

CALIFORNIA COASTAL COMMISSION

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Filed:	December 8, 1998
49th day:	January 26, 1999
180th Day:	June 6, 1999
Staff:	Bill Van Beckum
Staff Report:	March 26, 1999
Hearing Date:	April 16, 1999
Commission Action:	

STAFF REPORT: REGULAR CALENDAR**APPLICATION NO.: 1-98-77****APPLICANT: PORTO BODEGA DEVELOPMENT COMPANY****PROJECT LOCATION: 1500 Bay Flat Road, Bodega Bay, Sonoma County,
APN 100-070-020.****PROJECT DESCRIPTION:** Expand an existing 35-space RV park to 54 spaces, by reconfiguring the RV park from 35 spaces without utility hook-ups to 41 spaces with full utility hook-ups and 13 spaces without hook-ups.

Lot Area: 9.93 acres

Land Use Plan: Fishing Commercial

Zoning: CF (Commercial Fishing), CC (Coastal Combining)

LOCAL APPROVALS RECEIVED: Sonoma County Use Permit PLP 97-0067 (September 1, 1998), CEQA Negative Declaration (September 1, 1998)**SUBSTANTIVE FILE DOCUMENTS:** Sonoma County Local Coastal Program**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the application with conditions, as the project will provide lower cost visitor-serving and recreational facilities that are encouraged by Coastal Act Section 30213 and the project can be mitigated to avoid impacts on coastal resources. Recommended Special

Condition No. 1 is designed to maintain the availability to the public of lower cost visitor and recreational facilities serving the Bodega Bay area. The condition requires recordation of a deed restriction that would notify future buyers of the site of the need for Coastal Commission review of any future requests to convert to a private or member only use in the future. Recommended Special Condition No. 2 is designed to minimize impacts on Bodega Harbor water quality. This condition requires the submittal of a drainage plan that provides for drop inlets in the drainage system that incorporate filters and/or oil/grit separators to reduce the volumes of potential petroleum hydrocarbon contaminants in the stormwater runoff to be discharged through the site drainage system into harbor waters.

STAFF NOTES

1. Standard of Review. The proposed project is located at the north end of Bodega Harbor. Sonoma 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.

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. 1-98-77 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, 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. Conversion from Public Recreation Use.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and subject to the review and approval of the Executive Director, the applicant shall execute and record a deed restriction for the subject site which states that this coastal development permit only authorizes the reconfiguration and expansion of a recreational vehicle (RV) park to 54 spaces, all exclusively available to the general public. The deed restriction also shall specify that any development other than the development approved in Coastal Development Permit No. 1-98-77 (reconfiguring the visitor-serving RV park from the current configuration, 35 spaces without utility hook-ups, to 41 spaces with full utility hook-ups and 13 spaces without hook-ups), including conversion of any portion of the approved visitor-serving facilities to a private, member-only use or residential use, or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public, is specifically not authorized by this permit and would require an amendment to this permit or a new permit from the Commission or its successor agency.

The deed restriction shall be recorded free and clear of any prior liens and encumbrances that the Executive Director determines will affect the interest being conveyed, excepting tax liens, and shall run with the land binding the landowners, their heirs, assignees and successors in interest to the subject property.

2. Drainage System Plans.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval final drainage plans that (1) provide for the incorporation of water quality inlet features into the drainage system's drop inlets, such as absorbent sand filters or oil/grit separators that are designed to capture petroleum hydrocarbon contaminants, and (2) minimize the discharge of such contaminants to the harbor.

The plan shall provide for the installation of a filter/separator unit at each of the project's 14 drop inlets, and for the maintenance of each of the units four times a year, i.e., on a quarterly basis.

The drainage plans shall: (a) include a site plan, at a scale of at least "1 inch = 30 feet" (consistent with the scale of project plans submitted with the application), showing the locations of all inlets, pipelines, and discharge points; (b) include detail views and specification notes about the particular filter/separators to be used; and (c) include notes describing the particular

maintenance needs of the selected filters/separators, and who will have responsibility to ensure the required maintenance is performed.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is needed.

IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Project and Site Description.

The project site is located at the Porto Bodega marina complex at the north end of Bodega Harbor in the unincorporated town of Bodega Bay. See Exhibits 1 and 2. In addition to public marina facilities (72 boat slips) for commercial fishing boats and recreational boats, the site contains, in the west half of the site, a 35-space recreational vehicle (RV) park and, situated on a small hill, a U.S. Coast Guard navigational beacon, and, in the east half of the site, a trailer park, laundry/restroom building, storage buildings, and an office for the marina's facilities. Access to the site is from East Shore Road, a paved road that connects to Bay Flat Road on the property's east side (Exhibit 3). The existing driveways within the site are mostly unpaved and graveled. The main road through the site also provides access to a boat dock to the southwest. Southeast of the project area is a large boat marina located on the subject parcel and on tideland leases from the County of Sonoma. Also on the property, northeast of the RV park, is another, higher hill used for a park and picnicking. See Exhibits 3 and 4.

Between the site and Bay Flat Road is a row of detached single-family homes on small lots. West of these homes is an undeveloped 0.71-acre parcel owned by Porto Bodega and used for occasional visitor parking and access to the harbor.

The proposed project is to expand the existing visitor-serving 35-space RV park to 54 spaces, by reconfiguring the RV park from 35 spaces without utility hook-ups to 41 spaces with full utility hook-ups and 13 spaces without hook-ups. Sonoma County approved the project's use permit on the basis that the facility would be for transient use only. The use permit's Condition 4 requires that "*No RV space shall be occupied by the same party or vehicle for more than 90 consecutive days, and no party shall reside in the park for more than 90 consecutive days,*" and also that a daily log of the occupancy of each space be maintained, with copies provided to the project planner every three months.

The reconfiguration of the existing spaces and development of the additional spaces would occur in a 2.7-acre area (of the 9.93-acre subject parcel) consisting of the existing RV spaces and adjacent vacant land north and west of these spaces. See Exhibits 4 and 5. The existing 35 spaces, all without utility connections, were approved by the Coastal Commission in 1990 (Coastal Development Permit No. 1-89-248).

The project involves only minimal grading, as needed to prepare the now nearly level site for paving and for trenching for the installation of utilities. Approximately 21 % of the site will be left unpaved, i.e., that area of the site where the spaces without utility hook-ups will be located (spaces A-M on Exhibits 4 and 5) and site landscaping areas.

The site does not contain any environmentally sensitive habitat areas or any rare or endangered plant species.

2. New Development.

Section 30250(a) of the Coastal Act states that new development shall be located in or near existing developed areas able to accommodate it and where it will not have significant adverse effects 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.

The proposed development is located in an existing urban area, in which there is water and sewer service capacity available from the Bodega Bay Public Utility District to serve the project. The Commission therefore finds that the proposed project is consistent with Section 30250(a) of the Coastal Act to the extent that the project will be located in an existing developed area with adequate public services able to accommodate the proposed development's recreational vehicle hook-ups.

3. Visitor Serving Facilities.

Coastal Act Section 30213 requires the Commission to ensure that, "*lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.*" The project is a reconfiguration and expansion of an existing public-use recreational vehicle park to 54 spaces. The proposed project therefore will provide, consistent with Section 30213, an increase in the availability of lower cost recreational opportunities at the edge of Bodega Harbor.

However, should the approved RV campsites ever be converted to a residential use or a private or member-only recreational use, the availability to the public of lower cost visitor and recreational facilities serving the Bodega Bay area would be reduced. Any proposed change of the RV

campsites to restricted use or exclusive private use would constitute "development," as defined in Section 30106 to include any change in the intensity of use of land or water, "or of access thereto." Therefore, pursuant to Section 30600 requirements that a coastal permit is needed for any development, any such conversion of these 54 recreational RV campsites would require a coastal permit, with approval findings that demonstrate privatization consistent with Section 30213.

However, the requirement for a coastal development permit for the privatization of the campsites may not be obvious to someone interested in purchasing the site in the future, especially if the privatization does not involve any additional physical changes to the site. It is essential that any potential future buyers be aware of the need for a permit for privatization, to avoid purchase with expectations that the site can be converted to a residential or a private recreational use with no regard to Coastal Act public recreation concerns. Therefore, to provide clear communication to future owners of the need for Commission authorization of any future changes of use of the facilities, the Commission attaches a future development deed restriction as **Special Condition No. 1**. The special condition requires recordation of a future development deed restriction stating that conversion of any portion of the approved facilities to a residential or private or member-only recreational use would require prior Commission review and approval of the conversion as an amendment to the permit. The deed restriction will serve to notify current and future owners of existing coastal development permit requirements. In this way, any future development will be regulated to ensure that no development inconsistent with Chapter 3 policies could occur without prior Commission review.

The Commission notes that the fact that such a change requires a coastal development permit under the Coastal Act does not necessarily mean the Commission would not approve some privatization of the RV campsites. The Commission would need to consider the significance of the impact of the privatization on the availability of lower cost visitor and recreational facilities in the area. For example, if the number of campsites to be privatized were very small, or if sufficient lower cost facilities exist nearby, or if equivalent new lower cost facilities are provided by the applicant, the Commission might find that privatization of the campsites is consistent with Section 30231. The Commission finds therefore that the project, only as conditioned, is consistent with Coastal Act Section 30213

4. Water Quality Protection.

Section 30231 provides that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through,

among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

As discussed above, a large portion of the subject property that is not now covered with any impervious surface will be paved. Specifically, approximately 92,000 square-feet (2.1 acres of the 2.7-acre project site within the 9.93-acre parcel) will be paved for RV pads and circulation aisles. Creation of these large areas of impervious surface will greatly increase stormwater runoff from the site as the areas to be paved will no longer be capable of absorbing stormwater. A storm drainage system is proposed to capture site runoff from 14 storm drainage drop inlets.

Coastal Act Section 30231 provides in applicable part that the biological productivity of coastal waters be maintained by minimizing adverse effects of waste water discharges and controlling runoff. Although the project will include a storm drainage system designed to prevent sheet flow runoff into the harbor, the harbor's water quality still could be adversely impacted by the greater volume of site runoff that will result from the project, carrying with it contaminants such as petroleum hydrocarbons found in motor oil that drips from vehicles parked in the RV facility. The project's mitigated negative declaration, certified by the County, addressed the generation of polluted stormwater runoff as a project impact that could and should be mitigated. Adverse impacts on harbor water from any contaminated runoff could be minimized if contaminants are captured before being discharged from the project's drain pipes.

One such means of "urban runoff" contaminant capture that is recommended by the U.S. Environmental Protection Agency (EPA) as a "structural Best Management Practice (BMP)," is the provision of a "water quality inlet (e.g., ... catch basin with sand filter, oil/grit separator)." A Best Management Practice, as defined in the Code of Federal Regulations (Title 40, C.F.R. Section 130.2[m]), is:

(1) A practice or combination of practices that are determined to be the most effective and practicable means of controlling point and nonpoint pollutants at levels compatible with environmental quality goals. (2) A method, measure or practice selected by an agency to meet its nonpoint source control needs (including but not limited to) structural and nonstructural controls and operation and maintenance procedures.

There are several types of catch basin filter/separator systems available, such as ones that consist of the installation of easily accessible troughs, just below storm drainage inlets, designed to hold contaminant-absorbing materials. Such systems provide a simple means to deal with stormwater runoff impacts, and are relatively low-cost, especially when included as part of initial drainage

installations rather than as retrofits. In such systems, the contaminant-absorbing materials are periodically inspected, removed as they become saturated, and replaced with fresh absorbants. According to an EPA report that includes a discussion on catch basin inserts, "*While these inserts can remove potential contaminants, they require a high degree of inspection and maintenance*" (Guidance on Storm Water Drainage Wells, draft July 1997). The EPA report also recommends that, "*Inserts should be replaced quarterly, and inspected more frequently during wet periods.*"

As part of its Use Permit approval of the project the County required (in Condition 18) that:

Project grading and drainage shall minimize the amount of pollutants entering the bay from the site. Drainage improvements shall include filters or onsite retention and absorption.

The applicant has submitted informational material for one filter product that is being considered to meet the County's condition. However, the coastal development permit application does not include a specific proposal to incorporate this product or similar product into project drainage plans. To ensure that the project will provide mitigation to minimize the adverse effects on water quality caused by the discharge of stormwater runoff through the drainage system, the Commission attaches **Special Condition No. 2** which requires the applicant to submit for the review and approval of the Executive Director, prior to the issuance of the coastal development permit, drainage improvement plans that provide for the incorporation of water quality inlet filters/separators for all drop inlets that capture runoff from the new paved surfaces and that direct captured runoff into the drainage pipes. The condition requires that the water quality inlet features be designed specifically to reduce the volume of petroleum hydrocarbon contaminants being discharged through the pipe into harbor waters, and that the filters/separators be maintained on a quarterly basis.

The Commission finds that with **Special Condition No. 2**, the project will be designed to prevent significant adverse water quality impacts to harbor waters, and the project as conditioned is consistent with Coastal Act Section 30231.

5. Public Access.

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 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 access.

The Porto Bodega 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. Although the project is located between the first public road, Highway 1, and Bodega Harbor, it will not adversely affect public access. No public access exists on the site that could potentially be affected by the project. Although the proposed project is for the expansion of 35-space RV park to a 54-space park, the project will not create any new demand for public access or otherwise create any additional burdens on public access that cannot be accommodated in the area. The additional RV users that would come to the site would have access to the shoreline at the site as paying customers and could also be easily accommodated at other existing access facilities in the area such as Bodega Head and Doran Beach Regional Park. The project is for development at the same location of the existing RV park and will not interfere with public access any more than the current park does. Therefore, the Commission finds that the proposed project does not have any adverse effect on public access that warrants requiring 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.

6. Visual Resources.

Section 30251 of the Coastal Act provides in applicable part that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, and to be visually compatible with the character of surrounding areas.

The primary east-west road along the north edge of Bodega Harbor is Bay Flat Road. Bay Flat Road is not one of the ten roads the certified Sonoma County LCP designates as "*scenic corridors*." Between the project site and Bay Flat Road is a row of detached single-family homes on small lots, as well as a small wooded hill (Exhibits 3 - 5). These homes and the hill block any direct view of the site from Bay Flat. Glimpses of the site are available, however, from Bay Flat Road west of the homes, and also, through a screen of trees, from the Bay Flat Road extension that runs, from the Bay Flat Road and East Shore Road intersection, uphill to Highway 1 (Exhibit

3). The project site is not visible from the highway itself because of intervening development and vegetation.

The proposed expansion of RV campsites is located within an existing partially developed area on the subject property, and will be of the same type as the existing RV campsite use and development on the project site, none of which now blocks any public views to the harbor. The proposed development likewise will not block any public views of the shoreline from adjacent public roads. Furthermore, no development is proposed that would protrude into harbor waters in any way that would obstruct views along the water's edge. The project will not require any land form alteration other than minimal grading as needed to prepare the now nearly level site for paving and for the installation of utilities. The Commission therefore finds that the project as proposed is consistent with Section 30251 coastal visual resources protection requirements.

7. 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)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned to be found consistent with the resource protection policies of the Coastal Act and to minimize all adverse environmental effects. The project has been mitigated to prevent stormwater runoff from polluting the waters of Bodega Harbor. As conditioned, there are no feasible alternatives or feasible mitigation measures available 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, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

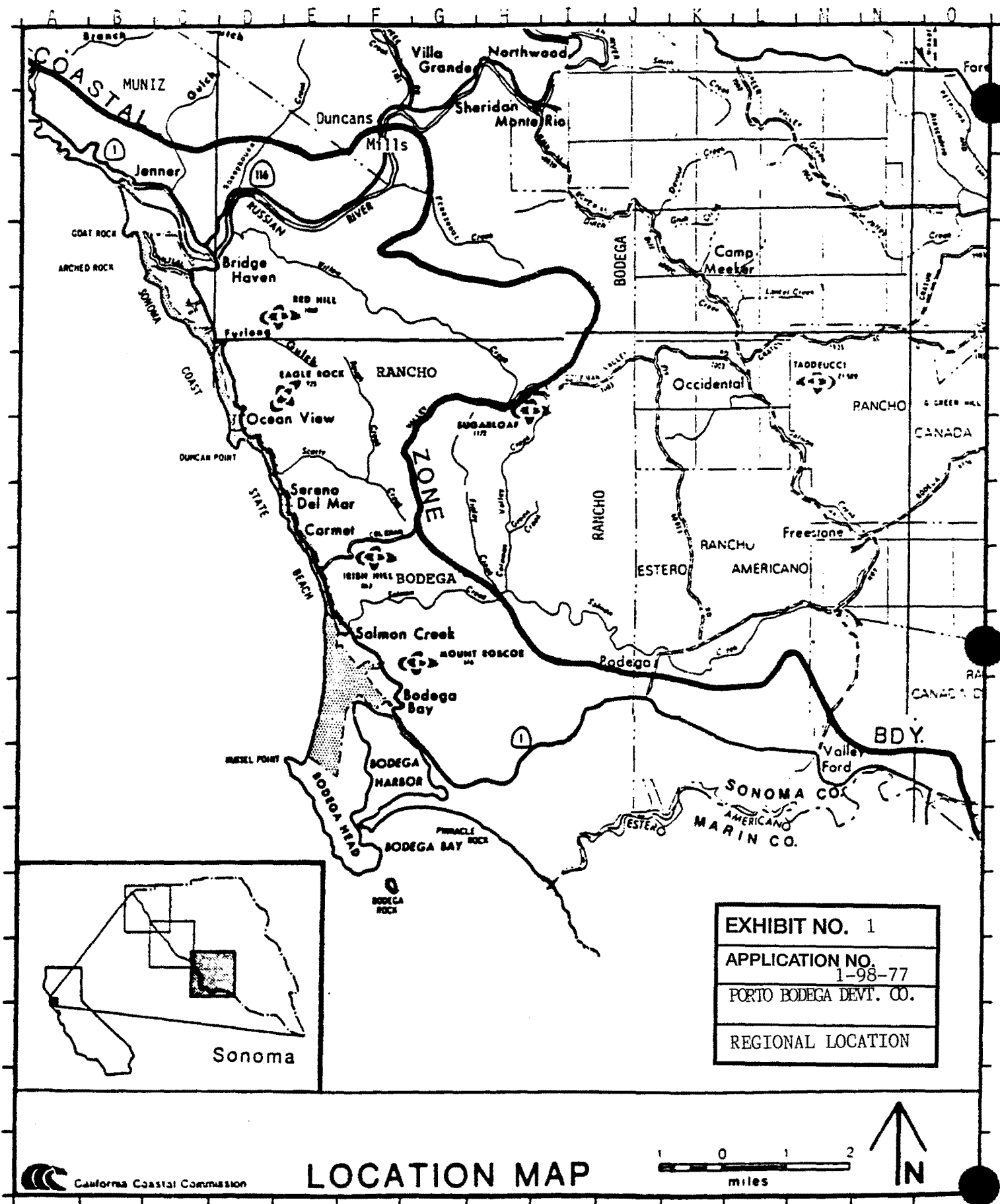
EXHIBITS

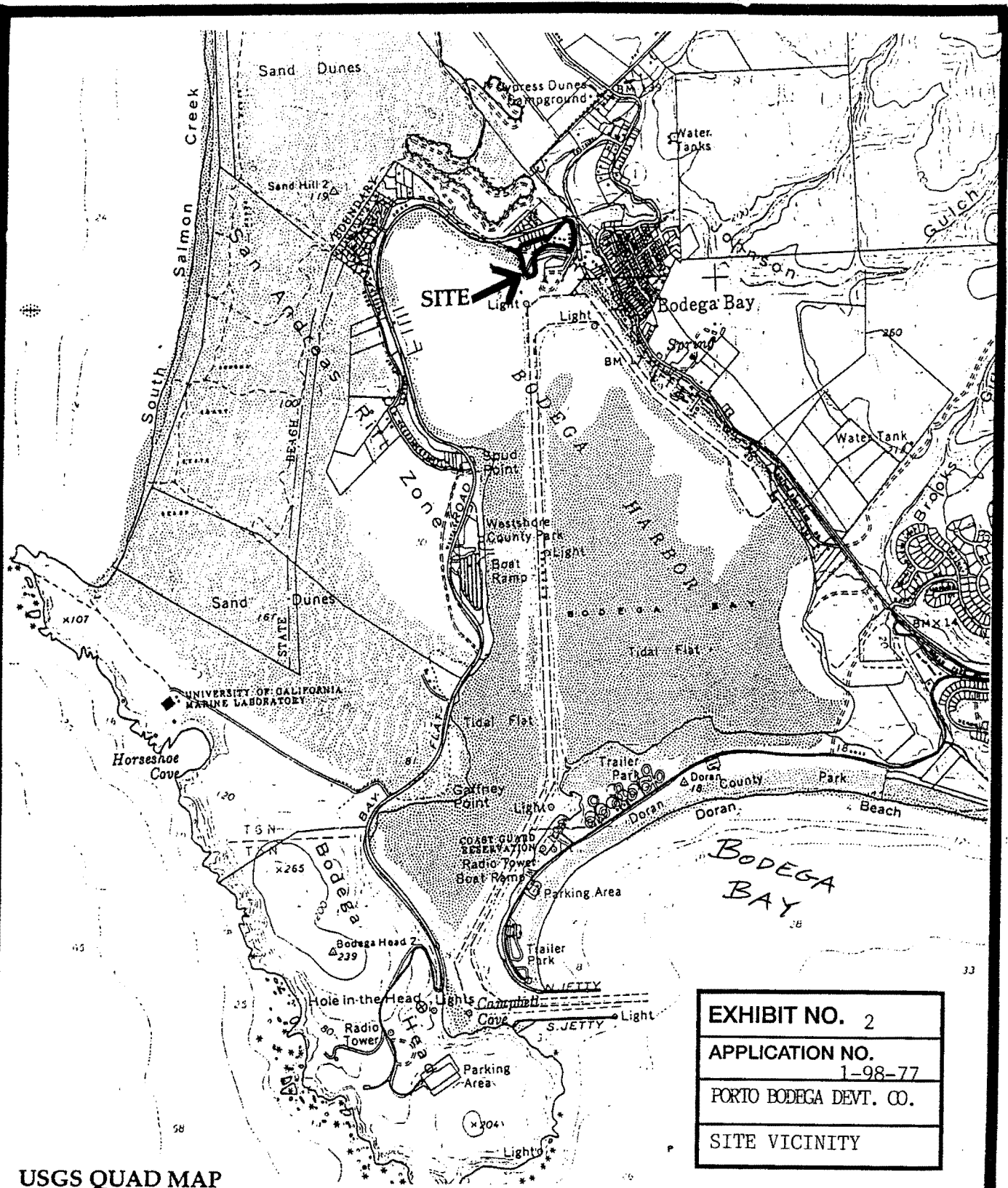
1. Regional Location Map
2. Site Vicinity Map
3. Porto Bodega Layout
4. Project Site Plan/Topography
5. Project Site Plan

ATTACHMENT A

Standard Conditions

1. **Notice of Receipt and Acknowledgment.** This 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.





PORTO BODEGA DEV. CO.
1500 BAY FLAT ROAD
BODEGA BAY, CA
APN 100-070-020

LOCATION MAP

J. KAPOLCHOK & ASSOC.
144 SO. E. STREET, SUITE 202
SANTA ROSA, CA 95404

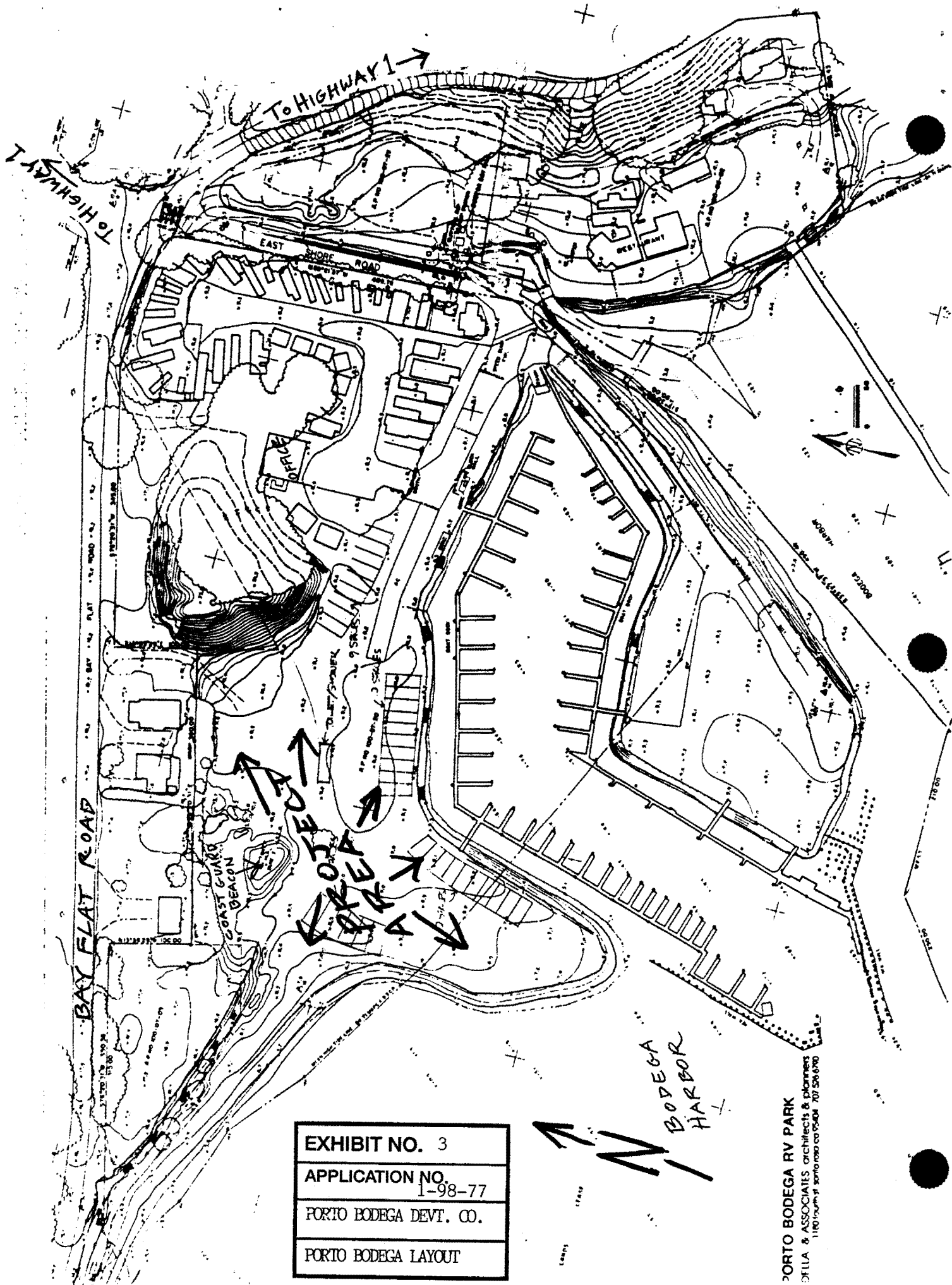


EXHIBIT NO. 3

APPLICATION NO.
1-98-77

PORTO BODEGA DEVT. CO.

PORTO BODEGA LAYOUT

PORTO BODEGA RV PARK
DELLA & ASSOCIATES architects & planners
1180 Fourth St. Santa Rosa, CA 95404 707 526 0740

DATE 7-9-80
 SCALE 1"=50'
 DESIGNED WAS
 CHECKED WAS
 DRAWN WAS
 PROJECT NO. 1500 BAY FLAT ROAD
 PREPARED BY LARRY STEWART

ROBERTSON ENGINEERING, INC.

2500 BAY FLAT ROAD
 SANTA ROSA, CA 95403
 TEL: (707) 532-7400
 FAX: (707) 532-7499



CALIFORNIA

SITE PLAN

PORTO BODEGA
 1500 BAY FLAT ROAD
 SOMOMA COUNTY

BODEGA BAY

280

SHEET NO. 1
 OF 1 SHEETS
 PROJECT NO. 1500 BAY FLAT ROAD

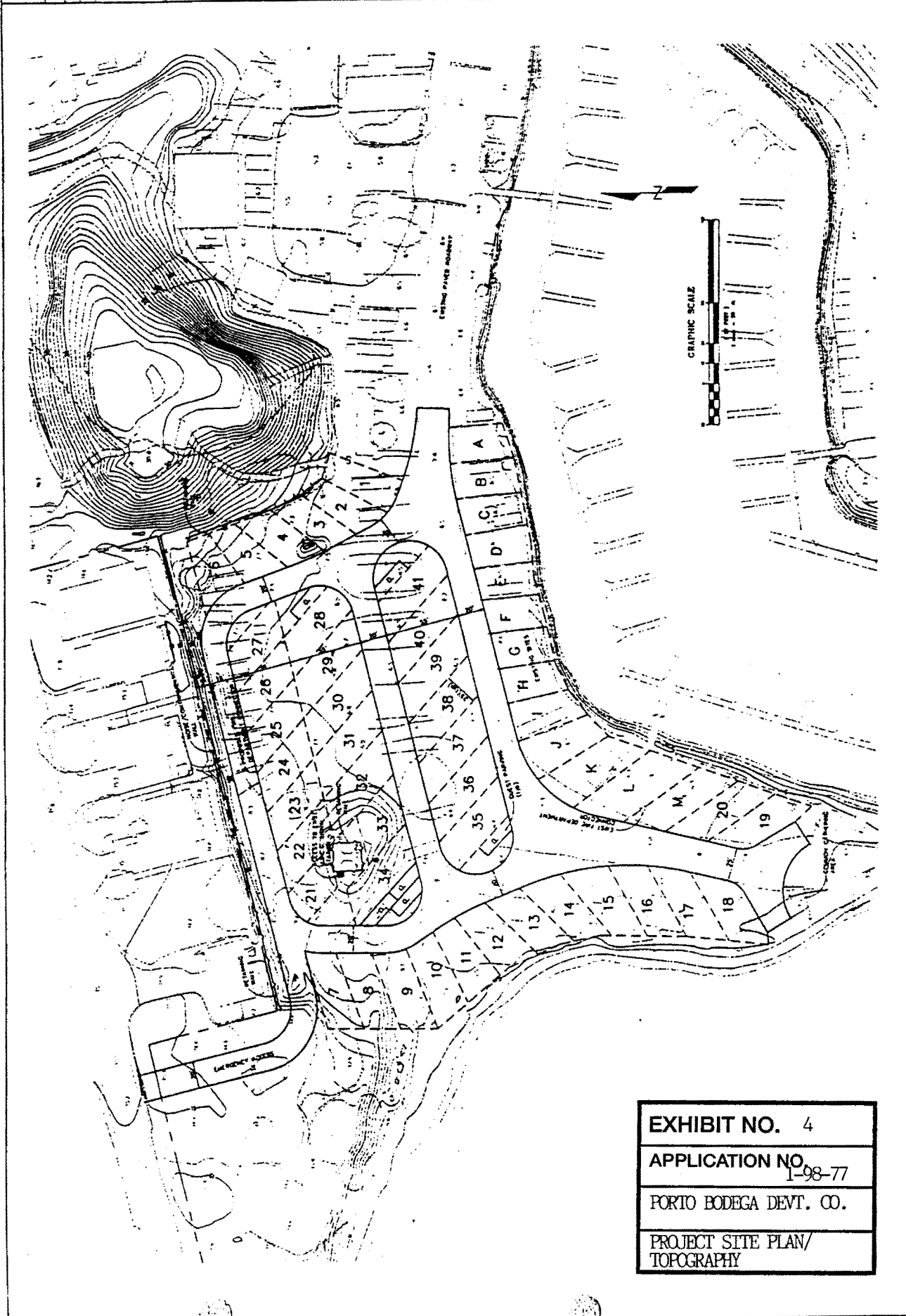


EXHIBIT NO. 4

APPLICATION NO. 1-98-77

PORTO BODEGA DEVT. CO.

PROJECT SITE PLAN/
TOPOGRAPHY

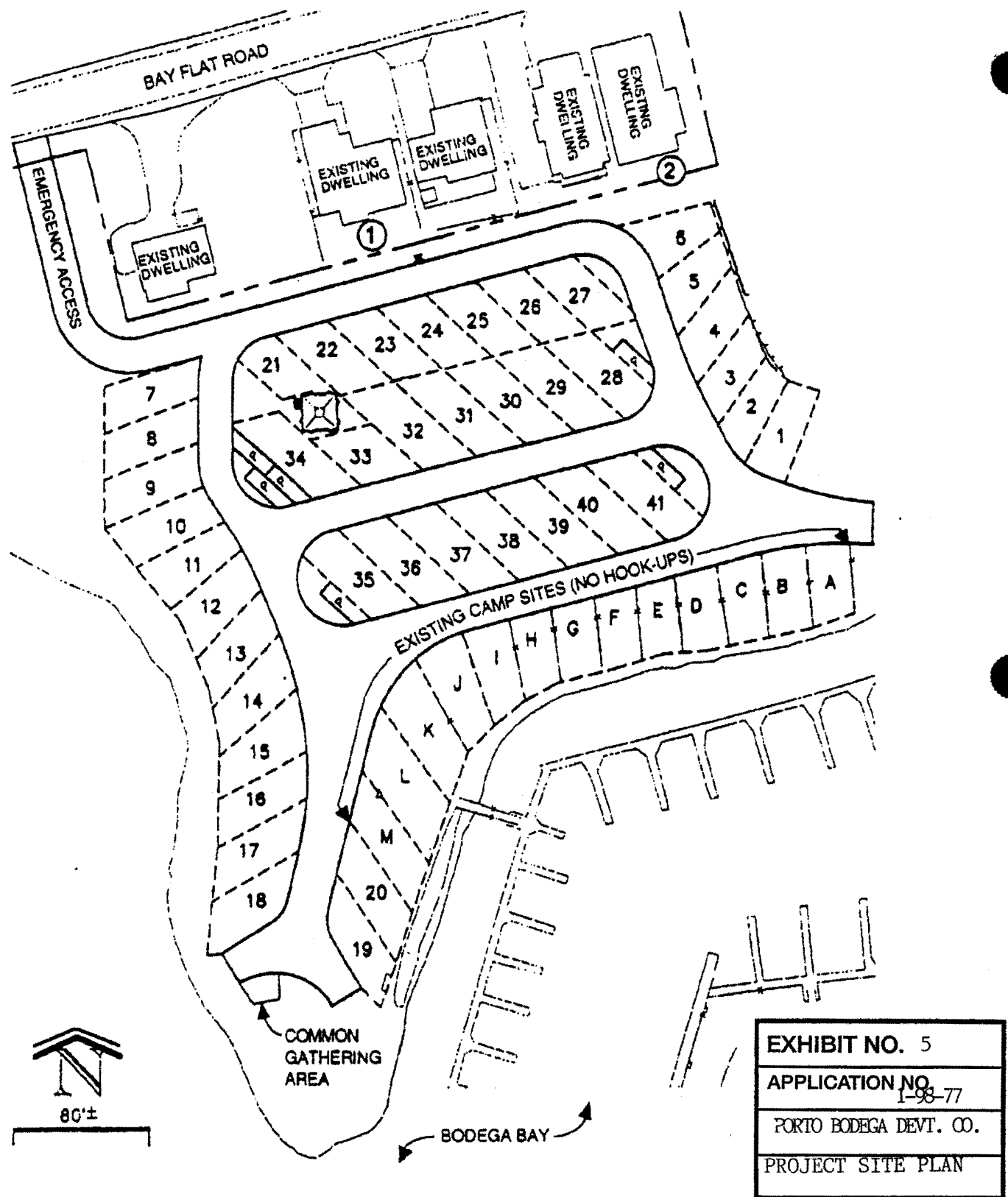


Figure 1. PROJECT SITE AND VICINITY. The circled numbers label sound receiving locations discussed in the text.