

CALIFORNIA COASTAL COMMISSION  
NORTH COAST AREA  
155 FREMONT, SUITE 2000  
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Filed:	September 26, 1997
49th Day:	November 14, 1997
180th Day:	March 25, 1998
Staff:	Bill Van Beckum
Staff Report:	February 25, 1998
Hearing Date:	March 11, 1998
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-97-63**

APPLICANTS: **THREE GUYS CELL COMM &  
LEE RICHARDSON**

PROJECT LOCATION: 12786 Sir Francis Drake Blvd., Inverness, Marin  
County. APN 112-310-26.

PROJECT DESCRIPTION: Attach to the corner of an existing commercial garage a  
44-foot-high telecommunications antenna, consisting of  
a 34-foot-high monopole support antenna, with two  
11-foot-high whip antennae connected near the pole's  
top.

Lot Area: 2.36 acres  
Zoning: C-CP, Coastal Commercial Planned District  
Land Use Plan: Coastal General Commercial

LOCAL APPROVALS RECEIVED: Marin County Use Permit 97-72/Design Review  
97-71, approved March 27, 1997

SUBSTANTIVE FILE DOCUMENTS: Marin County Local Coastal Program

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STAFF NOTES

1. 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  
within the Commission's retained jurisdiction. Therefore, the standard of  
review that the Commission must apply to the project is the Chapter 3 policies  
of the Coastal Act.

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2. Summary of Staff Recommendation. The major issue raised by the proposed project is the protection of visual resources. Staff recommends approval of the project with conditions that (1) require that the support pole and antennas be painted a non-reflective (matte) light gray to blend with the sky, (2) prohibit exterior lights illuminating or attached to the monopole and whip antennas, (3) require that all utility extensions or connections be placed underground, (4) require that all electronic transmitting and receiving equipment and batteries for back-up power supply be located within the existing garage, and (5) require that the design of the project not preclude locating additional telecommunications equipment at the site in the future and that the project would be removed if ever abandoned. Staff recommends that the Commission find that the proposed development, as conditioned, is consistent with the Coastal Act, including Coastal Act requirements that public coastal access not be adversely affected by the development.

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I. MOTION, STAFF RECOMMENDATION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

1. Motion.

I move that the Commission approve Coastal Development Permit No. 1-97-63 subject to conditions.

2. Staff Recommendation Of Approval:

Staff recommends a **YES** vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

3. Resolution To Approve Permit:

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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Project Color.

The support pole and antennas shall be painted a non-reflective (matte) light gray.

2. Project Lighting.

No exterior lights illuminating or attached to the monopole and whip antennas are permitted.

3. Undergrounding of Utilities.

All utility extensions or connections shall be placed underground.

4. Equipment Location.

All electronic transmitting and receiving equipment and batteries for back-up power supply shall be located within the existing garage.

5. Future Redesign and Removal.

Prior to the issuance of the coastal development permit, the applicants shall agree in writing that (a) the design of the proposed facility will not preclude the co-location or shared-location of additional telecommunications equipment at this site in the future, subject to applicable coastal development permit requirements, and (b) where future technological advances would allow for reduced visual impacts resulting from the proposed wireless communication facility, the applicants agree to make those modifications, subject to applicable coastal development permit requirements. In addition, if, in the future, the facility is no longer needed, the applicants agree to abandon the facility and be responsible for removal of all permanent structures, and restoration of the site as needed to re-establish the area consistent with the character of the surrounding area.

IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Project and Site Description.

The applicant proposes to attach a telecommunications antenna to the northeast corner of an existing commercial garage, in the established commercial core of Inverness on the west shore of Tomales Bay. See Exhibits 1 & 2. The proposed antenna consists of a 34-foot-high monopole support antenna, with two 11-foot-high whip antennas connected near the pole's top. The tops of the whip antennas would be 44 feet above the ground. The installation also includes locating needed electronic transmitting and receiving equipment, and batteries for back-up power supply, within the existing garage. No lighting of the antenna is proposed.

The 2.3-acre parcel on which the garage and gas station complex is located extends between Sir Francis Drake Boulevard and the bay (Exhibit 3). The site of the proposed antenna is approximately 113 feet from the road and over 200 feet from the nearest residence. The area adjacent to the antenna site, i.e.,

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just east of the garage's east side, is used for garage parking. No rare or endangered plants have been identified at or near the antenna location. Although a stand of pickleweed bordering the bay covers the east end of the parcel, the stand is approximately 125 feet east of the antenna site.

The proposed telecommunications facility would provide wireless communication service to residents and businesses in West Marin within a 50 square mile Cellular Geographic Service Area (CGSA). The Three Guys Cellcomm "service area" is defined by the Federal Communications Commission-authorized Service Area Boundary (SAB), which is depicted as a circle radiating from the project site on Exhibit 4. Of historical interest is the fact that just within the Three Guys Cellcomm SAB, at a point approximately 4 miles north - north by northwest of the site, on the opposite shore of the bay, at Marconi, is the location where in the early part of this century the nation's first Trans-Pacific radio transmission facility was built and operated by the Marconi Wireless Company. The facility, which was built as the Pacific link of Marconi's global radio communications system, operated at that location until the late 1920's.

### 2. Visual Resources.

Coastal Act Section 30251 requires that the scenic and visual qualities of coastal areas shall be protected, and that permitted development shall be sited and designed to protect views to and along the ocean, and to be visually compatible with the character of surrounding areas.

The project site is located immediately adjacent to the east side of Sir Francis Drake Boulevard, the road providing north-south access along the west shore of Tomales Bay. As noted previously, the site of the proposed antenna is approximately 113 feet east of the road, at the northeast, rear corner of an existing auto repair garage (Exhibit 5). The antenna will not interrupt any public views of the bay from the road because the view is already interrupted by the garage, which is between the road and the antenna site. The garage itself will thus block any views of the lower portion of the antenna where it is attached to the garage. However, the top 27.5 feet of the 44-foot-high antenna will be visible above the garage's 16.5-foot-high corner (Exhibit 6). No other part of the antenna installation should be visible since, according to the County's resolution approving the project's use permit and design review, "all electronic transmitting and receiving equipment, and batteries for back-up power supply are proposed within the existing garage."

Although the antenna will be visible from the road, it will not be visually prominent because of its height in relation to existing utility poles and trees along Sir Francis Drake Boulevard, as well as its distance (113 feet) from the road. For example, although the 44-foot-high antenna will be approximately 6 feet higher than an on-site pine tree that is at the northwest corner of the gas station (Exhibit 5), as viewed from Sir Francis Drake Boulevard the antenna will actually appear shorter than the tree, because of the effects of perspective, since the antenna is approximately 75 feet further

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east from the edge of the road than the tree. Thus, while the heights of the antenna and the tree are depicted accurately on the west elevation (Exhibit 6), it must be borne in mind that that scaled depiction does not take into account the effects of perspective.

Furthermore, as viewed from the road or from the bay, the visual impact of the antenna should be slight because of the monopole's small diameter (approximately 3-6 inches). Nonetheless, several measures can be taken to ensure that the antenna is as visually unobtrusive as possible. To ensure that the monopole and antennae blend with the sky background, the Commission attaches Special Condition No. 1 which requires that the monopole and whip antennae be painted a non-reflective (matte) light gray, a color that will blend well with a grey, light blue, cloudy or overcast sky. To further reduce the impacts of the antenna on visual resources, the Commission attaches: (a) Special Condition No. 2, which prohibits any exterior lights illuminating or attached to the monopole and whip antennae; (b) Special Condition No. 3, which requires that all utility extensions or connections be placed underground; and (c) Special Condition No. 4, which requires that all electronic transmitting and receiving equipment and batteries for back-up power supply be located within the existing garage.

While the facility, as conditioned, will not have significant adverse impacts on the visual quality of the area, the Commission is concerned that cumulatively the installation of additional similar projects in the area could have adverse impacts on visual resources. As demand for these facilities increases, it is likely that other service providers will be interested in placing additional structures, antennas and equipment in this and other scenic areas. Accordingly, Special Condition No. 5 has been attached. This condition requires the applicants to submit a written statement (a) demonstrating that the design of the proposed antenna would not preclude the co-location or shared-location of additional telecommunications equipment at this site in the future, if feasible, and (b) agreeing to remove the structures and restore this site in the future should technological advances make this facility obsolete. In this way, it can be assured that this and other scenic coastal areas will not be littered with outdated and obsolete facilities in the future.

As conditioned, the Commission finds the proposed project consistent with the visual resources protection requirements of Coastal Act Section 30251.

3. Public Access.

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e. potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the

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shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety.

In applying Sections 30210, 30211, and 30212, the Commission is limited by the need to show that any denial of a permit application based on those 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 public access.

Although the project is located between the first public road, Sir Francis Drake Boulevard and the sea, it will not adversely affect public access. No evidence has been presented to suggest that an implied dedication of a public access easement to or along the shoreline of the property has occurred. Therefore, the proposed project will not adversely affect any existing rights of access that may have been acquired through use. In addition, the project will not block any existing public access. In addition, the proposed antenna project will not change the nature or intensity of the current commercial use, and thus will not create any new demand for public access or otherwise create any additional burdens on public access. Therefore, the Commission finds that public access is not warranted for the proposed development and the project, which does not include public access, is consistent with the public access policies of the Coastal Act.

4. California Environmental Quality Act (CEQA).

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

The Commission has recently expressed a concern relative to this type of project due to the controversy regarding whether radio frequency emissions produced by these facilities pose a health risk to the public. Given the ongoing controversy (as noted in newspaper articles, television news stories, various lawsuits, etc.), the Commission has considered whether it should require the applicant to indemnify the Commission in the event that emissions from this project are the basis for a lawsuit against the Commission. The conclusion was not to require indemnification because, in the case of wireless communication facilities, federal law precludes the Commission from regulating placement, construction, and modification of such facilities based upon environmental effects of radio frequency emissions if a facility complies with federal standards. Specifically, Section 704 of the Telecommunications Act of 1996 states, in part:

No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the (Federal Communications) Commission's regulations concerning such emissions.

The Federal Communications Commission (FCC) has adopted standards for emissions from wireless service facilities. The adopted standards are those established by the American National Standards Institute (ANSI). In the case of the proposed development, the applicant has provided an Engineering Statement (prepared by John T. Roussos, Comp Comm, Inc., 6/3/96) which indicates that the radio frequency emissions produced by the proposed wireless communication facility comply with the adopted ANSI standards. The information indicates that these emissions will be well below ("186.6 times less than") the maximum emissions allowed by the federal standards.

The proposed project has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures have been imposed to minimize all adverse environmental effects. These measures include the following: (1) requiring that the support pole and antennas be painted a non-reflective (matte) light gray to blend with the sky, (2) prohibiting exterior lights illuminating or attached to the monopole and whip antennas, (3) requiring that all utility extensions or connections be placed underground, (4) requiring that all electronic transmitting and receiving equipment and batteries for back-up power supply be located within the existing garage, and (5) requiring that the design of the project not preclude locating additional telecommunications equipment at the site in the future and that the project be removed if ever abandoned.

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

#### EXHIBITS

1. Regional Location Map
2. Site Vicinity Map
3. Assessor's Parcel Map
4. Service Area Map
5. Site Plan
6. West Elevation

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.





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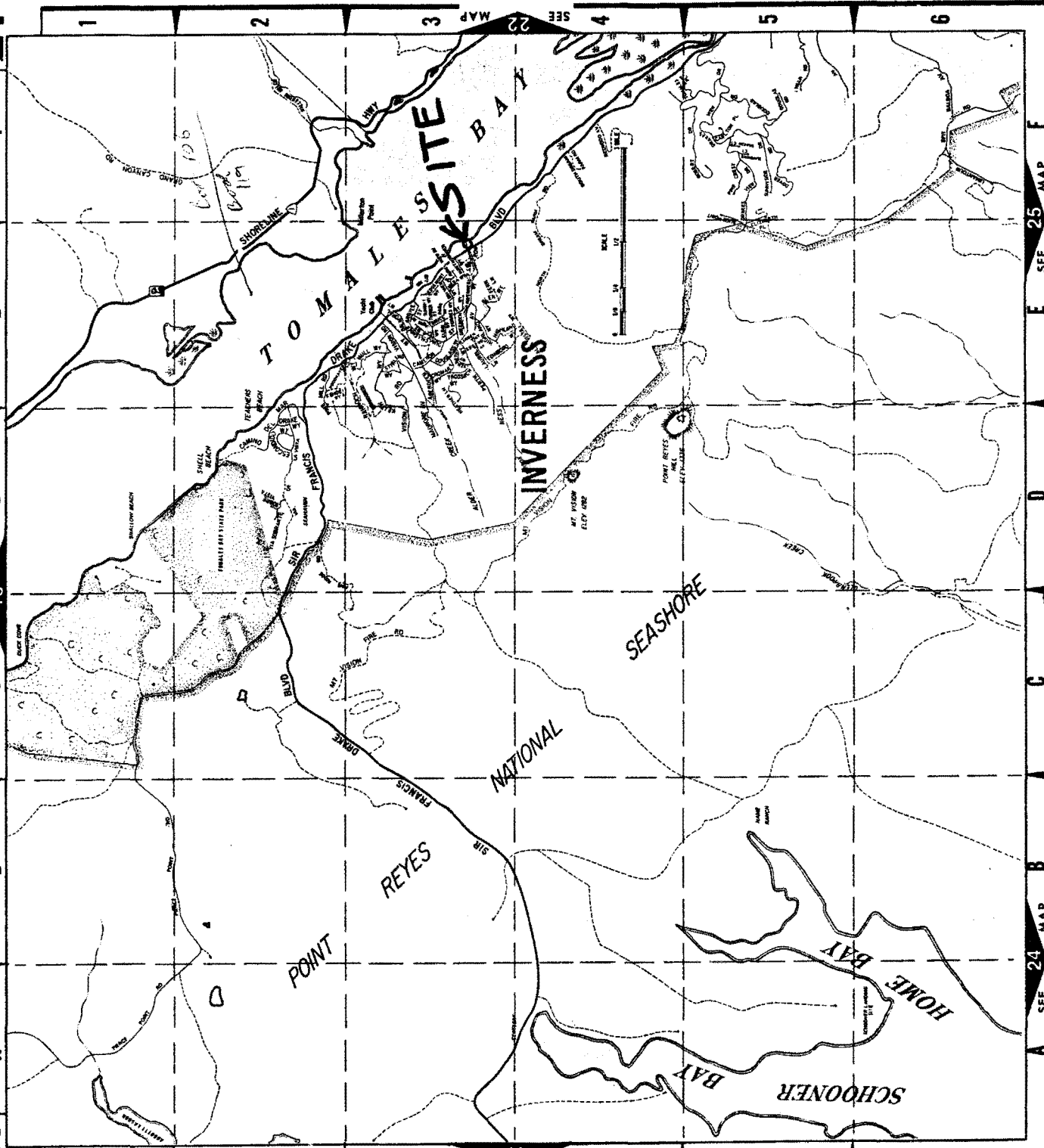


EXHIBIT NO. 2

APPLICATION NO.  
1-97-63

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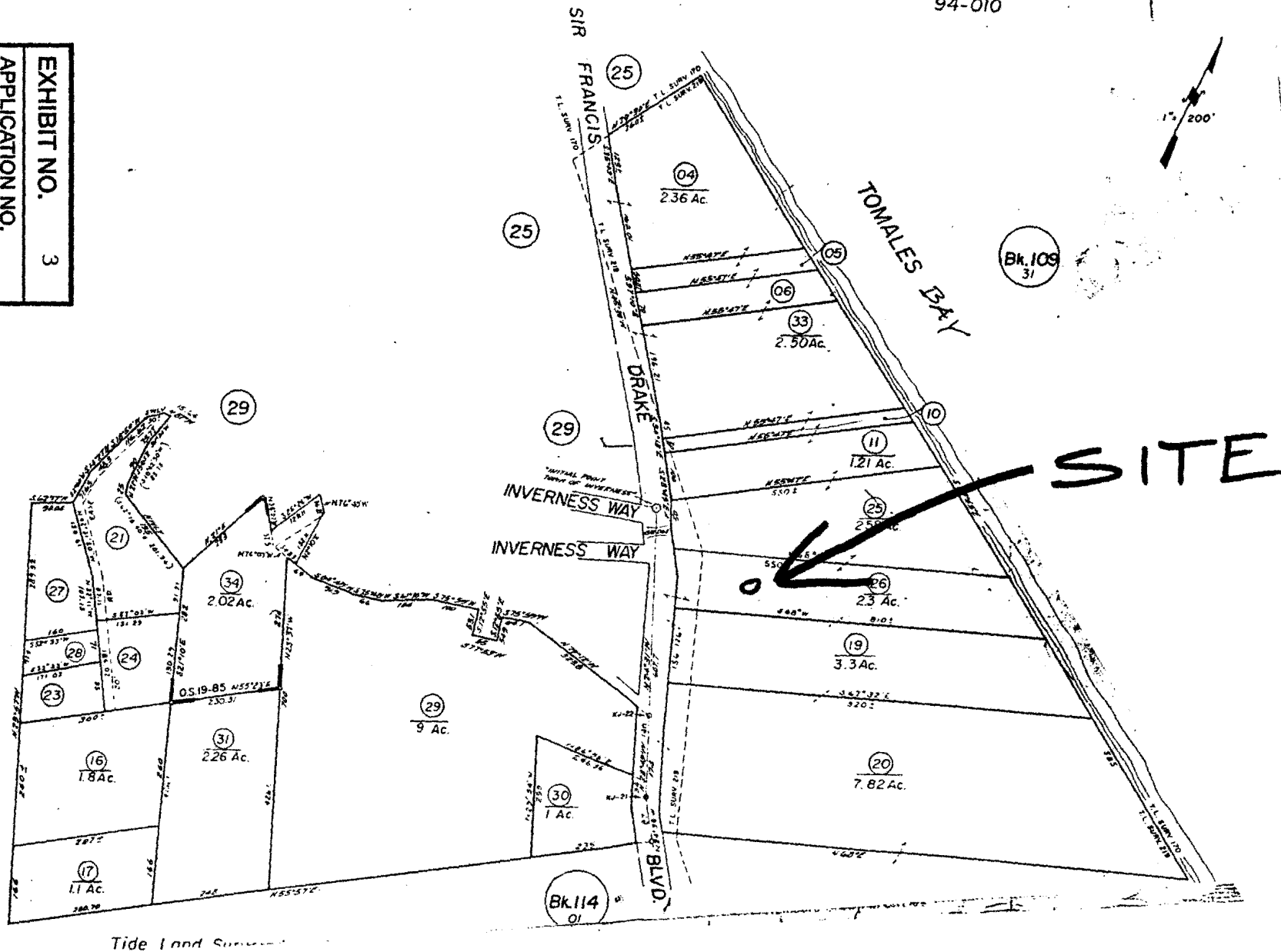
SITE VICINITY

POR RANCHO PUNTA DE LOS REYES

Tax Area Code  
94-010

112-31

EXHIBIT NO.	3
APPLICATION NO.	1-97-63
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ASSESSOR'S PARCEL	
MAP	



SANTA ROSA-PETALUMA, CA CGSA  
KNKA449  
MKT #123B-1  
GTE MOBILNET OF CA LP

ORIGINAL AUTHORIZED SAB / CGSA  
at 10 watts ERP  
meets the 50 sq. mi. coverage requirement  
and  
avoids illegally extending beyond either  
GTE's San Francisco CGSA or  
GTE's Santa Rosa CGSA

SITE

SERVICE AREA BOUNDARY

SAN FRANCISCO CGSA  
KNKA228  
MKT #007B-1  
GTE MOBILNET OF CA LP

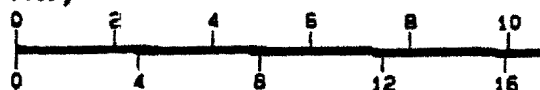
EXHIBIT NO. 4

APPLICATION NO.  
1-97-63

3 GUYS/RICHARDSON

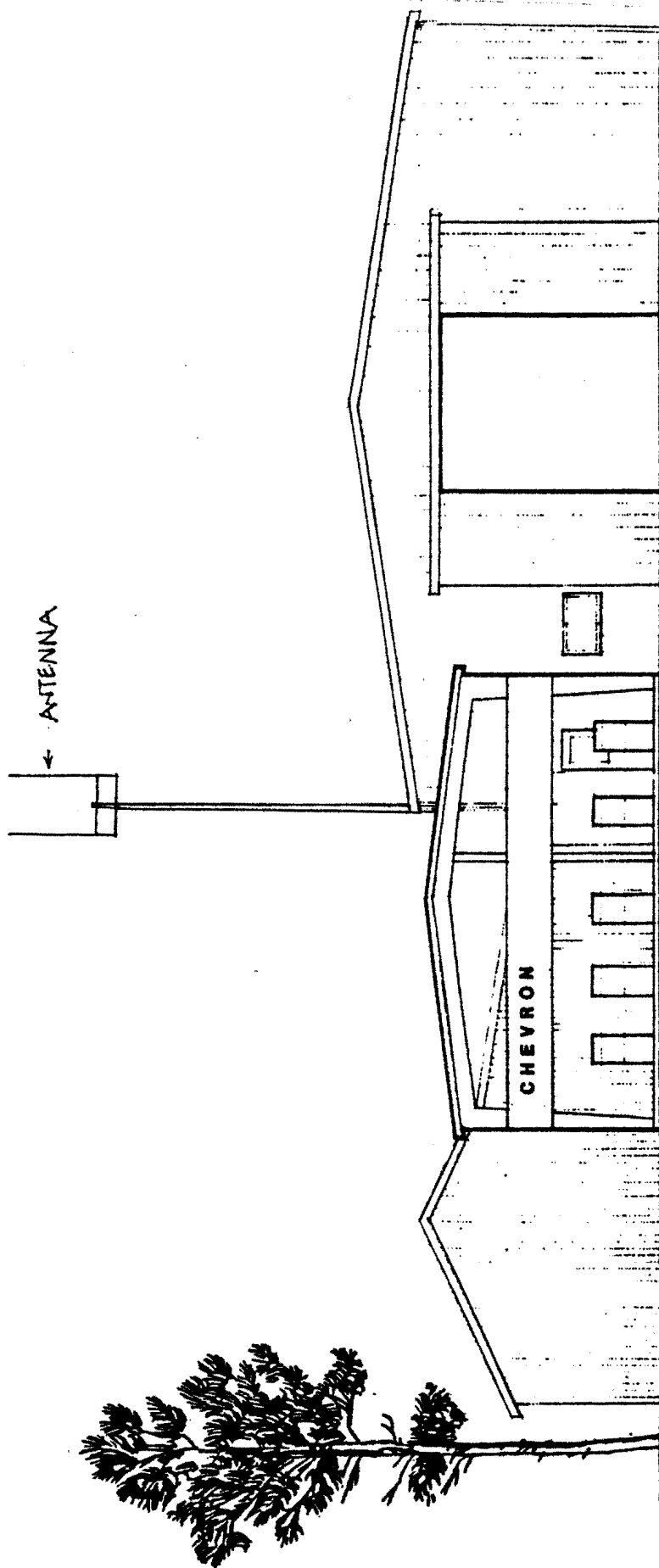
SERVICE AREA  
BOUNDARY

Applicant: Three Guys Cellcomm  
Station: MKT: 7B-2 ORIGINAL AUTHORIZED SITE  
Frequency: 880.02 - 889.980 MHz Group  
LOCATION: N Lat 38 5 49.0 W Lon 122 51 5.0 (NAD 27)  
Loc 1: "Inverness" Sir Francis Drake Hwy  
Inverness (Marin), CA  
1/4 degree markers Scale: 1:250,000



MILES / KM





WEST ELEVATION (Front)

EXHIBIT NO.	6
APPLICATION NO.	1-97-63
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WEST (ROAD) ELEVATION	