

# RECORD PACKET COPY

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

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

# W 16a



Filed: August 6, 1996  
49th Day: September 24, 1996  
180th Day: February 2, 1997  
Staff: Bill Van Beckum  
Staff Report: August 23, 1996  
Hearing Date: September 11, 1996  
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: **1-96-31**

APPLICANTS: **HARRIS AND PEGGY WOLFSON, JOSEPH AND PATRICIA ARRIGHI, AND LOUIS AND BARBARA ARRIGHI**

PROJECT LOCATION: Golden Hinde Inn & Marina, 12938 Sir Francis Drake Blvd., Inverness, Marin County, APNs 112-091-107, 112-101-01, 2, 3, 12, and 13

PROJECT DESCRIPTION: Repair 1,431 lineal feet of wooden bulkheads and wave breaks by facing the bulkheads and wave breaks with PVC sheet pile armor and backfilling the space between the sheet pile armor and bulkheads with sand and gravel.

LOCAL APPROVALS RECEIVED: County of Marin Tidelands Permit Exemption

SUBSTANTIVE FILE DOCUMENTS: Marin County Local Coastal Program

STAFF NOTES:

Standard of Review. The proposed project is located on the west shore of Tomales Bay. Marin County has a certified LCP, but the project site is in tidal areas within the Commission's retained jurisdiction. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

**1-96-31 - HARRIS & PEGGY WOLFSON,  
JOSEPH & PATRICIA ARRIGHI, and LOUIS & BARBARA ARRIGHI**

Page 2

**I. Approval with Conditions.**

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

**II. Standard Conditions. See Attachment A.**

**III. Special Conditions.**

1. All construction debris shall be removed from the site and disposed of in a lawful disposal site. Any floating debris allowed to enter the waters of Tomales Bay shall be retrieved and lawfully disposed of.

**2. State Lands Commission Review.**

PRIOR TO ISSUANCE of the coastal development permit, the applicant shall submit to the Executive Director a written determination from the State Lands Commission that:

- a. No State lands are involved in the development; or
- b. State lands are involved in the development and all permits required by the State Lands Commission have been obtained; or
- c. State lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

3. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the applicants shall provide to the Executive Director a copy of a U.S. Army Corps of Engineers permit, letter of permission, or nationwide permit for the project.

**IV. Findings and Declarations.**

The Commission hereby finds and declares as follows:

**1. Project and Site Description.**

The approximately seven-acre property, the site of an inn, restaurant and marina complex, is located on the west shore of Tomales Bay at Inverness. See Exhibits 1 and 2. Current on-shore site development includes eight structures

**1-96-31 - HARRIS & PEGGY WOLFSON,  
JOSEPH & PATRICIA ARRIGHI, and LOUIS & BARBARA ARRIGHI**

Page 3

associated with the inn and restaurant, paved parking areas and landscaping. The site does not contain any environmentally sensitive habitat. The marina consists of approximately 63 slips which primarily serve recreational vessels.

The marina's bulkheads and wave breaks (Exhibits 3 and 4) are constructed of deteriorating creosote-treated wood. In some areas, the wood has deteriorated to such an extent that openings in the wood have developed, allowing sinkholes to form in the adjacent land.

The applicants propose to repair all of the marina's bulkheads and wave breaks (totalling 1,431 lineal feet) by facing the bulkheads and wave breaks with interlocking, PVC sheet pile armor (specifically, a product called ShoreGuard) and backfilling the narrow space between the ShoreGuard and bulkheads with sand and gravel. The PVC formulation of the ShoreGuard results in a substance that is non-toxic, non-leaching, impervious to marine borers, and is unaffected by salt water and sunlight. The 1/4"-thick sheet piling is driven into the substrate by vibratory hammers or compactors. As further described by the applicants:

The proposed repairs to this marina consist of replacing bulkheads on the north, east, and south end of the marina totaling approximately 1,081 linear feet. Also, repairs will be required to the wave breaks attached to the fixed piers on the west side of the site totaling approximately 1,431 linear feet ....

Repairs to the bulkhead would consist of placement of a horizontal wale along the existing outside face piles and driving ShoreGuard Series 400 Vinyl Sheetpiling against these wales. Next, an outside wale will be attached and tied back with hot dip galvanized tie rods for support. On the north and east bulkheads, the tie rods will tie back walls running parallel to each other while walls on the south and southeast side will be tied back to new deadmen. The void between the ShoreGuard Sheets and the existing sheets will be backfilled with a granular backfill up to meet the finished grade, as well as the sink holes. Wave break replacement will be done in a similar manner except tie backs will not be required. Bolting an outside wale to the existing piles will provide adequate support.

Exhibits 5 and 6, which provide typical sections as noted on the site plan (Exhibit 4), graphically portray the proposed installation.

**2. Fill in Coastal Waters and Protection of Marine Resources.**

The Coastal Act defines fill as including "earth or any other substance or material ... placed in a submerged area." The proposed project includes placement of fill in coastal waters in the form of the vinyl sheet piling itself and the sand and gravel backfill between the sheet piling and bulkheads. The total encroachment of these materials into the bay, along the 1,431 lineal feet of repaired bulkheads and wave breaks, at 1.48 square-feet of fill in front of each lineal foot of wall, totals 2,118 square feet.

**1-96-31 - HARRIS & PEGGY WOLFSON,  
JOSEPH & PATRICIA ARRIGHI, and LOUIS & BARBARA ARRIGHI**

Page 4

Section 30233 of the Coastal Act addresses the placement of fill within coastal waters. Section 30233(a) provides as follows, in applicable part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

...

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities...

...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary ....

The above policies set forth a number of different limitations on what fill projects may be allowed in coastal waters and environmentally sensitive habitat areas. For analysis purposes, the limitations can be grouped into three general categories or tests. These tests are:

- a. that the purpose of the project is limited to one of eight uses;
- b. that the project has no feasible less environmentally damaging alternative; and
- c. that adequate mitigation measures to minimize the adverse impacts of the proposed project on habitat values have been provided.

The proposed project meets the criteria of Section 30233 of the Coastal Act, as the the purpose of the project, repairing "boating facilities," is an allowable purpose for fill pursuant to Section 30233(a)(4).

No feasible alternatives to the proposed project resulting in less environmental damage have been identified. The no project alternative would eventually result in further deterioration of the bulkheads and wave breaks, thus increasing the likelihood that creosote-treated wood fragments would enter the bay. In previous Commission actions, the Commission has found that certain kinds of wood preservatives, including creosote, can lead to water pollution. The no project alternative also would increase the likelihood that additional sinkholes would appear as more of the bulkhead support fails. This situation would in turn lead to increased sedimentation of the bay. Thus, the no project alternative is not a less environmentally damaging alternative.

The applicants have also investigated the alternative of removing the existing deteriorating bulkheads and wave breaks and installing the vinyl sheet piling in their place, instead of in front of them as proposed. This alternative is not feasible as it would cost nearly three times as much as the preferred alternative (\$784,626 versus \$280,583). In addition, the close proximity of the existing inn structures relative to the bulkhead makes it impossible to mobilize equipment needed to remove the existing bulkhead. Furthermore, the existing bulkhead cannot support the loads required to operate the necessary equipment for removing the existing bulkhead. Moreover, this alternative would not be less environmentally damaging than the proposed project as significant loss of sediment into the bay, including potential contaminants during bulkhead removal, is likely.

No other alternatives for repairing the existing structures have been identified that would involve less fill.

No direct significant impacts of the project as proposed have been identified. The area to receive fill is generally mud, with no discernible vegetation. Although some benthic organisms and marine organisms such as barnacles that attach to the existing wood piles, bulkheads and wave breaks, will be displaced by the fill, this loss will be mitigated by the creation of additional vertical habitat for barnacles and other species on the new sheet piling. Furthermore, due to the corrugation of the sheeting, there will be more surface area for species colonization than would be the case if the sheeting were flat like the existing bulkheads and wave breaks. Exhibit 7 provides a plan view of the sheet piling, to illustrate the additional habitat opportunities provided by the corrugated surface. Mr. Tom Moore of the Department of Fish and Game, in reporting to staff (8/5/96) on a recent visit of his to the project site, said that he supports the project as proposed because of the minimal shoreline disturbance involved in the sheet piling's installation and the habitat opportunities the sheet piling's corrugated surface will provide. Therefore, the Commission finds that no additional mitigation is required for the loss of habitat area to be covered by the proposed fill.

The project could have an adverse impact on the water quality of Tomales Bay if construction debris were allowed to enter the water. In addition, any floating debris that becomes loose on the water could pose a navigation hazard to boaters. Therefore, the Commission attaches Special Condition No. 1, which requires all construction debris to be removed from the site and lawfully disposed of, including any floating debris that enters the water.

The Commission thus finds that the project is an allowable use for fill of coastal waters, that there is no feasible less environmentally damaging alternative, and that adequate mitigation for the minor impacts associated with the new fill will be provided. In addition, the Commission finds that the project will maintain the functional capacity of the Tomales Bay estuary. Therefore, the Commission finds that the proposed development is consistent with Section 30233 of the Coastal Act.

3. Public Access.

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

The Golden Hinde Inn & Marina is a coastal visitor serving facility that is available for public use. However, there is no existing public access at the site enabling pedestrians and other kinds of public access users to enjoy the shoreline without paying to use the facilities.

In 1982, the Commission approved a remodeling project and restaurant addition (Commission Permit No. 2-82-20) at the site. The Commission's approval included a condition requiring the execution and recording of an offer to dedicate easements at the site for vertical and lateral access. The offer was recorded on August 26, 1982, but to date the offer has not been accepted by any public agency or private association, so the access ways have not been opened for public use.

Nonetheless, a requirement for public access is not warranted for the proposed project. The proposed bulkhead and wave breaks repairs will not adversely affect the offered accessways. In addition, the proposed repairs will not create any new demand for public access or otherwise create any additional burdens on public access. Therefore, the Commission finds that the proposed project does not have any adverse effect on public access that warrants requiring additional public access, and that the project as proposed without new public access is consistent with the provisions of the Coastal Act Sections 30210, 30211, and 30212.

4. Visual Resources.

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas be considered and protected as a resource of public importance, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The project will not result in any blockage of public views to Tomales Bay as it is below the level of the land between Sir Francis Drake Boulevard and the Bay. Also, since the proposed sheet pilings will parallel the existing

**1-96-31 - HARRIS & PEGGY WOLFSON,  
JOSEPH & PATRICIA ARRIGHI, and LOUIS & BARBARA ARRIGHI**

Page 7

bulkhead and wave break structures, as facings to these structures, no part of the sheet pilings will protrude into bay waters in any that would obstruct views along the waters' edge. The project will not require any land form alteration other than repair of sink holes, which will be filled and graded to existing grade.

Although the sheet piling is a hard vinyl product that has not previously been utilized in the installation or repair of Tomales Bay bulkhead and wave break structures, which are typically of wood or concrete construction, it is similar in scale and general design to the more traditional materials, except for its corrugated surface previously described (see Exhibit 7's plan view). Colored a light neutral grey throughout, the non-reflective vinyl sheet piling's surface appearance is not unlike that of concrete. Furthermore, since the sheet piling will provide a new and uniform facing to the marina's deteriorating, wooden bulkheads and wave breaks, it will significantly enhance the appearance of the marina, both from within the marina and from boats on the bay passing the marina. The project, therefore, is consistent with Section 30251, as it is designed to protect views to and along Tomales Bay, does not alter natural land forms, is visually compatible with the character of surrounding areas, and enhances the visual quality of the marina area.

5. Public Trust.

The marina is subject to tidal action, and is therefore subject to State Lands Commission considerations. According to State Lands Commission staff (Mary Howe, 8/14/96), there is a public trust easement over the area, but the proposed repairs are consistent with trust uses and needs in the area. Nonetheless, to ensure that the applicants have all the necessary property rights to carry out the project and to comply with the terms and conditions of this permit, the Commission attaches Special Condition No. 2 which requires that the applicants submit a final written determination from the State Lands Commission as to whether a permit from that Commission is needed.

6. U.S. Army Corps of Engineers Approval.

The project requires review and approval by the U.S. Army Corps of Engineers. Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Commission attaches Special Condition No. 3 which requires the permittee to submit to the Executive Director evidence of U.S. Army Corps of Engineers approval of the project prior to the commencement of work.

7. Marin County LCP.

The proposed project is located within the Commission's retained coastal development permit jurisdiction. Therefore, the standard of review that the Commission is applying in its consideration of the application is the Coastal Act. Nonetheless, the project is also consistent with the Marin County Local Coastal Program.

Marin County's LCP "Diking, Filling and Dredging" Policy 2 limits development within open coastal waters to specific uses, including uses related to "boating facilities" (Policy 2.g.). LCP "Diking, Filling and Dredging" Policy 3 states that filling may be allowed when there is no feasible less environmentally damaging alternative (Policy 3.a.) and, where feasible, mitigation measures have been provided to minimize adverse environmental effects (Policy 3.b.). As discussed in Finding 2. above, "Fill in Coastal Waters," the proposed fill qualifies, under Coastal Act Section 30233(a)(4), as fill for "boating facilities." In addition, no feasible, less environmentally damaging alternative has been identified, and the project will employ adequate mitigation measures to minimize the adverse environmental effects. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the fill of coastal waters policies of the Marin County LCP.

8. California Environmental Quality Act (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 which the activity may have on the environment. As discussed above, the project has been mitigated to prevent construction debris from polluting the waters of Tomales Bay. The project, as conditioned, therefore will not have a significant adverse effect on the environment within the meaning of CEQA.

Exhibits

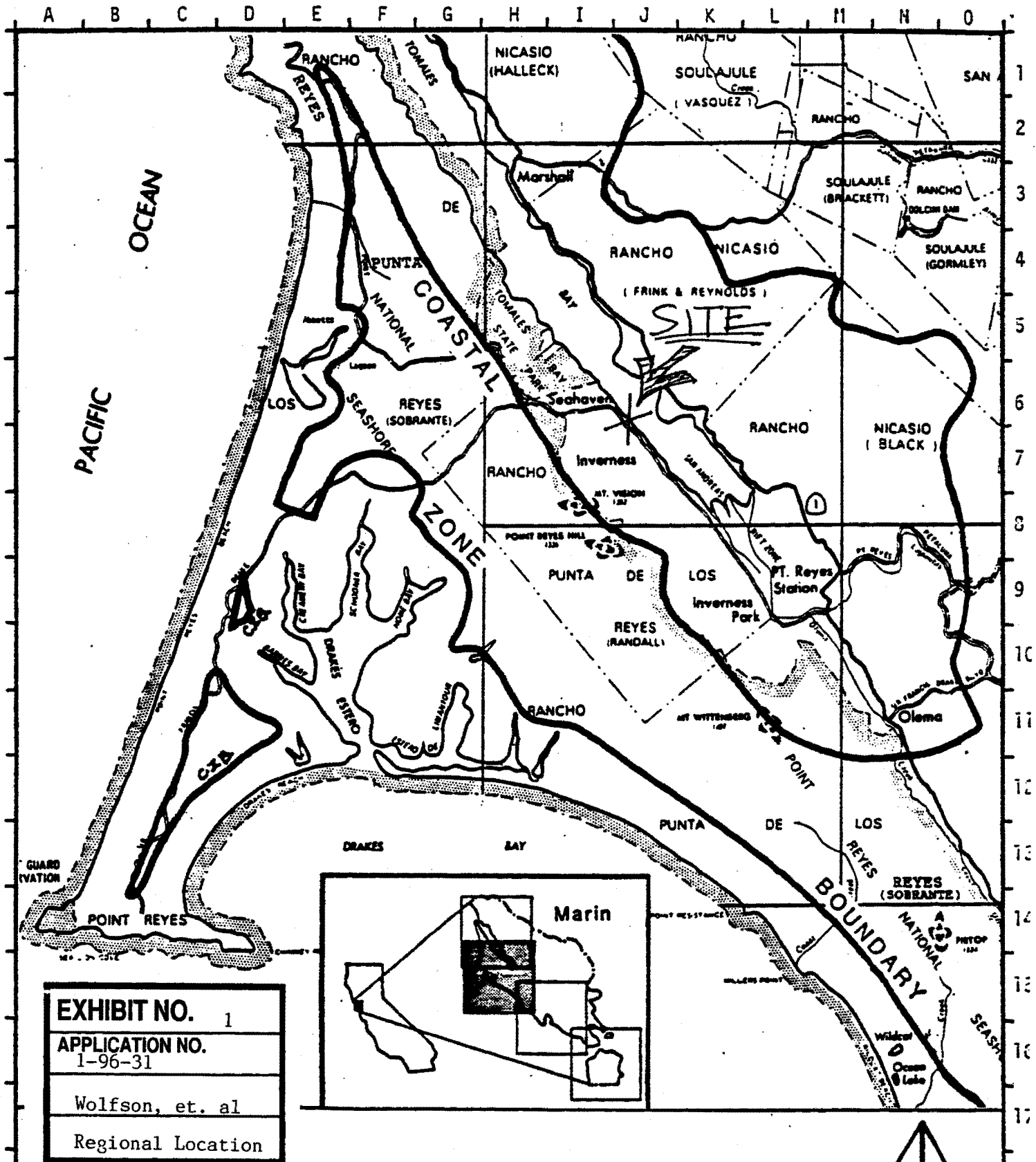
1. Regional Location Map
2. Site Location Map
3. Marina Setting
4. Site Plan
5. Bulkhead Section
6. Wave Break Section
7. Bulkhead Plan View



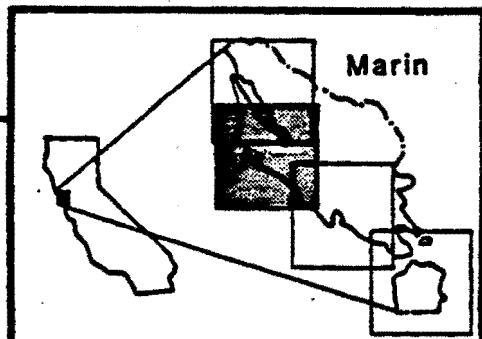
ATTACHMENT A

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.

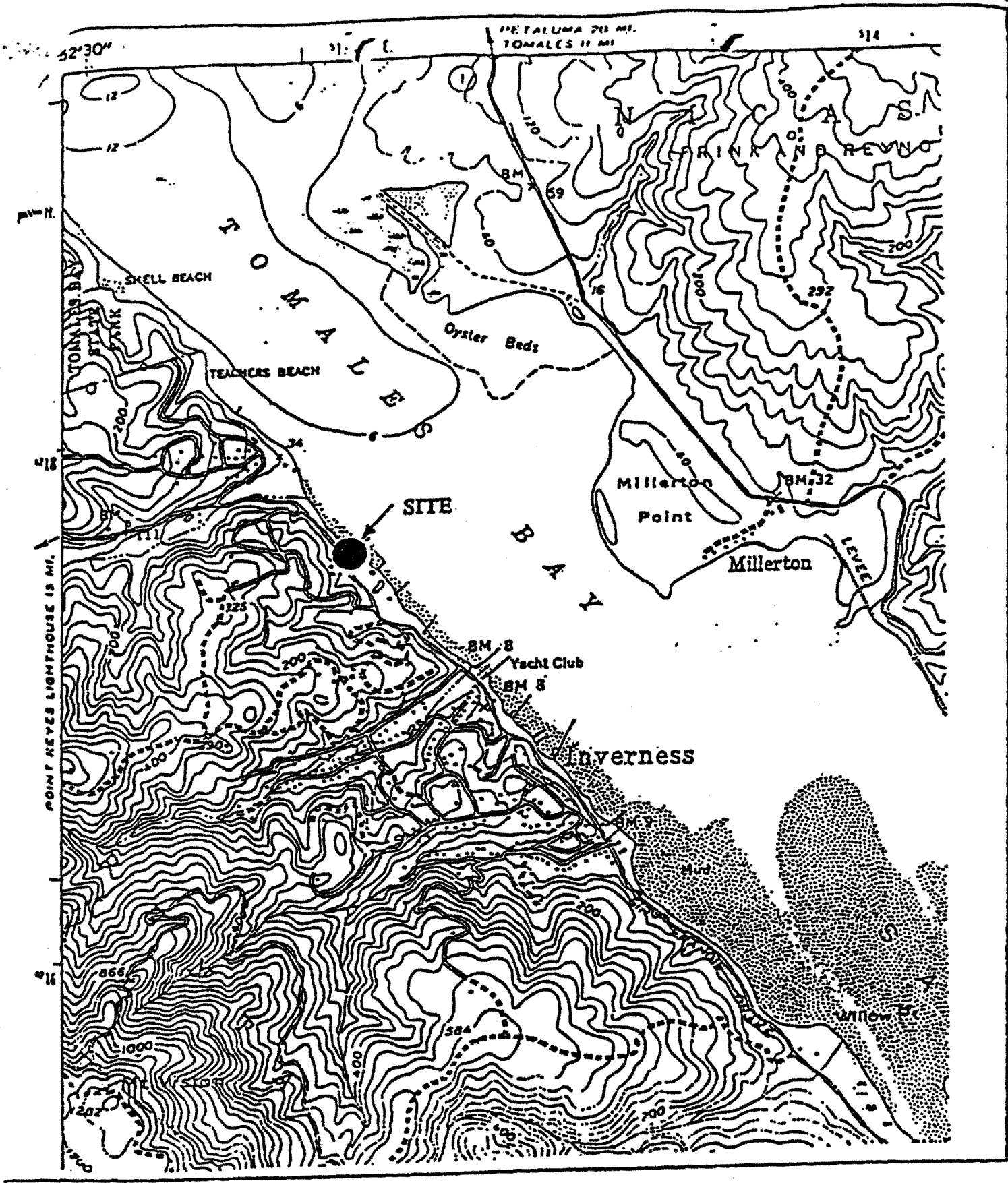


<b>EXHIBIT NO.</b>	1
<b>APPLICATION NO.</b>	1-96-31
Wolfson, et. al	
Regional Location	



**LOCATION MAP**





Site Location Map  
 Golden Hinde Inn & Ma  
 12938 Sir Francis Drake  
 Inverness, California

DATE \_\_\_\_\_ REVISED \_\_\_\_\_

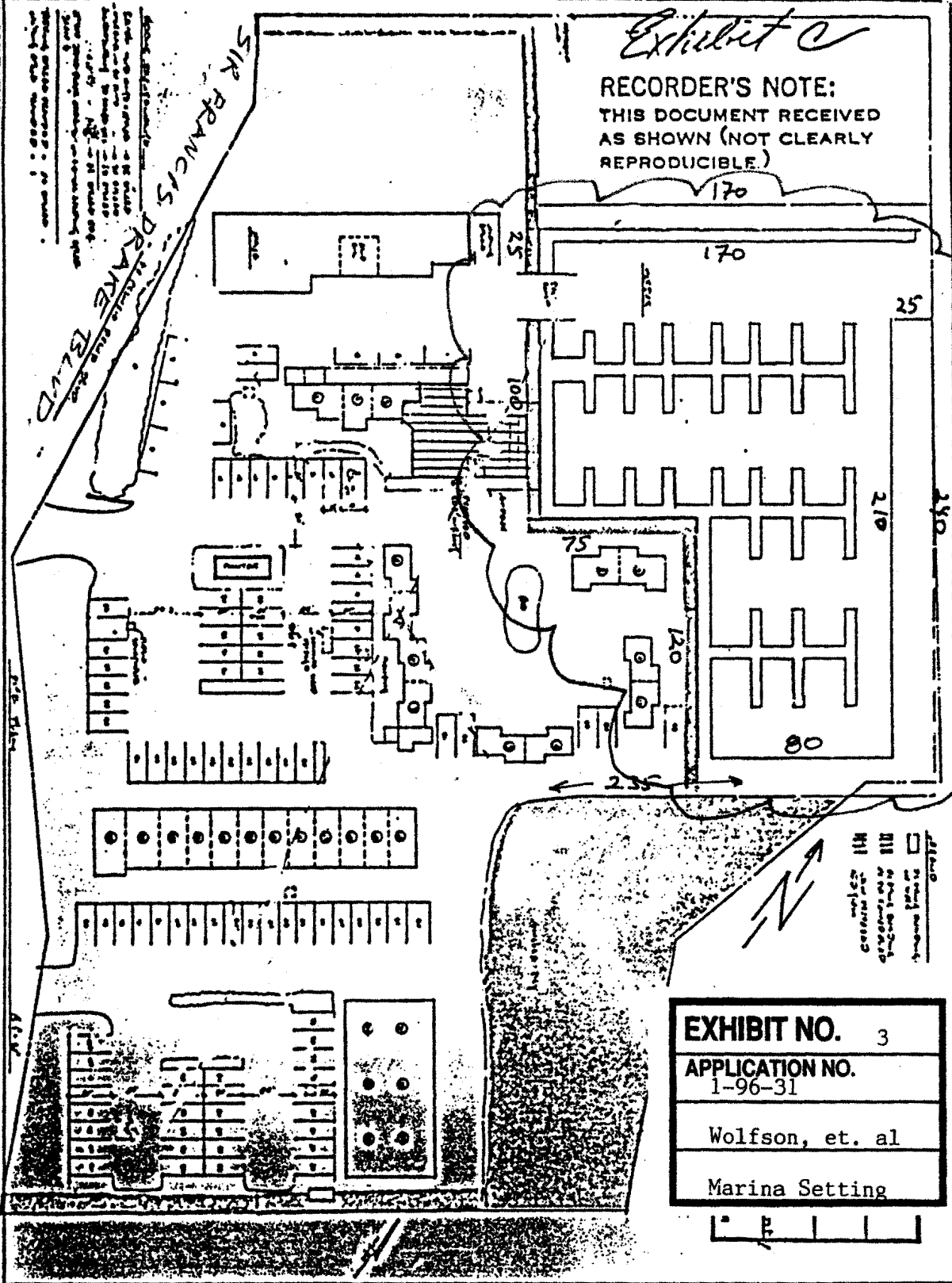
<b>EXHIBIT NO.</b> 2
<b>APPLICATION NO.</b> 1-96-31
Wolfson, et. al
Site Location

FE  
 .  
 —  
 —

3:035666

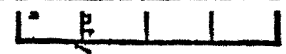
*Exhibit C*

RECORDER'S NOTE:  
THIS DOCUMENT RECEIVED  
AS SHOWN (NOT CLEARLY  
REPRODUCIBLE)



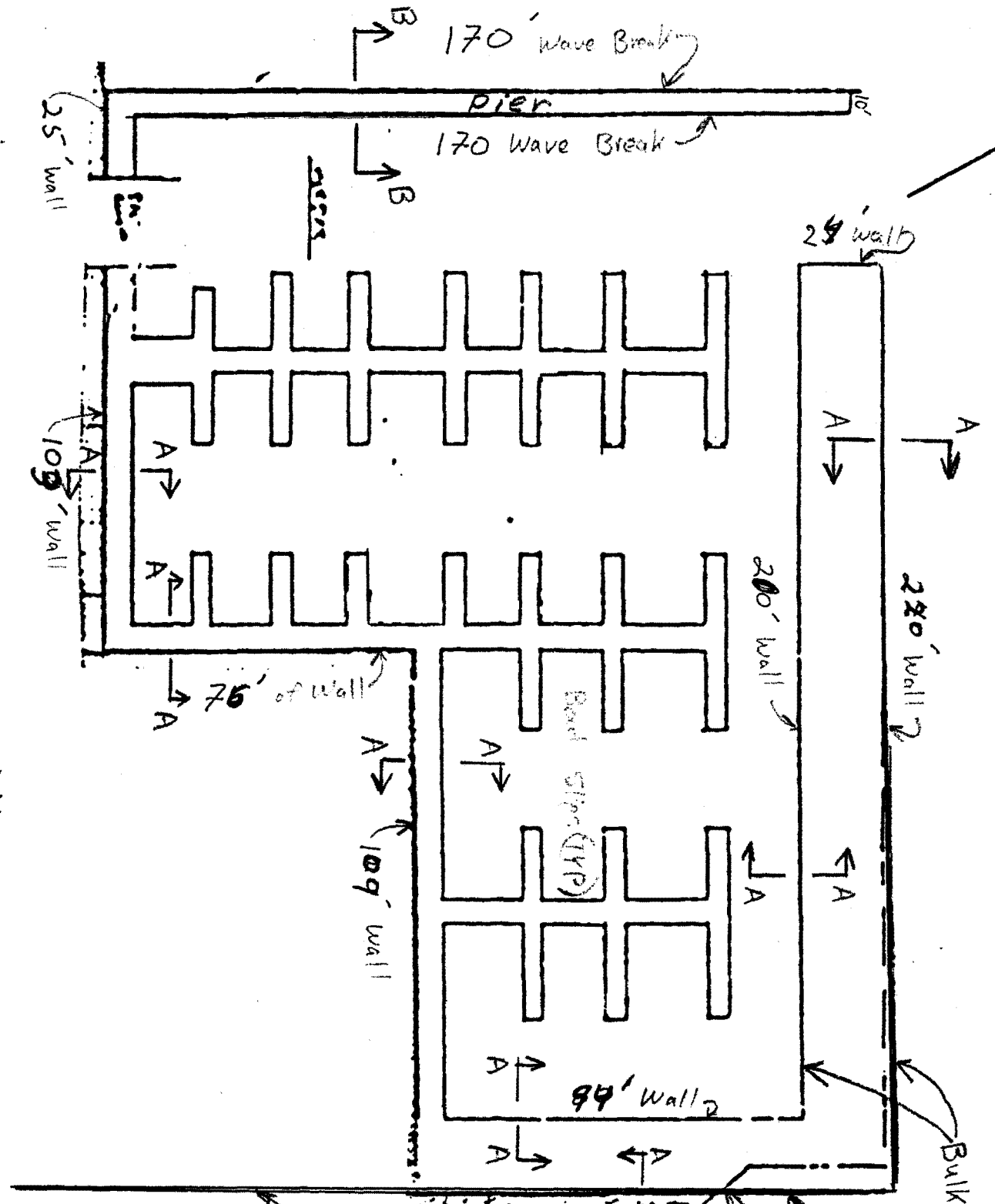
See Site Plan

<b>EXHIBIT NO.</b>	3
<b>APPLICATION NO.</b>	1-96-31
Wolfson, et. al	
Marina Setting	



<p>BY FILED IN 1996-11-01</p>	<p>FILED IN 1996-11-01</p>	<p>FILED IN 1996-11-01</p>	<p>FILED IN 1996-11-01</p>
-------------------------------	----------------------------	----------------------------	----------------------------

Tomales Bay



SITE PLAN  
(NTS)

EXHIBIT NO.	4
APPLICATION NO.	1-96-31
	Wolfson, et. al
	Site Plan

MAX. LIN. FT.  
OF WALL TO BE  
REPAIRED -  
Approx. ~~1450~~ ~~1431~~ 2116  
~~1450~~ ~~1431~~ 2116  
58. Ft.

Wall Tapers to  
0' in height

Bulkhead (See Detail A)

230' wall

230'

Road Strip (R.P.)

170' Wave Breaking  
Pier  
170' Wave Break

25' wall

24' wall

109' wall

75' of wall

200' wall

84' wall

230' wall

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

A-A

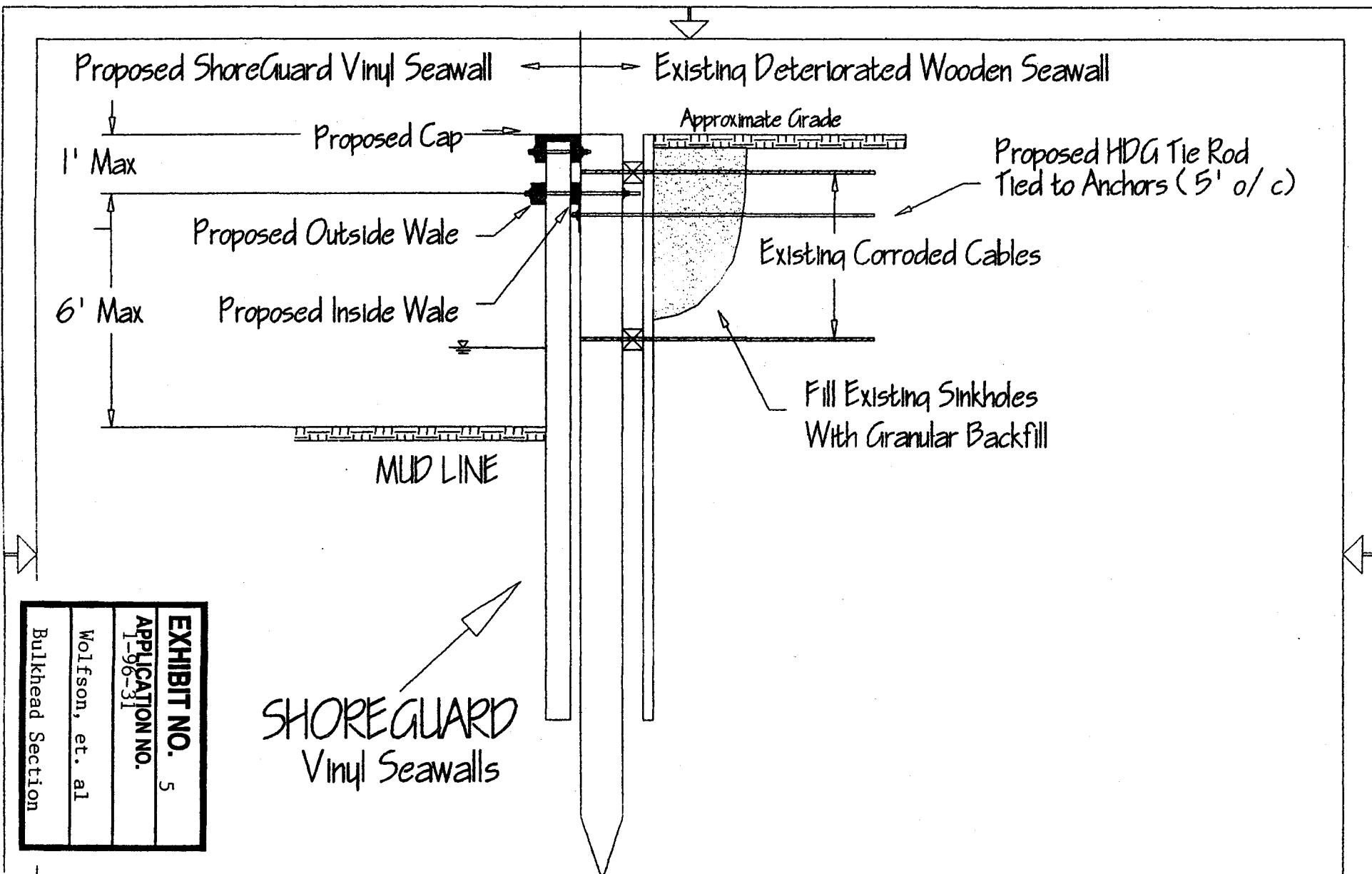
A-A

A-A

A-A

A-A

A-A



Bulkhead Section	EXHIBIT NO. 5
	APPLICATION NO. 1-96-31
	Wolfson, et. al

SHOREGUARD  
Vinyl Seawalls


# Seawall Typical Section A-A

Materials International, Inc.  
4501 Circle 75 Parkway  
Suite E-5370  
Atlanta, GA 30339 USA  
USA 800-256-8857  
Fax: 404-933-8363

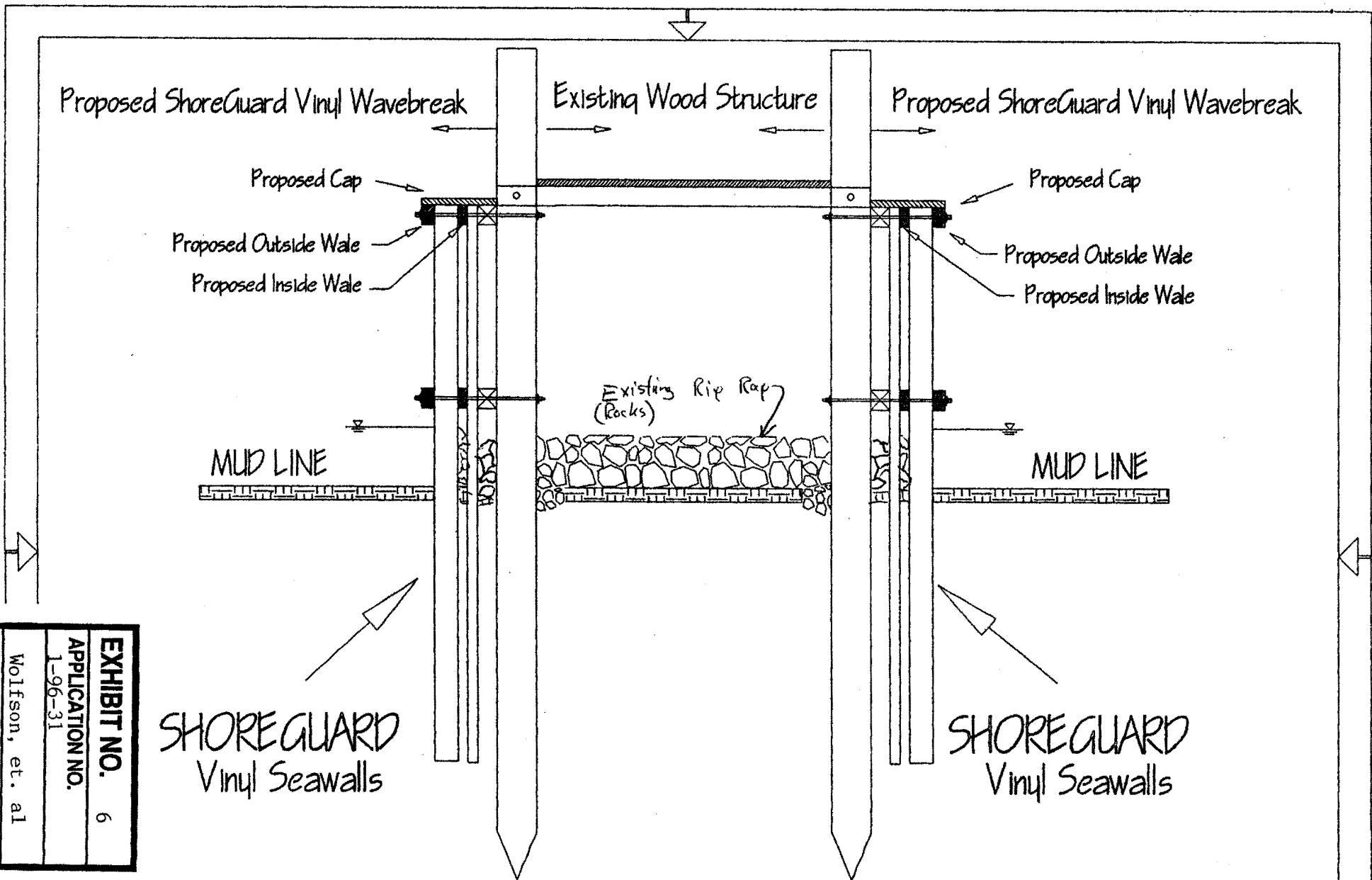
Basic design information is provided as an aid to the engineer or architect in developing working plans for specific applications. No representations, warranties, or guarantees of any kind are made as to its suitability for particular applications or the results obtained therefrom.

DRAWN BY: **B. Victorica**  
DATE: **08-02-96**  
SCALE: **Not To Scale**

Prepared for Carl Hazenberg

 **Materials International**

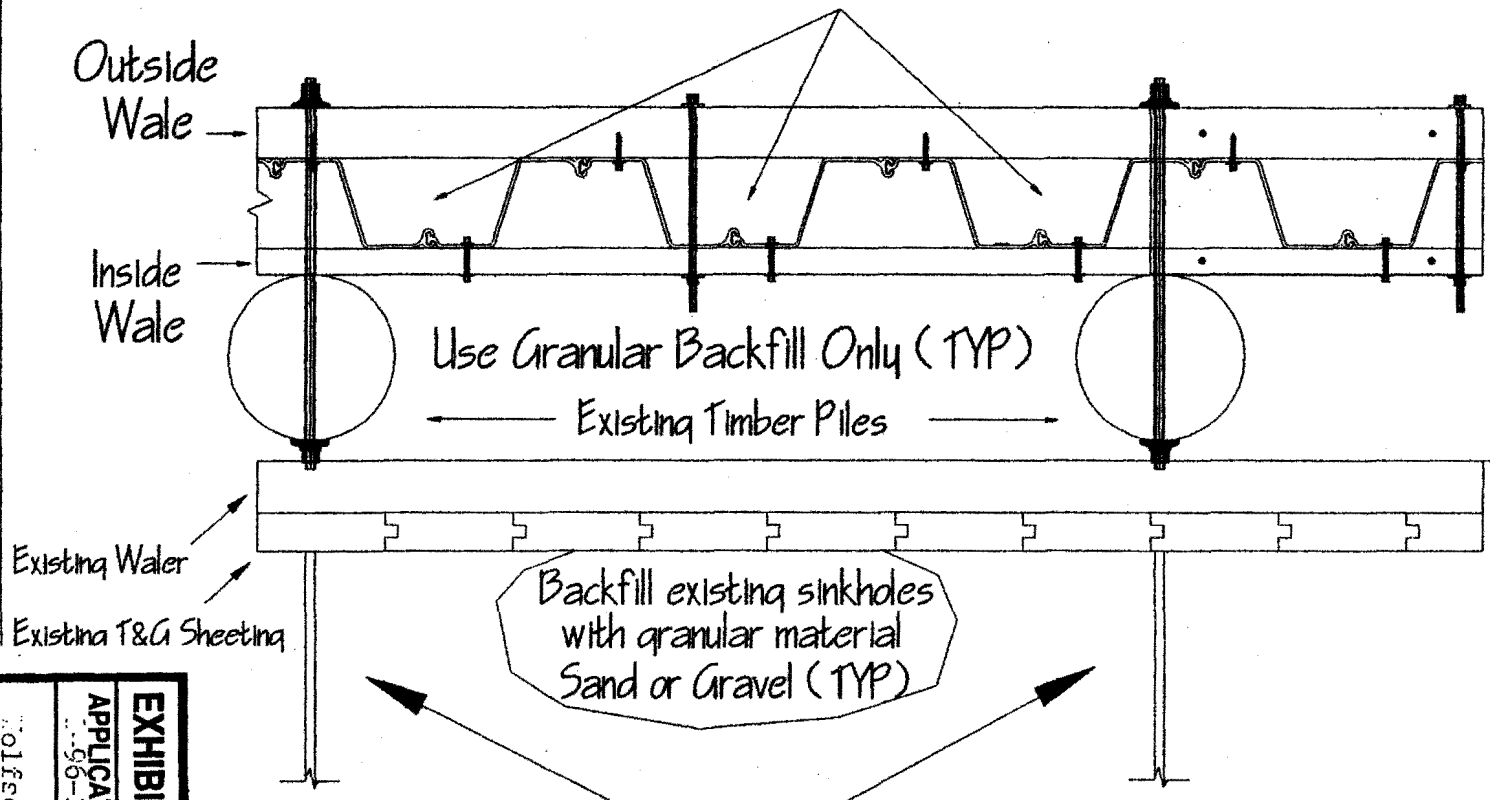
SIZE <b>B</b>	Drawing File Name <b>resheet</b>	SHEET <b>1</b> OF <b>1</b>
DIVISION <b>Marine</b>	PRODUCT <b>Shore Guard</b>	



Wave Break Section	EXHIBIT NO.	6
	APPLICATION NO.	1-96-31
		Wolfson, et. al

Pier Typical Section B - B	Materials International, Inc. 4501 Circle 75 Parkway Suite E-5370 Atlanta, GA 30339 USA USA 800-256-8857 Fax 404-933-8363	Basic design information is provided as an aid to the engineer or architect in developing working plans for specific applications. No representations, guarantees, or warranties of any kind are made as to its suitability for particular applications or the results obtained therefrom.	Prepared for Carl Hazenberg	
	DRAWN BY: B. Victorica	<b>Materials International</b>		
	DATE: 08-02-96			SIZE: B
	SCALE: Not To Scale	DIVISION: Marine	PRODUCT: Shore Guard	

Additional area created for marine habitat =  $0.264 \text{ ft}^2/\text{lf}$



3/4" HDG Tie Rod Secured to Anchors  
Every 5' On Center

PLAN VIEW  
(NTS)

EXHIBIT NO. 1  
APPLICATION NO. 96-31  
Tolson, et. al  
Bulkhead Plan View

NOTE: Additional Coverage of Bay Bottom =  $1.48 \text{ ft}^2/\text{LF}$  of wall

ShoreGuard Project:  
Goldenhinde Inn and Marina  
~~495~~ + Linear Feet

Materials International, Inc.  
4501 Circle 75 Parkway  
Suite E-5370  
Atlanta, GA 30339 USA  
USA 800-256-8857  
Fax 770-933-8363

Basic design information is provided as an aid to the engineer or architect in developing working plans for specific applications. No representations, guarantees, or warranties of any kind are made as to its suitability for particular applications or the results obtained therefrom.  
DRAWN BY: B. Victorica  
DATE: 07-26-96  
SCALE: Not To Scale

CLIENT: Harris Wolfson  
Materials International  
SIZE B Drawing File Name: prmtwest SHEET 1 OF 1  
DIVISION: Marine PRODUCT: ShoreGuard

10/1 PART