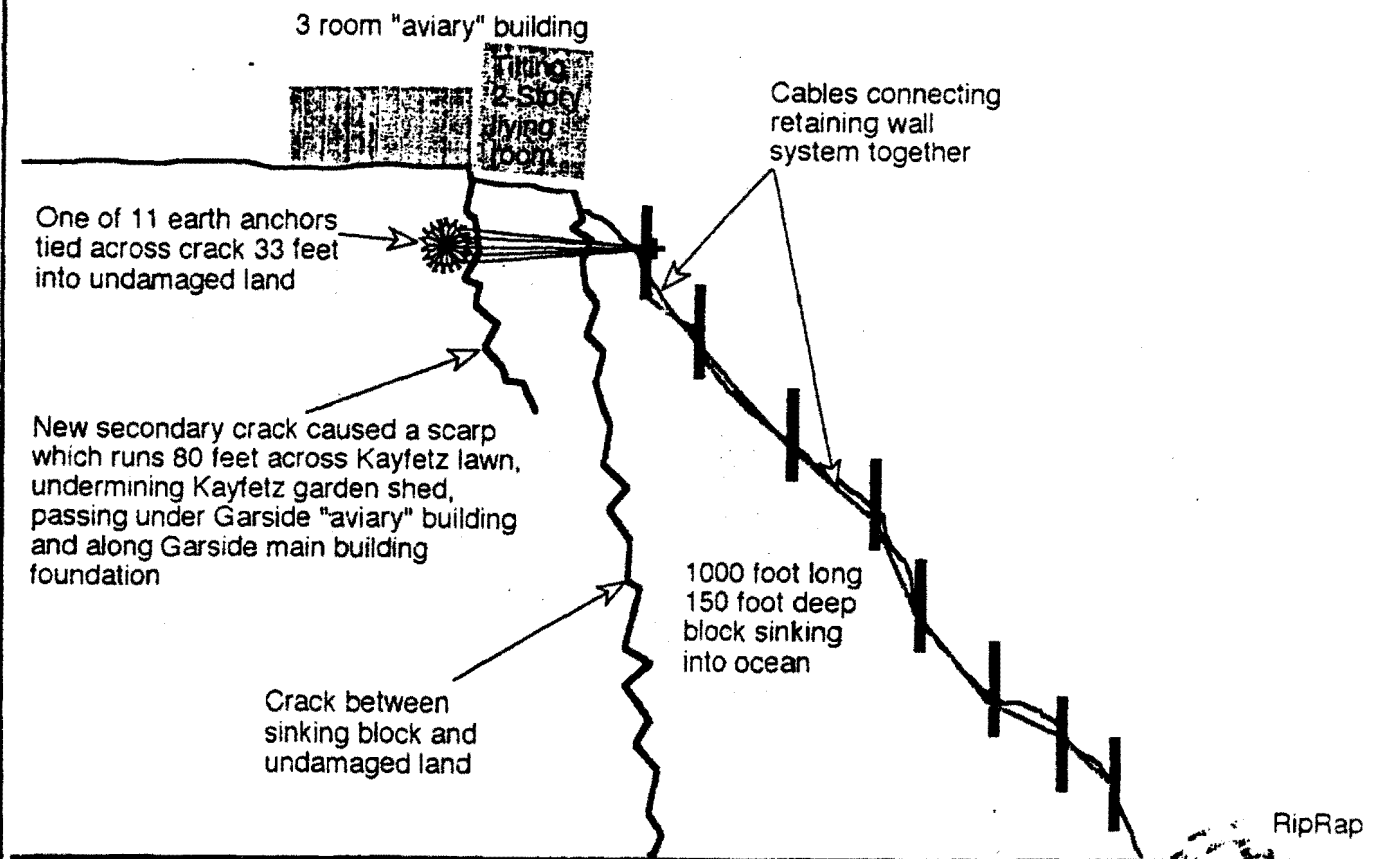
Freitas, McCarthy, MacMahon & Keating (1 by facsimile and 1 by mail)
Attn: Mr. Neil J. Moran

Mr. Paul Kayfetz (1 by facsimile and 1 by mail)

RECEIVED BY
RIS OUT -2 P 1:09

WALDE COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Conceptual cross section showing damage being caused by tying sinking block across crack to undamaged land.



CONCEPTUAL CROSS SECTION

Garside Property @ 20 Ocean Avenue
Bolinas, California



Don Hillebrandt Associates
Geotechnical Consultants

PROJECT NO

DATE

2611-1A

September 1996

Figure 1

Mr. Ralph Garside
20 Ocean Ave.
P.O. Box 867
Bolinas, Ca. 94924
415-868-0254

RECEIVED
FEB 14 1997

February 6, 1997

CALIFORNIA
COASTAL COMMISSION

William Van Backum
Coastal Planner
California Coastal Commission
45 Fremont Street, # 2000
San Francisco, Ca. 94105-2219

Re: Coastal Permit 96-014/ Up 96-015/ TP 96-008
Garside C.P. A-1-Mar-96-081
20 Ocean Ave, Bolinas, Ca.

Dear Mr. Backum,

I will be appearing before your Commission sometime in the upcoming weeks. The Board of Supervisors, upon recommendation of the Planning Commissions staff report, denied my request application for permits to legalize structures.

In September of '95, I appeared before the Planning Commission at a Code Enforcement Hearing. I agreed to remedy the conditions by applying for the necessary permits. In addition to the fines, I was severely penalized. I was led to believe that the necessary permits would be granted by conforming to all the requests of the Commission. Tens of thousands of dollars have been spent doing so, in addition to the fines, penalties, and filing fees.

What the Planning Commission failed to do was to inform me that the permits could never be granted. The mandatory coastal bluff setback requirements could not be met to legalize my non-conforming structures. In a futile attempt to work out an agreement I suggested moving the structures. I was encouraged to appear before the Board of Supervisors and await a determination using the viable solution of moving the structures as a bargaining tool, post haste.

The two rooms of most concern is the game room (den) and the master bedroom. The master bedroom was contracted work by the step-son of my next door neighbor, Mr. Kayfetz. I believed the responsibility of obtaining the necessary permits lay with the contractor. Mr. Kayfetz initiated the complaint filed with the County against me. I suggested the possibility of moving the room and repositioning it. I have the capability in the front of the house.

The den, (which is the original master bedroom and one of the two bedrooms, two baths which constituted my purchase in 1978) has been determined to be illegal. The room sits on the original foundation, and appears on the Marin County Tax Assessor's record totalling the 1687 square footage taxed on since 1955.

I cannot believe the bureaucracy between the Tax Assessor's office and the Planning Commission. Apparently the permit was changed and the final inspection made allowing the tax assessment on the completed square footage of 1687, however, the permit on file in the

EXHIBIT NO.	13
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Garside Letter (2/6/97)	

Planning Commission indicates only 1477 square feet. The determination to abate was made on the 1477 square feet.

There must be some solution to resolve this matter between the departments without my loss and mental anguish. Legal litigation would be costly and one would think that the two departments would work together. The Inspector for the Assessor's office was John Chambers who retired some years ago. I have located him only yesterday and he has offered his assistance to clearing the matter.

The detached structures (intended use as a bird aviary, for rare and exotic birds to breed) consists of two separate rooms, each was to be attached at opposite ends of a legal structure. This structure was a separate living unit at the time of purchase in 1978. Not wanting to be a landlord I refused lease renewal upon expiration. The water and gas heat was removed. Previously stated, upon learning of the required setbacks I offered to move the front structure to the rear of the newly attached room. The 40 yr. useful life rule would prevail, given a variance on the setback requirements. It was never intended to be used as a second living unit, nor is it now.

After purchasing the house, in the winter of 1978 suffering from a land loss of 10ft deep and wide, I was told the house had an approximated 5 year useful life. My adjacent neighbor suffered a major land loss during that same storm. A fissure appeared running through both of our properties undermining her house and condemned it hazardous and unsuitable for living, causing abatement of the property. This fissure (running partially, on a diagonal across my property rearing off to the ocean) desists with no impact to the Kayfertz property.

Faced with decision to battle the natural elements, I took a risk, hired an engineer and invested a half million dollars (over a fifteen year period) in stabilizing the existing stairs and landings, extending them to the beach, beautifying the land along their length with native indigenous plants to slow water erosion, upgrading the retaining walls, installing tie backs to land anchors and added a gazebo. I also added rip rap to the beach and decking extending off the (rear) ocean side of the house. A hot tub was installed. At that time, permits were not required to repair existing structures. I was told that I could build as many retaining walls I wished, with a height restriction maximum of four feet.

In 1982, Mr. Kayfetz, due to land loss and damages, requested a reduction of property taxes on the assessed value of his land reducing it from \$10,000, to \$1500. His property also suffers from a fissure running toward it from in a Southwestern direction beginning at the ocean bluff at Overlook and Terrace. My land suffered no loss and maintained its assessed value.

Three years ago, after the severe rains, I refinanced my property and structures to cover the costs of repair. Minimal land loss and/or erosion was experienced. Damage affected the decking, uplifted by the severe winds, and gutters torn away from the house. The appraised value was determined to be \$700+ thousand. My investment paid off, or so I thought! I face the possibility of losing all value in my property, if I have to abate. It would not be possible to sell.

In 1982, Mr. Kayfetz, due to land loss and damages, requested a reduction of property taxes on the assessed value of his land reducing it from \$10,000, to \$1500. His property also suffers from a fissure running toward it from in a Southwestern direction beginning at the ocean bluff at Overlook and Terrace.

In a vehement approach to stop legalization of my structures or any possible resolution short of abatement, Mr. Kayfetz hired a geo-technical who reported just what Mr. Kayfetz paid him to say. The Planning Commission used a "Conceptual" drawing submitted by Don Hillebrant Associates, which was discussed at great length and assisted in their decision making process.

The drawing is inaccurate, showing earth anchors and cables connecting the retaining walls together in a system, all of which don't exist as indicated. It identifies a 'so called' new scarp indicating its affect on the Kayfetz property. . It made me furious to see the Supervisory Board relying on the report as factual and then to base their denial on such evidence (much to say for visual concepts making their impact). I tried to interject but was reminded that my allotted time to speak was used. The report and drawing was handed to me just prior to the start of the hearing. I had not seen either, until it was presented buy Mr. Kayfetz's attorney in his arguments. A surprise attack!

To the best of my knowledge, Mr. Hillebrant nor Associates, had access nor stepped one foot on my property. That was quite apparent, in his opinion, but affirmed the arguments Mr. Kayfetz had been making in expressed complaints against me with the Planning Commission, Supervisory Board and local BCPUD authorities.

The Board of Supervisors concluded and agreed that the County staff could allow the tie backs, supported by land anchors to remain attached to the retaining walls , provided a report by a third, yet, independent geotechnical consultant shows evidence to support that its effect would not contribute to erosion on the bluff. This is at an additional cost to me. Had my adjoining neighbors invested in stablizing their cliff area, their losses would have slowed the erosion process. I realize that their finances may not allow it. The costs attributed to the repairs was invested to protect my property.

I ask that the Commission re-examine the issues at hand along with the loss suffered, financially as well as physically. Maintaining my health at my age is necessary. I need not suffer additional mental anguish. I don't want to be the scapegoat. Bolinas is a unique little place, my home.

Thanking you in advance, I remain

Sincerely,



Ralph Hill Garside

cc: Andrea Fox, Planning Commission
LaDonna Thompson, Zoning Enforcement Officer
Ed Henry, Assistant Chief Building Inspector



Don Hillebrandt Associates - Geotechnical Consultants

6219 Clive Ave. • Oakland, CA 94611 • (510) 531-2655 • FAX (510) 531-2795

December 7, 1996

Project 2611-1B

Marin County Community Development Agency - Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903-4157

RE: Written Testimony - Garside
Response to Salem Howes Associates' November 20, 1996
Drawing Showing Locations of Tiebacks
(Earth Anchors) and Location of Scarp
Garside Property @ 20 Ocean Avenue
Bollinas, California

Ladies and Gentlemen:

This letter is a response to the Salem Howes Associates' November 20, 1996 drawing showing the locations of tiebacks (earth anchors) and the location of the slide scarp on the Garside property which was presented by Mr. Howes in your December 3, 1996 public hearing. At the time of your public hearing, I was the principal defense geotechnical consultant at a court-ordered settlement conference in San Mateo County involving a multi-million dollar construction defect lawsuit. Since I could not provide verbal response to the Salem Howes Associates' drawing, I have prepared this written testimony.

My previous August 17, 1996 and September 30, 1996 letters outlined my concerns regarding how the 11 approximately 33-foot long tiebacks (earth anchors) installed by Mr. Garside are affecting the stability of the Kayfetz property. The Conceptual Cross Section attached to my September 30, 1996 letter was for illustrative purposes to show how the tiebacks (earth anchors) and the cables tied to Garside's retaining wall system were creating instability on the Kayfetz property. The Conceptual Cross Section was not meant to be a cross-section at the specific location on the Garside "aviary" building.

My review of the Salem Howes Associates' November 22, 1996 drawing indicates they have still ignored the 120- to 150-foot long second, more inboard scarp that was described in my August 17, 1996 and September 30, 1996 letters. This second scarp does exist and is at least 120- to 150-feet (or more) in length. The second scarp extends from the 11 tiebacks (earth anchors) on the Garside

EXHIBIT NO.	14
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Hillebrandt Letter (12/7/96)	

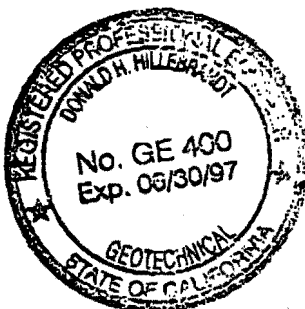
Page two

Project 2611-1B

property, through the Garside "aviary" building, beneath the Kayfetz tool shed/deck structure, and across the level yard area of the Kayfetz property as illustrated on the attached Figure 1 which is a "marked-up" copy of the Salem Howes Associates' November 22, 1996 drawing.

Based on the above, it is still my opinion that the 11 Garside tiebacks (earth anchors) are adversely affecting the stability of the Kayfetz property. The tiebacks (earth anchors) and the cables/retaining walls attached to them are "pulling on a large block of the hillside" and have created the second, more inboard scarp. If the anchoring systems remain connected during the 1996-1997 rainy season, there is a potential for a seaward side slope failure on the Kayfetz and Garside properties. Therefore, it is my opinion that the 11 tiebacks (earth anchors) should be immediately disconnected.

If you have any questions regarding my response to the Salem Howes Associates' November 22, 1996 drawing, please call me.



Very truly yours,

DON HILLEBRANDT ASSOCIATES

Donald H. Hillebrandt
 Donald H. Hillebrandt
 C.E. 16338
 G.E. 400

Attachment:

Figure 1 - "Marked-Up" Salem Howes Associates' Drawing

Copies:

Addressee (1 by facsimile and 1 by mail)

Dept. of Public Works - Land Use and Water Resources (1 by facsimile)
 Attn: Mr. Nate Galambos

Calif. Coastal Commission - North Coast Area (1 by facsimile)
 Attn: Mr. Bill Van Beckum - Coastal Planner

Freitas, McCarthy, MacMahon & Keating (1 by facsimile and 1 by mail)
 Attn: Mr. Neil J. Moran

Mr. Paul Kayfetz (1 by facsimile and 1 by mail)

Don Hillebrandt Associates

CALIFORNIA COASTAL COMMISSION

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

49 - DAY WAIVER

Re: Application/Appeal No. A-1-MAR-96-81 (GARSIDE)

I hereby waive my right to a hearing within 49 days after the application or appeal has been filed. Pub. Resources Code Sections 30627, 30625(a). I request that the referenced application be scheduled:

- () for consideration at the next possible Southern California Commission meeting.
- for consideration at the next possible Northern California Commission meeting.

(I understand that the application may need to be scheduled without regard to the Southern/Northern California preference, for reasons beyond the control of the Commission.)

- () for consideration after staff and I have had additional time to discuss the project.
- () Other (explain)

12/30/96

Date

[Signature] *Attney for applicant.*
 Signature of applicant or authorized agent

A10: 4/88

EXHIBIT NO.	15
APPLICATION NO.	A-1-MAR-96-81
GARSIDE	
Applicant's	
Time Waiver	

