

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

555 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

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Filed:	February 6, 1997
49th Day:	March 26, 1997
180th Day:	August 5, 1997
Staff:	Jo Ginsberg
Staff Report:	February 21, 1997
Hearing Date:	March 13, 1997
Commission Action:	

STAFF REPORT: PERMIT AMENDMENTAPPLICATION NO.: **1-90-174-A**APPLICANT: **CATHERINE AND TERRENCE BOOTH**PROJECT LOCATION: 45400 Pacifica Drive, Caspar Point Subdivision,
Caspar, Mendocino County, APN 118-010-18.DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 22-foot-high,
960-square-foot workshop and ceramic studio structure.DESCRIPTION OF AMENDMENT: Construct a 640-square-foot guest cottage with an
attached garage instead of the approved
workshop/studio.SUBSTANTIVE FILE DOCUMENTS: Mendocino County LCP; Coastal Permit No.
NCR-78-CC-869 (Booth).

1. PROCEDURAL AND BACKGROUND NOTE: Section 13166 of Title 14 of the California Code of Administrative Regulations states that the Executive Director shall reject an amendment request if it lessens or avoids the intent of the approved permit unless the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

Coastal Permit No. 1-90-174 (Booth) was approved by the Commission on August 9, 1990 with one special condition. Special Condition No. 1 requires that any change in the nature or intensity of the use of this workshop and ceramic studio structure (e.g., to a commercial use) will require an amendment to the

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Coastal Development Permit. This requirement was imposed to enable the Commission to review the potential impacts on coastal resources of any proposed change in the nature or intensity of use of the project.

Construction of the workshop/studio was commenced but never completed. The applicants now wish to construct a guest cottage with an attached garage in lieu of the approved workshop/studio, in the same general location on the subject parcel.

Consistent with the requirements of Special Condition No. 1 of the original permit, the applicants have submitted this amendment request, which seeks to substitute one type of second structure (guest cottage) for the previously permitted second structure (workshop/studio) in approximately the same location on the site. As the amendment request conforms with the requirements of Special Condition No. 1 and enables the Commission to review the potential impacts of the proposed guest cottage, the Executive Director found that the proposed amendment will not conflict with the intent of the conditions attached to Coastal Permit No. 1-90-174. Since this amendment request would not result in a lessening or avoidance of the intent of the approved permit, the Executive Director accepted the amendment request for processing.

2. STANDARD OF REVIEW: The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Therefore, the LCP, not the Coastal Act, is the standard of review for the proposed amendment.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

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

II. Standard Conditions: See attached.

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III. Special Conditions:

Special Condition No. 1 of the original permit is no longer relevant. Two new special conditions are hereby attached to this proposed amendment.

1. Second Structure:

PRIOR TO ISSUANCE of the amended Coastal Development Permit, the permittee shall submit for the review and approval of the Executive Director and shall subsequently record, a deed restriction stating that the guest cottage shall be without kitchen or cooking facilities and shall not be separately rented, let, or leased, whether compensation be direct or indirect.

This deed restriction shall be recorded with the deed to the parcel APN 118-010-18 as a covenant running with the land and shall bind all successors and assignees of the permittee. Any change in the use of either of these accessory structures shall require a separate coastal permit or another amendment to Coastal Commission Permit No. 1-90-174.

2. Lighting.

All exterior lighting shall be the minimum necessary for the safe ingress and egress of the structure. In addition, all exterior lights shall be shielded and have a directional cast downward.

IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Project and Site Description:

The subject site is a two-acre parcel located west of Highway One in the Caspar Point Subdivision in Caspar in Mendocino County. The site is currently developed with a single-family residence, garage, well, and septic system approved by the Commission in 1978 (Coastal Permit NCR-78-CC-869, Booth). The original project approved by the Commission in 1990 was for the construction of a 22-foot-high, 960-square-foot workshop and ceramic studio structure with a short access driveway on a parcel containing a two-story single-family residence, garage, well, and septic system. The workshop/ceramic studio was never built. The applicants did, however, initiate construction of the foundation, thus vesting the permit. The proposed amendment request is for construction of a 640-square-foot guest cottage with an attached garage in lieu of the permitted workshop/studio.

The subject parcel is designated in the Mendocino County Land Use Plan as Rural Residential-5 [Rural Residential-2] (RR-5 [RR-2]), meaning that there

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may be one parcel for every five acres, or one parcel for every two acres with proof of water, and that the site is designated for residential use.

There is no sensitive habitat on the subject parcel.

2. Locating and Planning New Development/Second Structure:

Policy 3.9-1 of the Land Use Plan states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

As noted above, the Mendocino County LUP designates the subject site as Rural Residential-5 acre minimum [Rural Residential-2 acre minimum conditional], meaning that there may be one parcel for every five acres or one parcel for every two acres with proof of water, and that the parcel is designated for residential use. Section 20.376.025(C) of the County Zoning Code allows one unit per five acres for parcels designated Rural Residential-5 and one unit per two acres for parcels designated Rural Residential-2. Section 20.458.010 of the Zoning Code specifically prohibits the creation and/or construction of a second residential unit except in some very specific instances (e.g., farm employee housing, farm labor housing, family care units), because of a concern with the adequacy of water and sewer services and the impact of second units on traffic flow.

The proposed development is for a detached 640-square-foot guest cottage with an attached garage on a parcel containing a 3,175-square-foot single-family residence.

To ensure that the proposed guest cottage will not be used at any time as a second residential unit, Special Condition No. 1 is attached to this permit amendment, requiring recordation of a deed restriction stating that the guest cottage shall be without kitchen or cooking facilities, and shall not be separately rented, let, or leased.

An existing well and septic system serve the existing development. The Mendocino County Department of Environmental Health has indicated that the existing well and septic system are adequate to serve the proposed guest cottage.

The Commission finds, therefore, that the proposed development, as conditioned, is consistent with LUP Policy 3.9-1 and with Zoning Code Section 20.376.025(C), because Special Condition No. 1 of this permit amendment will

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ensure that there will be only one residential unit on the parcel, and because there are adequate services on the site to serve the proposed new development.

3. Visual Resources:

LUP Policy 3.5-15 states that no lights shall be installed so that they distract motorists and that lights shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible.

Zoning Code Section 20.504.035 states that where possible all lights, whether installed for security, safety or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.

To ensure consistency with the LCP, the Commission attaches Special Condition No. 2 to this permit amendment, requiring that all exterior lighting shall be the minimum necessary for the safe ingress and egress of the structure, and that all exterior lights shall be shielded and have a directional cast downward. This condition was recommended by the Mendocino County Planning Department in the LCP Consistency Review approval.

The Commission finds, therefore, that as conditioned the proposed project is consistent with LUP Policy 3.5-15 and Zoning Code Section 20.504.035.

4. Public Access:

Projects located within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access.

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

The subject site, while located west of the first public road, is not an oceanfront or blufftop parcel and is not used by the public to reach the sea. Thus, the proposed project will not obstruct any existing access to the sea and the minor increase in land use intensity associated with construction of the guest cottage will not create a significant demand for new access facilities or burden existing access in the area. Therefore, the Commission finds that the project, which does not include provision of public access, is

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consistent with the public access policies of the Coastal Act and the County's Local Coastal Program.

5. CEQA:

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

As discussed above, the project has been mitigated to ensure that the project will not result in the creation of a second residential unit on the property that would contribute to cumulative impacts on coastal resources. In addition, the project has been mitigated to ensure that exterior lighting will be sited and designed to minimize adverse impacts. The project, as conditioned, therefore will not have a significant adverse effect on the environment within the meaning of CEQA.

9242p

ATTACHMENT A

Standard Conditions

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

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA
631 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
(415) 543-8555

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Permit Application No. 1-90-174
Date July 27, 1990

ADMINISTRATIVE PERMIT

TH 7c

APPLICANT: TERRENCE R. AND CATHERINE L. BOOTH

PROJECT DESCRIPTION: Construct 22 ft. high 960 sq.ft. workshop and ceramic studio structure on 2 acre parcel

PROJECT LOCATION: 45400 Pacifica Drive, Caspar Point Subdivision, Caspar, Mendocino County (APN 118-18-18)

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:
Date: Thursday, August 9, 1990 Tel. No. (707) 442-6441
Time: 9 a.m., Item No. 7c
Place: Eureka Inn
7th & "F" Streets
Eureka

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: GARY L. HOLLOWAY
Title: North Coast Planner

B1: 4/88

ATTACHMENT A

STANDARD CONDITIONS:

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

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

Section 30250 of the Coastal Act of 1976 provides in part:

New development shall be located within, contiguous with or in close proximity to existing developed areas able to accommodate it and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development is on a level 2 acre lot within the Caspar Point Subdivision, and is developed with a single-family home and garage. The workshop and ceramic studio structure would be sited about 200 ft. north of these structures, at the north end of the lot. The area is a large lot subdivision with detached single-family homes.

The structure would be used solely by the applicants for their hobbies and is not intended for any commercial activity. It would not be connected to either the existing water or septic systems on the lot. As it is adjacent to existing development on the lot, it is found to be consistent (as conditioned) with Section 30250 of the Coastal Act. It will have no adverse impact on coastal resources as it will function as a secondary structure. However, if converted from a private ceramic studio and workshop to a commercial use, it would have adverse impacts by generating more traffic in the area, by requiring water and septic system connections for a bathroom and necessitate an advertising sign.

SPECIAL CONDITION:

1. Any change in the nature or intensity of the use of this workshop and ceramic studio structure (e.g., to a commercial use) will require an amendment to this Coastal Development Permit.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Terrence P. Booth
Applicant's Signature

7/30/90
Date of Signing

Colette Booth

6160P
GLH/mem

APPROXIMATE
LOCATION

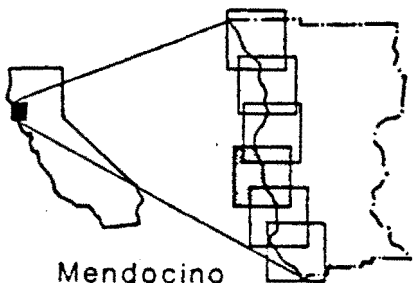
EXHIBIT NO. 1

APPLICATION NO.
1-90-174-A (BOOTH)

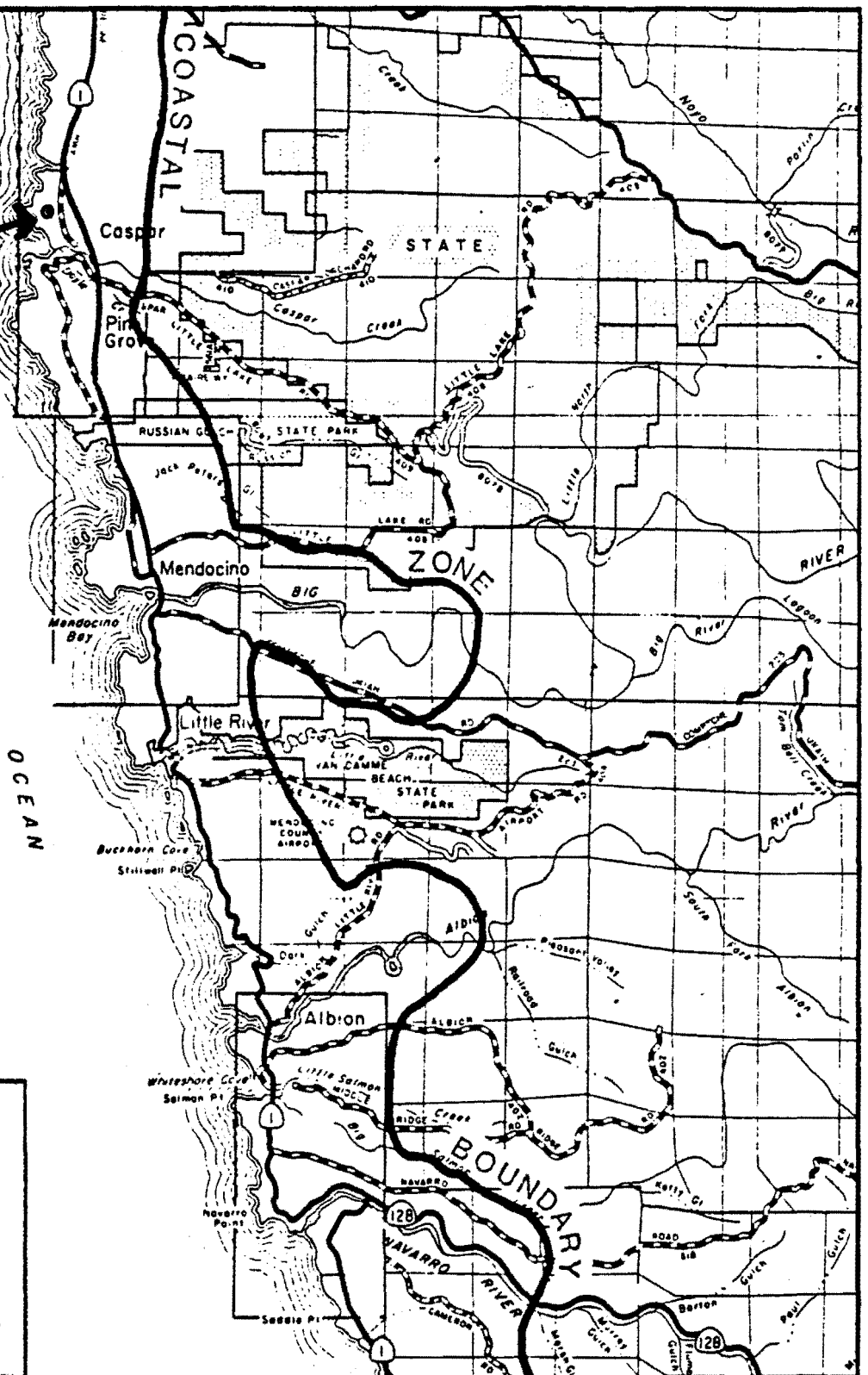
LOCATION MAP



California Coastal Commission



Mendocino



California Coastal Commission

LOCATION MAP



Map 1950, 1961, 1965 - California, 1965 001-000

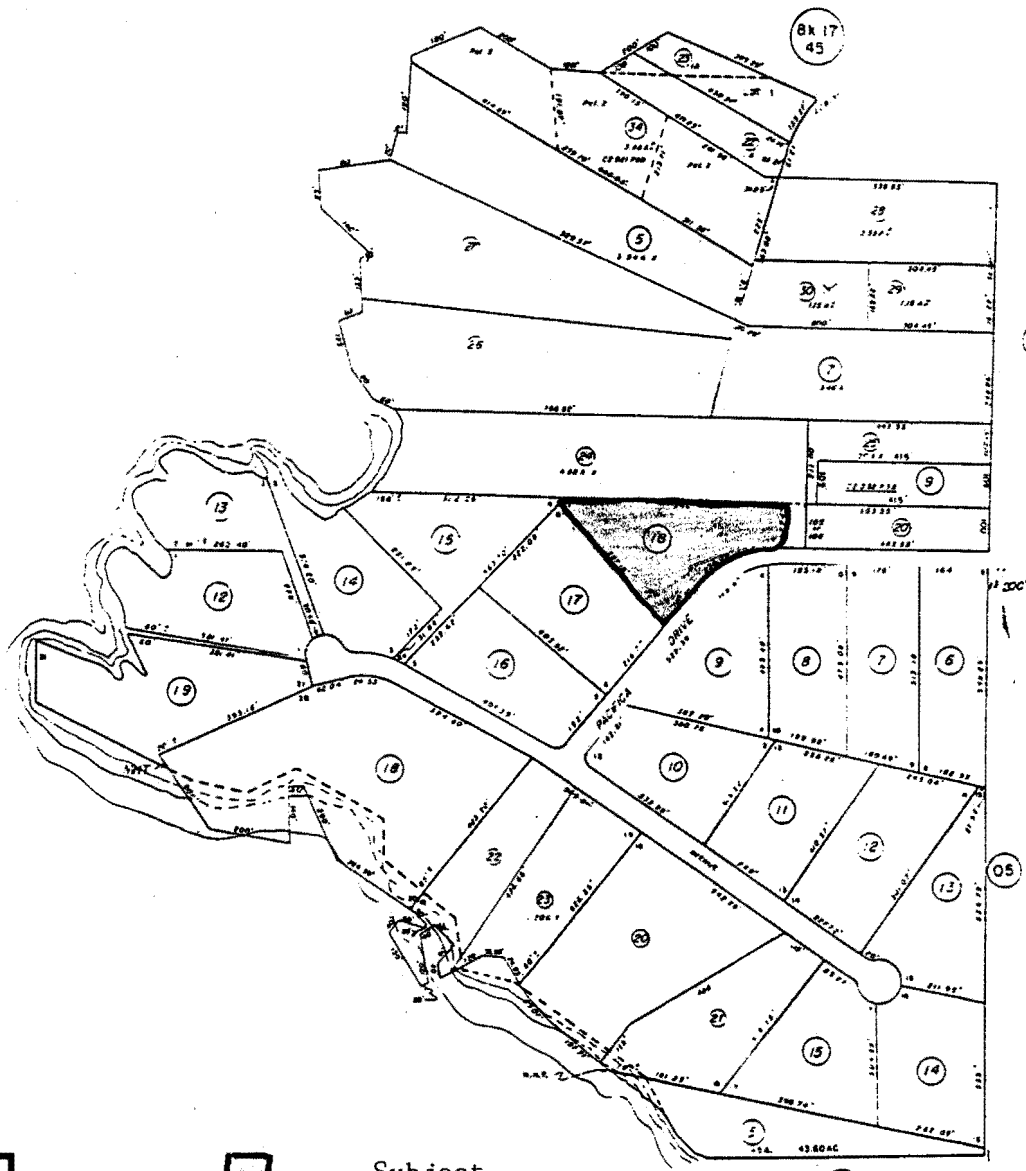
Pct. Map C2 D21 P80

Lots 1 thru 7 of Caspar Point Subdivision
Lot 1 Sec. 1 T. 17 N. R. 18 W. M.D.B. & M., Caspar

11. - C-12
R-R
Z

118 - 01

N
17 200'




 = Subject Parcel

EXHIBIT NO. 2
APPLICATION NO. 1-90-174-A (BOOTH)
Vicinity Map

Assessor's Map
County of Mendocino, Calif.
March, 1965



COUNTY OF MENDOCINO
 C/O COURTHOUSE, UKIAH, CA 95482
 PHONE (707) 463-4281

PLOT PLAN
BUILDING INSPECTION DIVISION

153 W. SPRUCE ST., FORT BRAGG, CA 95437
 PHONE (707) 964-5379

JOB ADDRESS 190-174-A BOOTH

ASSESSOR'S PARCEL NO. 112-13-13

APPLICATION NO.

TOWN or COMMUNITY WAR

OWNER'S (LEGAL) NAME TERRELL & JHERINE TOLSTH

Show all buildings, structures, mobile homes, septic tanks and leach fields, wells, streams, lakes, roads, streets, alleys, retaining walls, fences, easements, electrical power poles, and any other improvements and indicate all distances between. Specify whether existing or proposed. Draw to and show scale. Indicate orientation with a North Arrow.

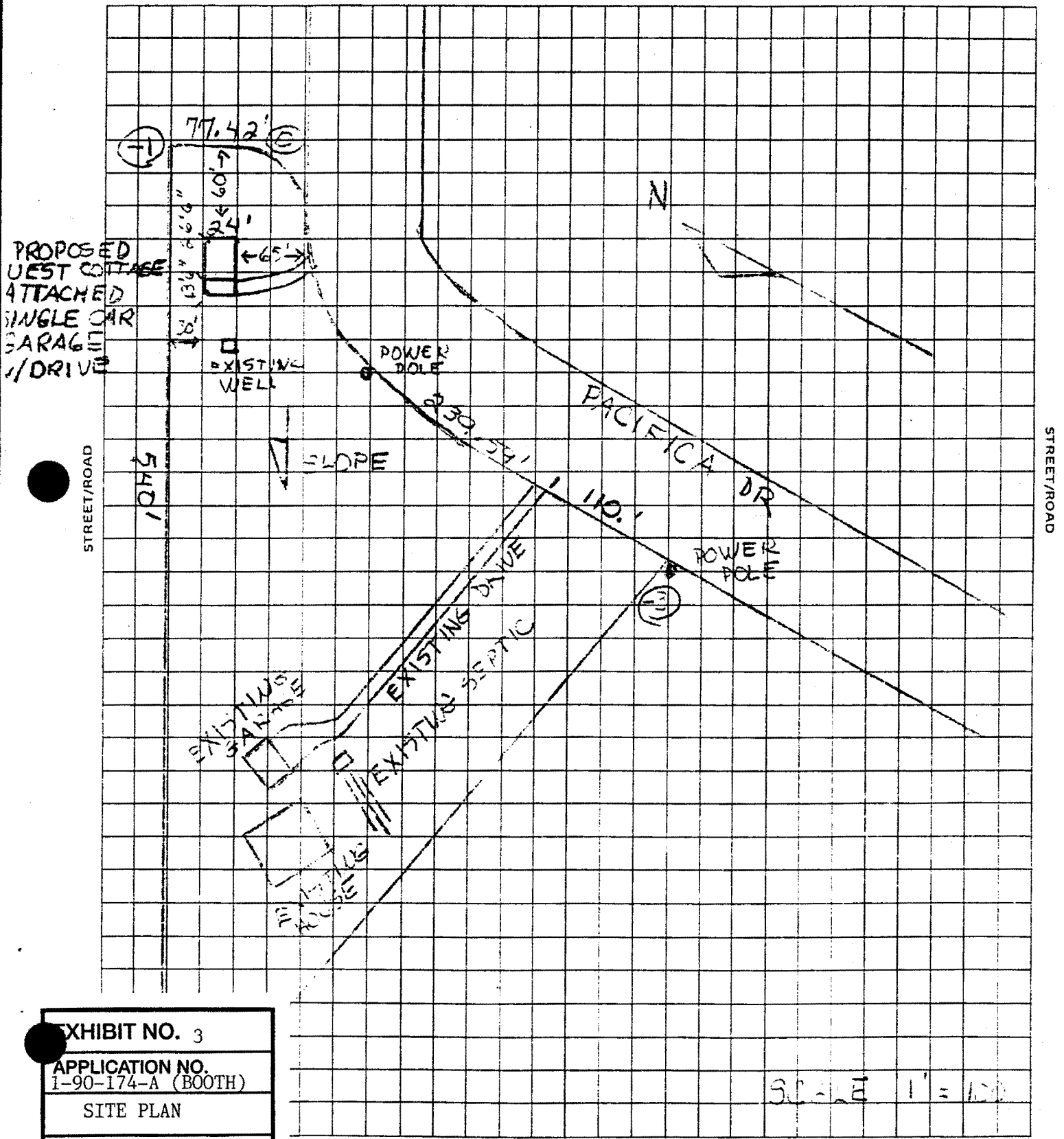
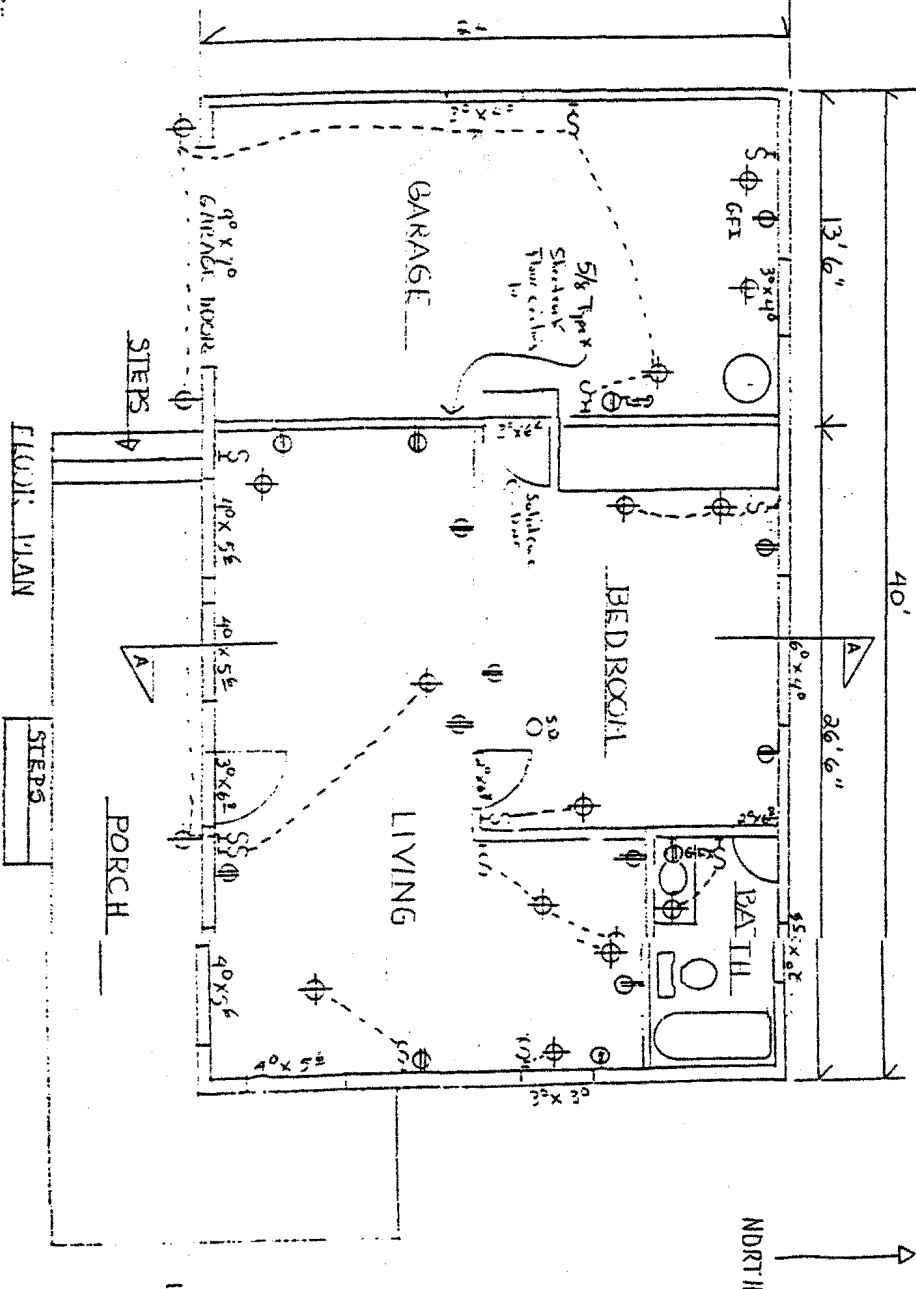


EXHIBIT NO. 3
APPLICATION NO. 1-90-174-A (BOOTH)
SITE PLAN

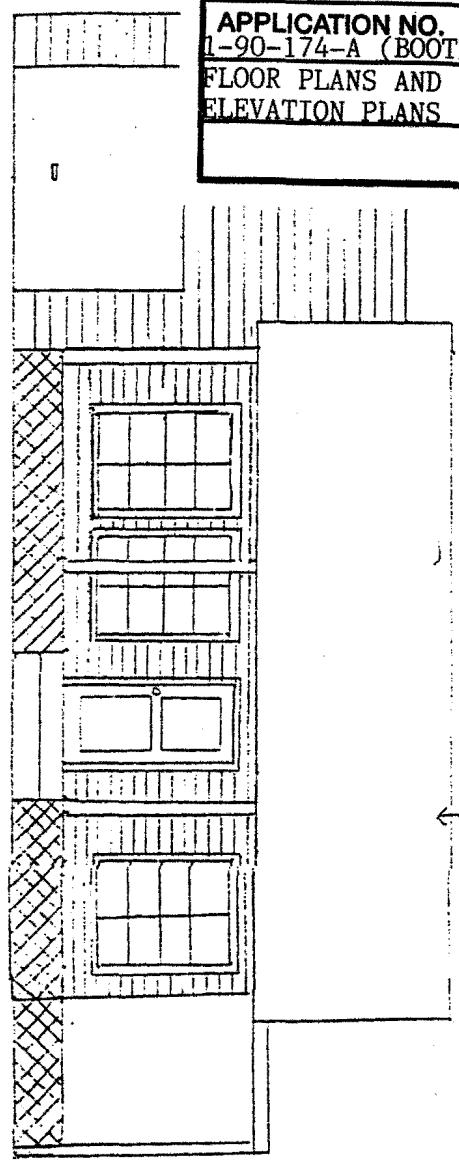
SCALE 1" = 100'

STREET/ROAD

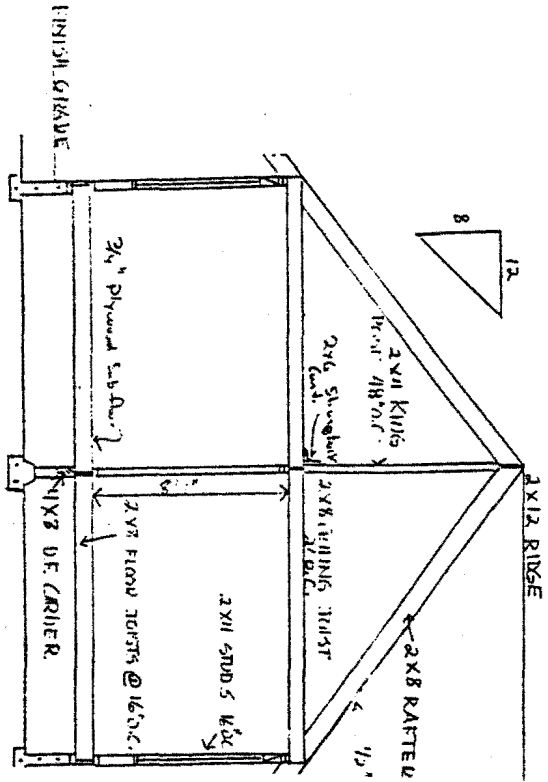
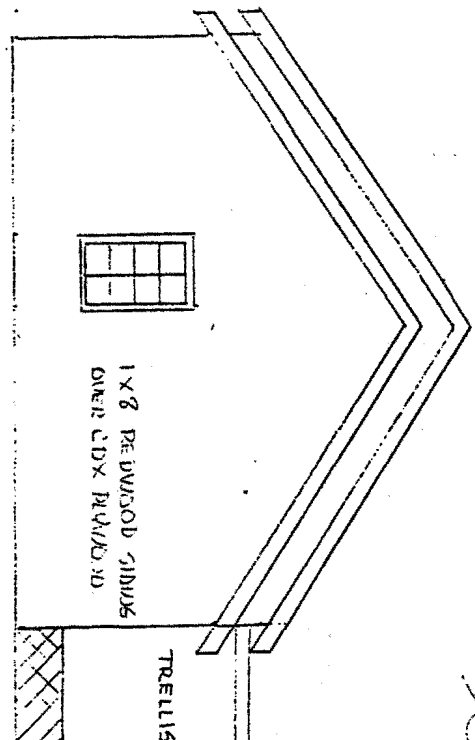
EXHIBIT NO. 4
APPLICATION NO.
 1-90-174-A (BOOTH)
FLOOR PLANS AND
ELEVATION PLANS



SOUTH ELEVATION



WEST ELEVATION



PLANS DRAWN BY
 TERRANCE N. POTT
 NOVEMBER 29, 1996

DESIGNED GUEST COTTAGE
 FOR TERRANCE & CATHERINE P.

1-90-174-A