

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
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**Th-5c****RECORD PACKET COPY**

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 49<sup>th</sup> Day: June 26, 2000  
 Staff: CLK – SF  
 Staff Report: September 25, 2000  
 Hearing Date: October 12, 2000

**STAFF REPORT – APPEAL  
 SUBSTANTIAL ISSUE**

**APPEAL NO.:** A-2-00-16

**APPLICANTS:** Ronald Aloise

**AGENTS:** Allan Cohen  
 Scot Stegman  
 Richard Jimerson

**LOCAL GOVERNMENT:** Sonoma County

**ACTION:** Approval with Conditions.

**PROJECT LOCATION:** 1695 Bay Flat Road, Bodega Bay, Sonoma County.  
 APN 100-060-09

**PROJECT DESCRIPTION:** Construction of a 2,556-square-foot, 3-bedroom, 4-bath single-family residence.

**APPELLANTS:** Linda Kepner  
 Californians Organized to Acquire Access to State  
 Tidelands

**1.0 EXECUTIVE SUMMARY**

The approved development is a 2,556-square-foot, 16-foot tall single-family residence on a vacant 0.25-acre hillside parcel. The Commission received two appeals of the County's approval for the development contending that the approved development: (1) will adversely impact wetlands on and adjacent to the site; (2) is incompatible with the character of the surrounding development; (3) will adversely affect coastal views from Highway 1; and (4) could be converted to a bed and breakfast or condominium.

Staff recommends that the Commission find that the appeals raise a substantial issue regarding the conformity of the approved development to the wetland protection policies of the Sonoma County Local Coastal Program. Staff also recommends that the Commission further find that the

appeals do not raise substantial issues concerning community character, visual resources, or conversion to a different use.

**STAFF NOTE:**

The project site is bisected by the Coastal Commission's retained permitting jurisdictional boundary and the County's Local Coastal Program jurisdiction (Exhibit 17). An approximately 20- to 25-foot-wide by 60-foot-long strip bordering Bay Flat Road is within the Commission's permitting jurisdiction. The project as approved by the County includes the construction of a driveway from Bay Flat Road that crosses through the Commission's permitting area. However, Development within this portion of the property requires a separate coastal development permit from the Commission. As of the date of this report, the applicant has not applied to the Commission for the coastal development permit that is required for the construction of the driveway.

**2.0 STAFF RECOMMENDATION**

**Substantial Issue**

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

**Motion**

*I move that the Commission determine that Appeal No. A-2-SON-00-16 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

**Staff Recommendation of No Substantial Issue**

Staff recommends a NO vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**Resolution to Find Substantial Issue**

The Commission hereby finds that Appeal No. A-2-SON-00-16 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**3.0 PROJECT SETTING AND DESCRIPTION**

**3.1 Project Location and Site Description**

The approved development is located on an 11,092-square-foot lot located at 1695 Bay Flat Road, in the unincorporated Bodega Bay area of Sonoma County. The property is zoned RR (Rural Residential), CC (Coastal Combining), and B7 (Frozen Lot Size). The site is located approximately 250 feet north of Bodega Bay in an existing residential neighborhood (Exhibits 1-6). The lots north, west and east of the site are developed with single-family residences.

The elevation of the southern portion of the lot adjacent to Bay Flat Road is 76.5 feet Mean Sea Level (MSL). This portion of the site is relatively flat for approximately 60 feet to the north. The rear approximately 2/3 of the site slopes steeply (30 percent) to an elevation of 106 MSL at the rear (northern) property boundary (Exhibit 7). Groundwater seeps and runoff drain from the hillside to the lower portion of the site. Bay Flat Road separates the project site from a brackish tidal flat wetland immediately to the south known as the Rail Ponds. Water from the lower portion of the site drains into this wetland through a culvert beneath Bay Flat Road. Although this portion of the site exhibits wetland characteristics, the County determined that the area is not a wetland under the LCP. This issue is discussed in Section 5.2.1 below.

### **3.2 Project Description**

The approved development consists of a 2,556-square-foot, 16-foot-high single-family residence with three bedrooms and four bathrooms (Exhibits 8-12). The house steps up the slope in three flat-roofed tiers (Exhibits 8 and 9). The approved development includes construction of a driveway entering on Bay Flat Road and running north along the eastern property boundary to an uncovered parking area at the base of the slope. As a condition of its approval, the County required the driveway and parking areas to be designed to disturb the minimum area of the site necessary to provide access to the development. The purpose of this condition is to reduce potential impacts of the development to the delineated wetlands located within 100 feet of the driveway and parking area on the south side of Bay Flat Road opposite the project site. The County also required as a condition of its approval the elimination of a garage and guest house proposed to be constructed in the flat area at the base of the slope (Exhibits 5, 8 and 9).

## **4.0 APPEAL PROCESS**

### **4.1 Local Government Action**

On December 9, 1999, the Sonoma County Board of Zoning Adjustments approved a coastal development permit for the construction of a single-family residence with three bedrooms and four bathrooms and detached garage/guesthouse building with one bedroom and one bathroom.

On December 21, 1999, Chuck Rhinehart on the behalf of Californians Organized to Acquire Access to State Tidelands (COAAST) and Linda Kepner on behalf of herself and other neighboring property owners each filed an appeal of this approval with the Sonoma County Board of Supervisors.

On February 29, 2000, the Board of Supervisors denied the appeals and approved the proposed project, but retained jurisdiction over the project until the county planning staff determined whether a hydrological connection exists between the project site and the Rail Pond wetlands to the south of the project site.

On February 30, 2000, the planning staff determined that a hydrological connection exists between the project site and the Rail Pond wetlands to the south of the project site.

On April 25, 2000, the Board of Supervisors adopted a resolution modifying its previous action approving a coastal development permit for the project by adding conditions that require the removal of the garage/guest house and requiring the driveway and parking areas to be redesigned to prevent erosion and sediment transport from entering the wetlands.

#### **4.2 Filing of Appeal**

On April 28, 2000, the Commission received notice of the County's final action approving a coastal development permit for the project. The Commission's appeal period commenced the following working day and ran for ten working days following receipt by the Commission of the notice of final local action (May 1 through May 12, 2000). On May 8, 2000 the Commission received an appeal from Linda Kepner<sup>1</sup>, and on May 12, 2000 the Commission received a second appeal from appellant COAAST. Following receipt of each of these appeals, the Commission mailed a notification of appeal to the County and the applicant.

Pursuant to Section 30261 of the Coastal Act, the appeal hearing must be set within 49 days from the date that an appeal is filed. The 49<sup>th</sup> day from the appeal filing date was June 26, 2000. The only meeting within the 49-day period was June 13-16, 2000. In accordance with Section 13112 of the Commission's regulations, on May 8, 2000, staff requested all relevant documents and materials regarding the subject permit from the County, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The County permit file information had not been received as of May 25, the day of the mailing of staff reports to the Commission and interested parties on items on the Commission's June 2000 meeting agenda. Therefore, the requested information was not received in time for the staff to review the information for completeness or prepare a recommendation on the substantial issue question. Consistent with Section 13112 of the California Code of Regulations, since the Commission did not receive the requested documents and materials, the Commission opened and continued the hearing open on June 16, 2000.

#### **4.3 Appeals Under the Coastal Act**

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

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff; or in a sensitive coastal resource area or located within 100 feet of any wetland, estuary, or stream. Developments approved by counties may be appealed if they are not designated as the "principal permitted use" under the certified LCP. Developments that constitute a major public works or a major energy facility may be appealed, whether they are approved or denied by the local government.

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<sup>1</sup> This appeal is presented as from Linda Kepner and neighbors and includes a list of six other "interested parties" besides Ms. Kepner. However, only Linda Kepner signed the appeal and there is no documentation included with this appeal establishing that Ms. Kepner has been authorized to represent the other listed parties concerning this matter or that these parties wish to join in the appeal.

The approved development is located between the sea and the first public road paralleling the sea and within 300 feet of the mean high tide line, and thus meets the Commission's appeal criteria in Section 30603 of the Coastal Act. Pursuant to Section 30603 of the Coastal Act, an appeal for development in this location is limited to the allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth in the Coastal Act.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons eligible to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted to the Commission or the Executive Director in writing.

It takes a majority of the Commissioners present to find that no substantial issue is raised. Unless it is determined that the project raises no substantial issue, the Commission will conduct a full de novo public hearing on the merits of the project at the same or subsequent hearing. If the Commission conducts a de novo hearing on the appeal, the applicable test under Coastal Act Section 30604 would be whether the development is in conformance with the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

#### 4.4 Standard of Review

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

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

The term *substantial issue* is not defined in the Coastal Act or its implementing regulations. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Commission Regulations, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

If the Commission chooses not to hear an appeal, appellant nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

## **5.0 SUBSTANTIAL ISSUE ANALYSIS**

### **5.1 Appellant's Contentions**

The appeal filed by Linda Kepner includes the following contentions (see Exhibit 13):

- The approved development is out of character with surrounding development in conflict with the community compatibility policies of the LCP.
- The approved development will negatively impact public views from Highway 1.
- The approved development may be used for some purpose other than a single-family residence.
- The approved development does not conform to the wetland protection policies of the LCP.

The appeal filed by COAAST contends (Exhibit 14):

- The approved development does not conform to the wetland protection policies of the LCP.

For the reasons set forth below, the Commission finds that the appeals of the County's approval of the development raise a substantial issue of consistency with the LCP policies relating to wetlands but do not raise a substantial issue of consistency with regards to the other grounds for appeal.

### **5.2 Appellants Contentions that Raise Substantial Issue**

#### **5.2.1 Wetlands**

##### ***Contention***

Appellant Kepner maintains that wetlands located on the project site were not identified by the County because "the entire lot was bulldozed (after removal of the trees) at some point in the last year... A wetland delineation was done for this property after the bulldozer completed its work." [Emphasis original] Kepner concludes: "We don't believe that the 100-foot setback from the Rail Pond across the road... goes far enough to protect the wetland on the subject lot."

Appellant COAAST contends that the approved project conflicts with Policies III-14 #20, #25 and #26 of the County's certified Coastal Land Use Plan (LUP), and with Coastal Act Sections 30231 and 30240(a). In support of this contention, the COAAST appeal states:

"This project required stripping the plant habitat from the front part of this parcel, which in itself is a violation of the above section [Coastal Act Section 30240(a)]."

"The driveway and parking area within the setback area would be a further significant disruption."

"Undergrounding electrical service would also add a great amount of habitat disruption..."

“We have not found adequate evidence to conclude that the front third of this parcel is not a wetland area.”

***Applicable Policies [See Appendix B for the full text of the policies cited below]***

“Wetlands” are defined in the LUP as:

*Areas where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally grow in water or wet ground. ...*

This definition is similar to the definitions contained in Section 13577(b) of the Commission’s regulations. The LUP Policies contained under Environmental Resource Management Recommendations (Sonoma County Coastal Plan Chapter III) Numbers 18 and 22 prohibit wetland fill for roads and residential development. Policy 25 prohibits construction of residential structures within 100 feet of wetlands. Policy 26 prohibits construction of residential structures between 100 and 300 feet of wetlands unless an environmental assessment finds the wetland would not be affected by such construction. Finally, Policy 24 prohibits the removal of vegetation from wetlands (i.e., plants that normally grow in water or wet ground).

***Discussion***

The record for the County’s approval of the project contains evidence that wetlands as defined under the LCP may be present on the lower portion of the project site between the base of the slope and Bay Flat Road. This evidence includes presence of water at or above the surface and wetland vegetation.

On December 9, 1999, the County Zoning Board determined that this area does not qualify as a wetland under the LCP on the basis that:

- Wetland species are not the predominant plant cover in the area because only one type of wetland plant (sedges) are present and these occupy only approximately 10 square feet.
- Hydric soils were not observed on the site.
- The water table on the lower portion of the site is subject to seasonal variation.

For the following reasons, the Commission finds that a substantial issue exists concerning the County’s determination that the lower portion of the site does not contain wetlands:

- On February 14, 2000, subsequent to the Zoning Board’s action, but prior to the notice of final local action location action by the County, County staff performed a reconnaissance survey of the site, identifying a total of 22 plant species, with at least 16 wetland indicator plants (see Exhibit 16). This information is part of the materials used by the local government in its consideration of the coastal development permit. Thus, the determination that wetland species are not the predominant plant cover in the lower portion of the site is not well supported by the factual evidence in the record.
- Because the LCP wetlands definition includes areas wet long enough to support growth of plants that normally grow in water or wet soils, this plant list alone would indicate that a formal wetland delineation is required under the LCP prior to permitting development within 300 feet of this area.

- If an area is saturated or inundated periodically during the growing season, it may be a wetland. Duration of saturation is difficult to demonstrate and even a full year of data is insufficient to determine this trait for an area. Hydrology is the most difficult criteria to demonstrate and various indicators of recent inundation or saturation are generally used for field delineations. Therefore, an observation of seasonal variation in the elevation of the water table is not in itself dismissive of the presence of wetland hydrology under the LCP.
- Presence of hydric soils is not necessary to indicate wetlands under the LCP definition, which includes areas that are wet long enough to support growth of plants that normally grow in water or wet soils.

Thus, the determination that wetlands are not present on the lower portion of the site is not well supported by either the factual evidence in the record or the applicable legal standards contained in the LCP.

In its February 29, 2000, action on the appeal of the Zoning Board approval of the project, the County Board of Supervisors found that the area potentially containing wetlands on the site is also exempt from the LCP definition of wetlands. This determination was based on a provision of the certified LCP derived from a footnote contained in the Coastal Commission's "Interpretive Guidelines on Wetlands and Other Wet Environmentally Sensitive Habitat Areas." These Guidelines are an appendix to the County's Coastal Administrative Manual. The exception cited by the County states:

*For the purposes of identifying wetlands using the technical criteria contained in this guideline, one limited exception will be made. That is, drainage ditches as defined herein will not be considered wetlands under the Coastal Act. A drainage ditch shall be defined as a narrow (usually less than 5-foot wide), manmade nontidal ditch excavated from dry land.*

Although the Commission did not intend Wetland Guidelines to be used in post-LCP certified areas, the County did include the Guidelines as an appendix to its LCP Administrative Manual. While the Wetland Guidelines are consequently part of the certified LCP, there is a significant question concerning the applicability of the drainage ditch exception. However, the County's findings appear to assume that the exception applies for the project site.

The Rail Pond wetlands, located on the opposite side of Bay Flat Road from the project site are a tidally influenced, brackish marsh providing important habitat to a variety of shorebirds and are specifically identified in the LCP. The ponds are named for the abundance of rails that utilize the marsh. Springs, seeps, and surface runoff on the project site and adjacent properties, supply the Rail Ponds with fresh water via culverts beneath Bay Flat Road. The ponds are hydrologically connected with Bodega Bay via culverts beneath Westshore Road. These connections were previously noted by the North Central Coast Regional Commission in a 1975 report entitled Natural Resources of the North Central Coast Region and in its 1979 approval of Coastal Development Permit 94-79 (Funk) a two-lot subdivision of the property abutting the project site to the west. In its findings for CDP 94-79, the Regional Commission found "the strong possibility exists that the filled area of the subject property may be presently in hydrologic continuity with the rail ponds, that historically it was continuous, and that the filled area itself



may consist of historic wetlands.” Furthermore, in its final action on the subject development, the County determined that the project site remains hydrologically connected to the Rail Ponds.

The drainage ditch exception defines “drainage ditch” as a narrow man-made ditch *excavated from dry land*. Dry land, as used in this definition, does not include areas such as those on the project site that show evidence of wetlands hydrology i.e., where the water table is near or at the surface, or is wet due to seeps, springs, and natural drainage, and where evidence exists that the area may have been continuous with known wetlands. The area in question does not appear to be a drainage ditch in the sense of a ditch constructed for the purpose of conveying water from an artificial source, such as an irrigated area or runoff from impervious surfaces across what would otherwise be a dry area. Rather, the ditches in question appear to have been excavated for the purpose of facilitating the drainage of what may be historic wetlands. As discussed above, there is a significant question regarding the validity of the drainage ditch exception to exclude areas that are wet due to natural hydrological conditions or in areas with evidence of historic wetland habitat. Therefore, the Commission finds that the appeal raises a substantial issue regarding the conformity of the approved project with the wetland protection policies of the Sonoma County certified LCP.

### **5.3 Appellants’ Contentions That Raise No Substantial Issue**

#### **5.3.1 Visual Resources**

##### ***Contention***

Appellant Kepner contends that the approved project is not compatible with the character of the surrounding development and is therefore inconsistent with LUP Policies VII-10 and VII-11. In support of this contention, the appellant maintains that the County inappropriately compared the approved development with single-family homes in the Whaleship subdivision rather than with the immediately adjacent development. The appellant notes that the project site and the adjacent properties are zoned Rural Residential (RR) whereas the Whaleship subdivision is zoned Single-Family Residential (R1), and that the approved development is the only structure in the surrounding area with a flat roof.

Appellant Kepner also contends that the approved development will negatively impact the public view from Highway 1 because: “1) The very tall flat roofed commercial appearing architecture is boldly assertive, 2) The structure occupies a slot in an otherwise unbroken sweep of trees across the skyline as viewed from Highway 1.”

##### ***Applicable Policies [See Appendix B for the full text of the policies described below]***

Chapter VII of the LUP contains visual resource protection policies that limit the height of residential development seaward of Highway 1 to 16 feet above natural grade, prohibit development that would obstruct views of the shoreline from coastal roads and that would significantly degrade the scenic qualities of major views and vista points. The LUP also contains policies that requires development to be subordinate to the character of the site to be compatible with the existing scale and character of the surrounding community, and encourages the use of pitched roofs that blend with hillside slopes.

***Discussion***

The approved development is 2,556 square feet in size and 16 feet high above existing grade. As such, the development does not exceed the size and height limits for the RR Zoning District. However, the approved development is larger than the adjacent development and is the only structure in the immediately surrounding area that has a flat roof. Thus, the appeal does raise a question of conformity with the policies of the LCP that require development to be consistent with the character of the surrounding community and that encourage the use of pitched roofs.

While there is a questions concerning the visual impacts of the development, it is not evident that the question represents a substantial issue of the approved development's conformity to the Sonoma County LCP. As discussed in Section 4.4 above, the Commission is guided by a number of factors in determining whether a substantial issue is raised in an appeal of a local coastal development permit. In this instance, the most important factors to consider are:

- the extent and scope of the development as approved or denied by the local government;
- the significance of the coastal resources affected by the decision; and
- whether the appeal raises only local issues, or those of regional or statewide significance.

The approved development is a 16-foot-high 2,556-square-foot single-family residence. Although somewhat larger than the adjacent development, the approved development is nevertheless modest in terms of its extent and scope. While the approved development will be visible from Highway 1, the structure is sited in a developed area with limited and distant views of the coast from major public viewing areas, and will not obstruct views of the shoreline. Thus, the views affected by the development are not significant. The flat roof and bulk of the building is out of character with the immediately adjacent development. However, development in the nearby Whaleship subdivision, includes structures similar in design and scale to the approved development. Thus, the question of community compatibility affects only the immediately local area and is not an issue of regional or statewide significance.

***Conclusion***

The approved development conforms with the zoning code standards regarding size and height and is similar in scale with existing development in the Whaleship subdivision nearby. The development will not impede views of the coast from public areas and is visible from a distance as a structure in an existing developed area. The appellant's contention regarding community character is based on a narrow scope that considers only the immediately adjacent development. Therefore, the Commission finds that the appeal raises no substantial issue regarding conformity of the approved development with the visual resource protection policies of the Sonoma County certified LCP.

**5.3.2 Single-Family Use**

***Contention***

Appellant Kepner contends that the approved development may be used for a purpose other than a single-family residence, stating "Its 4 bedrooms, each on a separate level with its own bathroom, wet bar, refrigerator, and door to the outside, strongly suggest a mini hotel or condominium."

***Applicable Policies***

Article 12 of the County Coastal Zoning Ordinance specifies the allowable uses within the RR zoning district. The principally permitted use in the district is one single-family residence per lot. Condominiums and bread and breakfast establishments may be permitted through a use permit.

***Discussion***

The approved development includes only one kitchen and therefore meets the definition of a single-family residence. The County conditioned its approval of the development to specify that any future conversion of the residence to a multi-family dwelling or overnight accommodation is subject to County review and approval.

***Conclusion***

The development approved by the County meets the definition of a single-family residence. As conditioned, conversion to a different use requires County review and approval. Therefore, the Commission finds that the contention raised in the Kepner appeal regarding the use of the development does not raise a substantial issue of conformity with the Sonoma County LCP.

**6.0 INFORMATION NEEDED FOR DE NOVO REVIEW**

**6.1 Wetlands Delineation**

In order to allow for the evaluation by the Commission of the potential impacts of the proposed project to wetland resources in any de novo review of the project, the applicant must provide a delineation of any wetlands present on the project site. The wetlands delineation must meet the definition of wetlands contained in the certified LCP and Section 13577 of the Commission's regulations.

**6.2 Takings Analysis**

Although not raised in either appeal and therefore not addressed in the Commission's substantial issue determination, the County found in its action approving the development that there is no feasible alternative vehicular access to the project site. The County therefore concluded that it was bound to approve the proposed driveway because to not do so would render the site unbuildable in conflict with constitutional requirements. In other words, the County found that it must approve a driveway to access the project site directly from Bay Flat Road in order to avoid a regulatory takings.

To allow the Commission to evaluate the proposed development pursuant to constitutional principles and Coastal Act Section 30010, the following information will be required:

1. Date that property was acquired, sale price, and name of seller;
2. Determination of fair market value of property at time of acquisition and explanation of how determined. Include any appraisals performed near the time of purchase.
3. Describe any changes in the size or use of the property since purchased.

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4. Describe any sale or lease of any portion of or interest in the property since its purchase and indicate relevant dates, sale prices, rent assessed and nature of the portion or interest sold or leased.
5. Provide any title report, litigation guarantee or similar documents prepared in connection with all or any portion of the property with a statement of when the document was prepared and for what purpose.
6. Indicate approximate date(s) of and amount(s) of any offers solicited or received for purchase of all or any portion of the property since the time purchased.
7. Identify the annual costs for the last five calendar years associated with ownership of the property, including, but not necessarily limited to:
  - property taxes,
  - property assessments,
  - dept services, including mortgage and interest costs, and
  - operation and maintenance costs.
8. Identify any other adjacent land currently in common ownership purchased and/or financed at the time of purchase of the subject parcel.
9. If the property generates any income apart from any rent received, indicate on an annual basis for the last five calendar years the amount of income generated and the use(s) that have generated this income.

**6.3 Alternative Vehicular Access**

In addition, in order for the Commission to evaluate the availability of feasible alternative vehicular access to the project site, please provide the following information:

1. Analysis of ability to eliminate the proposed driveway through the wetlands, including the ability to park adjacent to the site,
2. Analysis of ability to access the project site through neighboring parcels, including any easements now or previously existing on all adjacent parcels,
3. Copies of any public or private access easements currently or previously existing on all adjacent parcels,
4. Subdivision history of the subject parcel including identification of any contiguous parcels that were in common ownership with the subject parcel at any point in time.

**APPENDIX A**  
**SUBSTANTIVE FILE DOCUMENTS**

North Central Coast Regional Commission Permit 94-79, Ira and Ruth Funk, April 30, 1979.

North Central Coast Regional Commission, Natural Resources of the North Central Coast  
Region, 1975.

## **APPENDIX B REFERENCED POLICIES**

### **Sonoma County Coastal Plan Chapter III**

#### **Definitions of Habitat Categories**

##### **Wetlands**

Areas where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Wetlands are here defined to include marshes, ponds, seeps, and reservoirs, but not the Bodega Harbor tideflats. The upland limit of a wetland is designated as 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; 2) the boundary between soil that is predominantly hydric and soil that is predominantly non-hydric. Typical wetland vegetation: pickleweed, cordgrass, Jaumea, salt grass, rushes, bulrushes, sedges, cattails, tule, marsh rosemary, marsh grindelia.

### **Sonoma County Coastal Plan Chapter III**

#### **Environmental Resource Management Recommendations**

18. Prohibit filling, grading, diking, dredging, and construction in wetlands, except under special conditions delineated in the Coastal Act Section 30233. All projects must maintain or enhance the functional capacity of the wetland or estuary. Dredging, when consistent with the provisions of the Coastal Act and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat, should be subject to the following conditions:
  - Prohibit dredging in breeding and nursery areas and during periods of fish migration and spawning.
  - Limit dredging to the smallest area feasible.
  - Require protective measures for dredging and excavation such as silt curtains, diapers, and weirs to protect water quality.
  - Remove structures as soon as possible once they have served their purpose.
  - Dredge spoils should not be deposited in areas subject to tidal influence or in areas where public access would be significantly adversely affected, as well as certain environmentally sensitive areas.
22. Prohibit the diking or filling of seasonal wetlands for the purpose of conversion to agriculture or to accommodate development of any kind.
24. Prohibit the removal of vegetation from wetlands unless it is shown to be essential to the habitat viability.
25. Prohibit construction of agricultural, commercial, industrial and residential structures within 100 feet of wetlands.
26. Between 100 and 300 feet of wetlands, prohibit construction of agricultural, commercial, industrial and residential structures unless an environmental assessment finds the wetland would not be affected by such construction.

## **Sonoma County Coastal Plan Chapter VII**

### **Visual Resources Recommendations**

#### **View Protections**

1. Prevent development (including buildings, structures, fences, paved areas, signs, and landscaping) from obstructing views of the shoreline from coastal roads, vista points, recreation areas, and beaches.
2. Prohibit development which will significantly degrade the scenic qualities of major views and vista points.

#### **Alteration of Landforms**

4. Minimize visual destruction of natural landforms caused by the cutting, filling, and grading for building sites, access roads and public utilities by:

Concentrating development on level areas so that steeper hillsides are left undisturbed.

Prohibiting new development which requires grading, cutting, or filling that would significantly and permanently alter or destroy the appearance of natural landforms.

Restoring landforms as completely as possible after any permitted temporary alteration during construction, timber harvesting, or mineral extraction.

Constructing roads, buildings, and other structural improvements to fit the natural topography.

#### **Landform Guidelines**

5. Minimize visual impact of development on hillsides by:

Requiring construction or grading to follow the natural contours of the landscape.

Prohibiting development and grading on hillsides with grades more than 30 percent.

Designing structures to fit hillside sites rather than altering the landform to accommodate buildings designed for level sites.

Concentrating development near existing vegetation.

Promoting root angles and colors which blend with hillsides.

#### **Natural Landscape Compatibility**

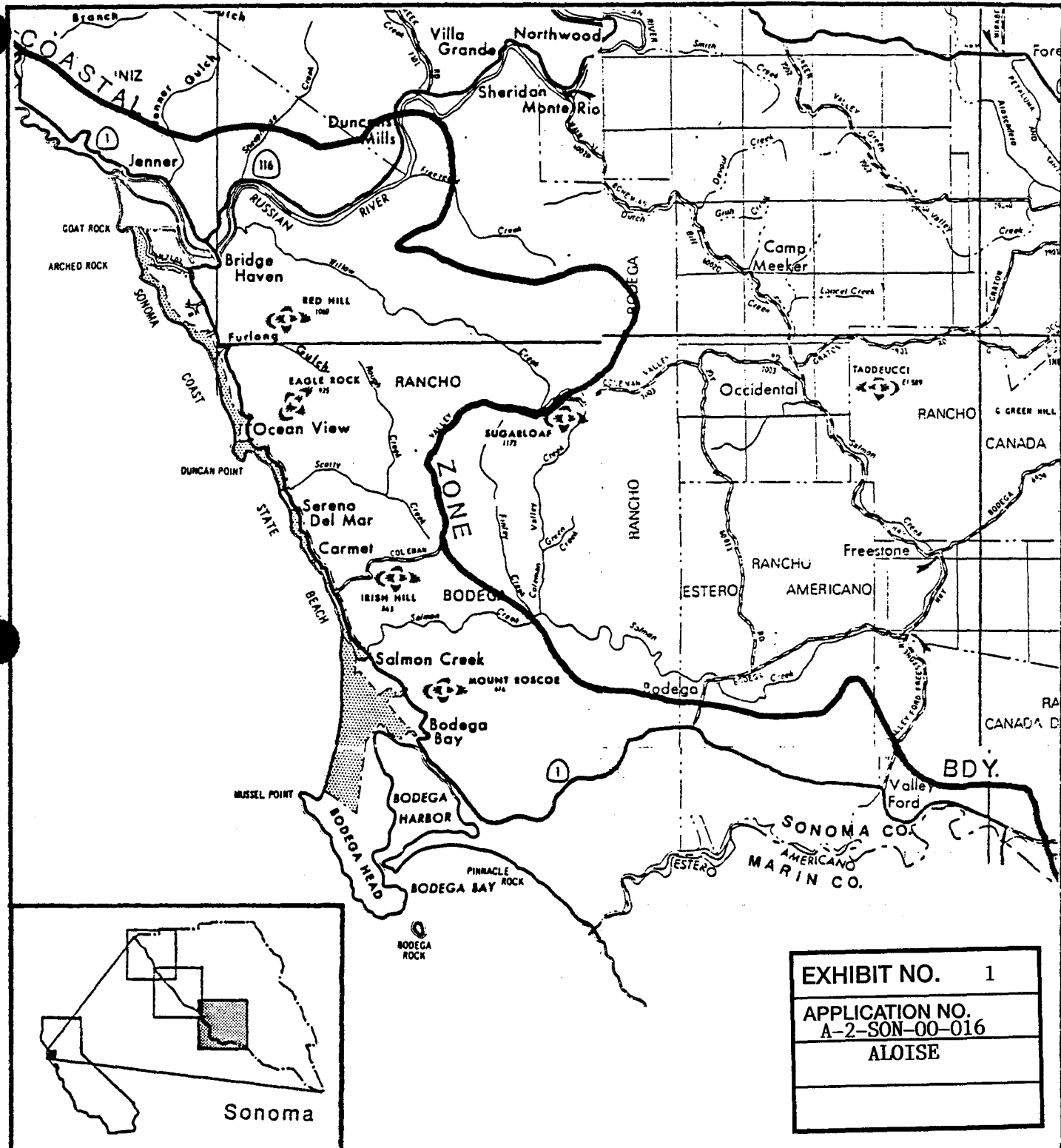
9. Locate and design development to fit the setting and to be subordinate to the pre-existing character of the site.

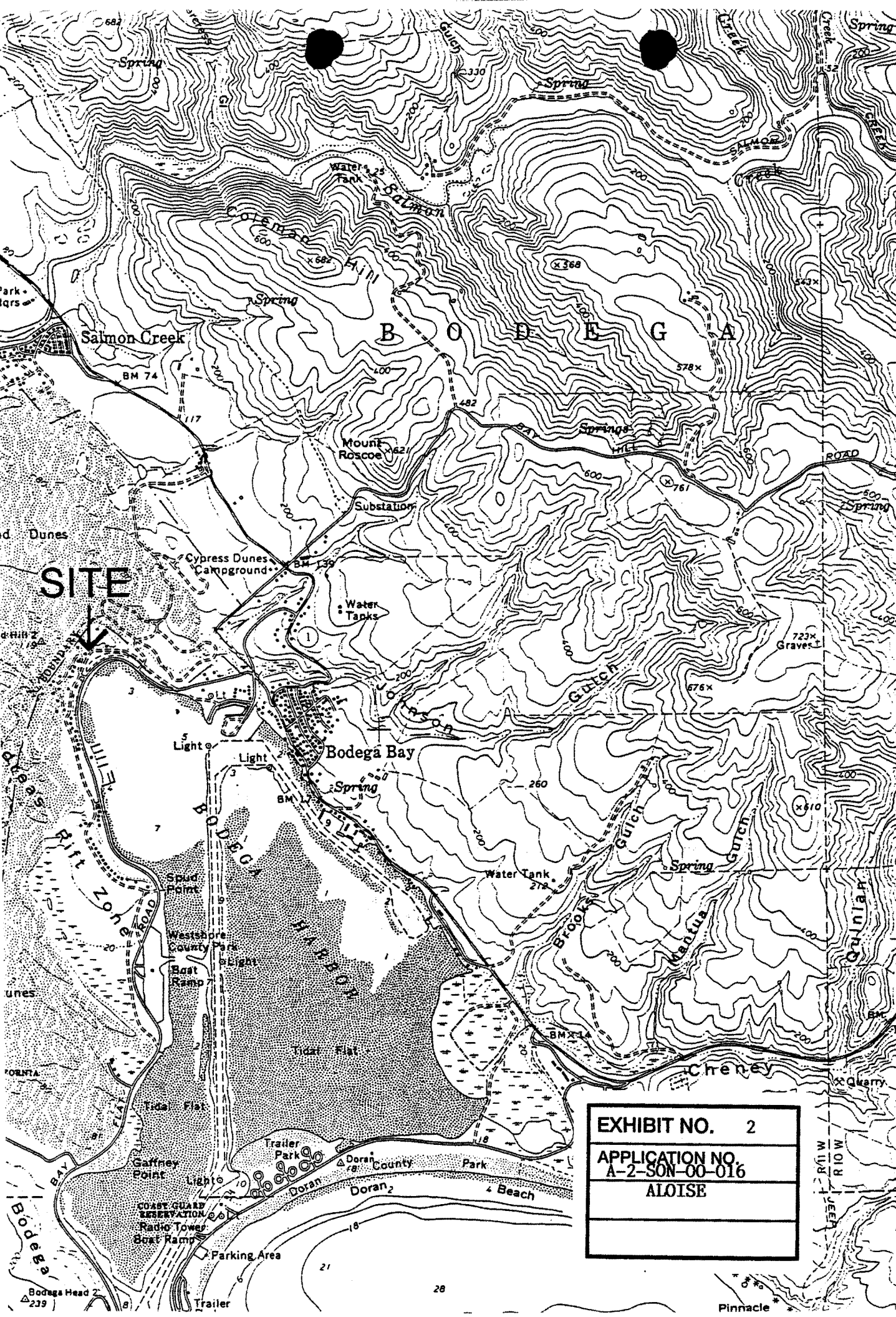
#### **Community Compatibility**

10. Design structures to be compatible with existing community characteristics.
11. Relate structures in size and scale to adjacent buildings.



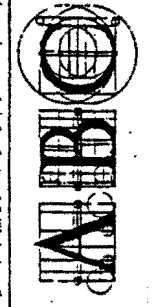






REVISIONS	BY

ALAN B. COHEN 87 SECOND STREET  
 ARCHITECT SANTA ROSA CALIFORNIA  
 A.I.A. 707-578-3995



ALOISE RESIDENCE  
 1695 DAY FLAT ROAD  
 BODEGA BAY, CA.

**EXHIBIT NO. 2**  
**APPLICATION NO. A-2-SON-00-016**  
**ALOISE**

DATE	
SCALE	AS SHOWN
DRAWN BY	ALSON
NO.	9807
SHEET	

OF SHEETS

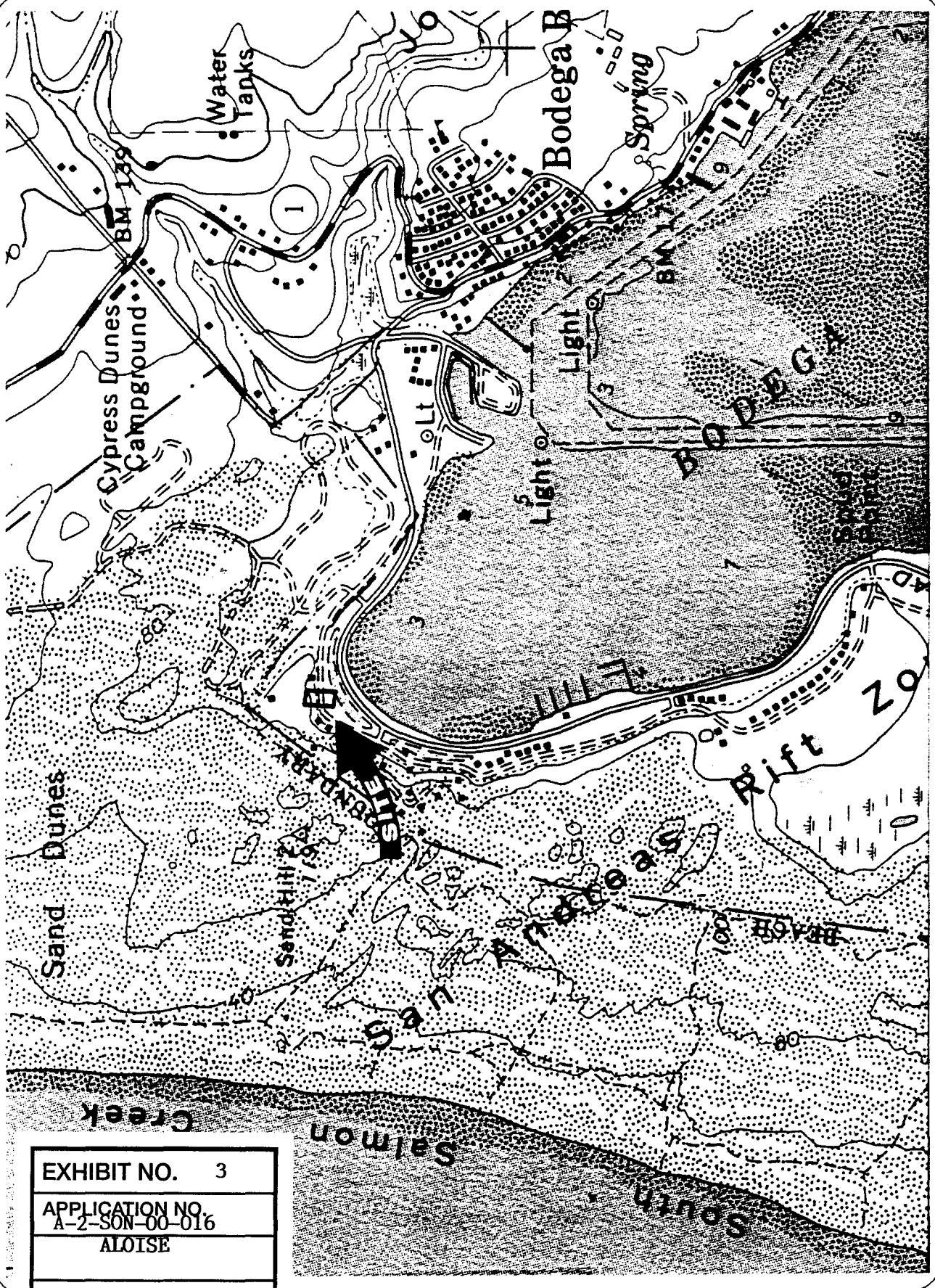


EXHIBIT NO.	3
APPLICATION NO.	A-2-SON-00-016
	ALOISE

EXHIBIT "C"

# COUNTY ASSESSOR'S PARCEL MAP

TAX CODE AREA  
57-009

100-06

EXHIBIT NO. 4  
APPLICATION NO.  
A-2-SOM-00-016  
ALOISE

FAULT AREA

ALL THE PARCELS ON THIS PAGE  
ARE DESIGNATED:

APR 01 1982  
PLANNING DEPARTMENT  
COUNTY OF SONOMA



REVISED

9-11-79

EXHIBIT "D"

R/S 76-27  
R/S 112-40

R/S 76-27  
R/S 112-40

100  
02

100  
02

2  
1.42 AC

15

100  
05

Parcel Map 3715  
Bl. 190 Pg. 6 Rec. 5-23-73

Pcl. Map 6791  
Bl. 289 Pg. 17 Rec. 6/8/79

**SITE**

BAY FLAT ROAD

WESTSHORE ROAD

(ALL IN S.B. UTIL. DIST)

BODEGA BAY

NOTE: THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSES ONLY. NO  
LIABILITY IS ASSUMED FOR THE  
ACCURACY OF THE DATA HEREON.

Assessor's Map Bl. 100 Pg. 10  
Sonoma Calif.

GOMALLI

Zoning Map

CPH 98-0008

# SCHEMATIC SITE PLAN

1695 BAY FLAT ROAD

SUBJECT  
PARCEL-  
ALOISE

FLUGUM

KERNER

KERNER  
WETLAND

BAY FLAT RD.

LOW TIDE CHANNEL

RAIL FOND  
WETLAND

GRASSY  
MOUND

WEST SHORE RD.

BAY

NORTH



100'  
SETBACK

LOW  
TIDE  
CHANNEL

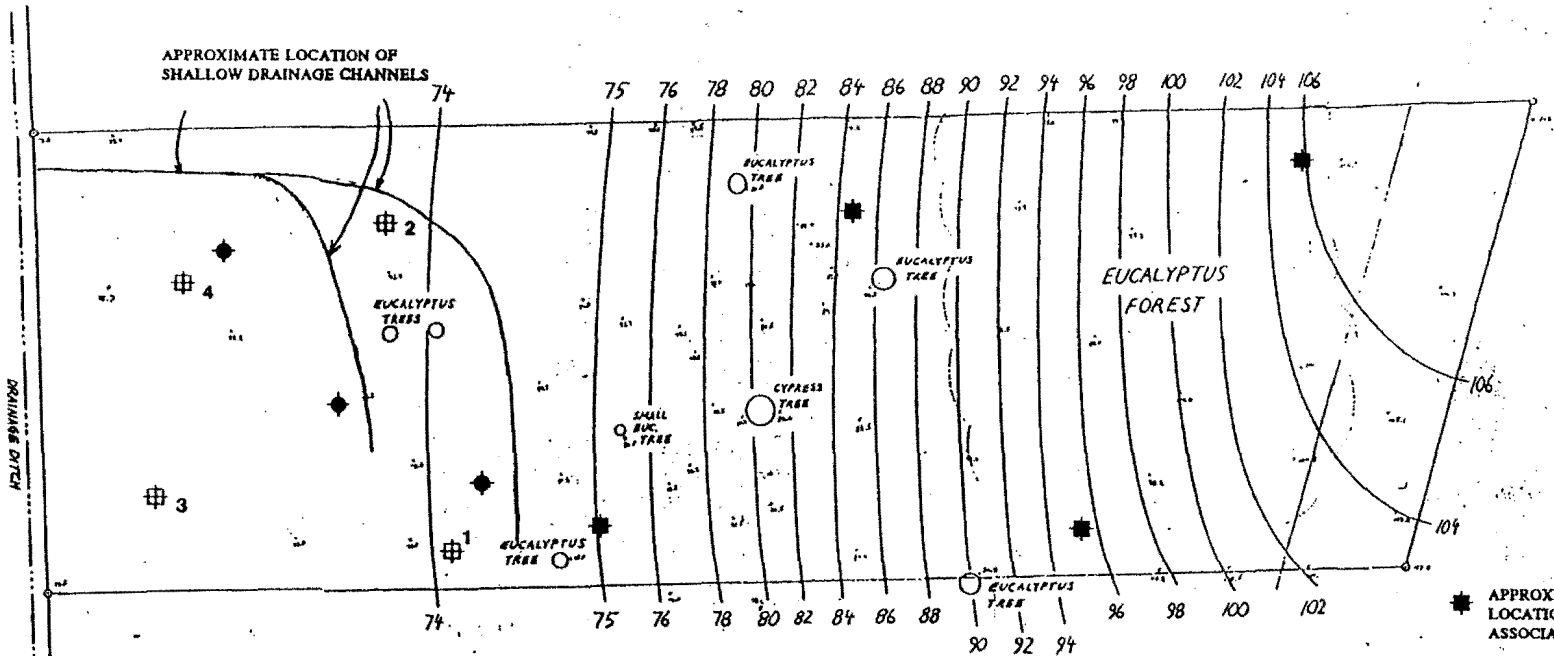
EXHIBIT NO.	5
APPLICATION NO.	A-2-SON-00-016
	ALOISE

CPH 98-0008 2



EXHIBIT NO.	6
APPLICATION NO.	A-2-SON-00-016
	ALOISE

APPROXIMATE LOCATION OF SHALLOW DRAINAGE CHANNELS



- ◆ APPROXIMATE TEST PIT LOCATION BY GIBLIN ASSOCIATES, 1998
- ◆ APPROXIMATE TEST BORING LOCATION BY BAUER ASSOCIATES, 1993
- # APPROXIMATE SHALLOW TEST PIT LOCATION

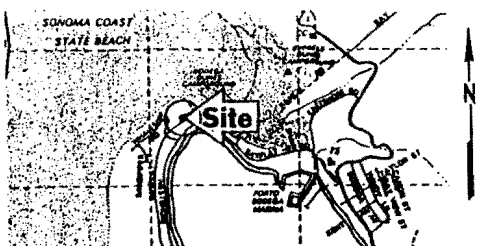
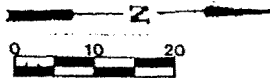


EXHIBIT NO.	7
APPLICATION NO.	A-2-SON-00-016
ALOISE	

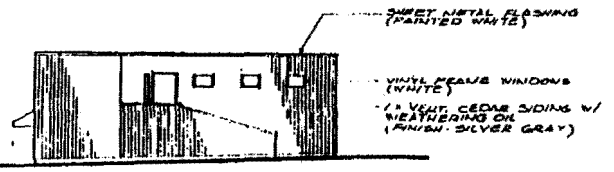
**GIBLIN ASSOCIATES**  
CONSULTING  
GEOTECHNICAL  
ENGINEERS

Job No: 2123.1.1  
Date: 02-23-99  
Appr: *BER*

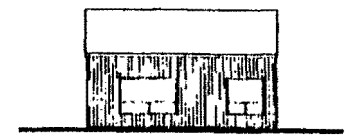
SHALLOW TEST PIT LOCATION  
PLAN AND SITE VICINITY MAP  
JIMERSON RESIDENCE  
1695 BAY FLAT ROAD  
BODEGA BAY, CALIFORNIA

PLATE  
**1**

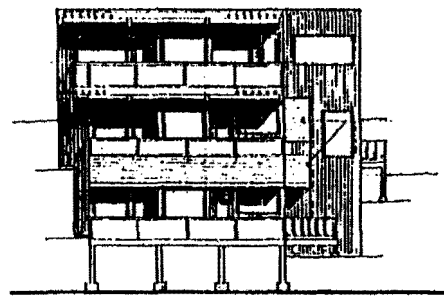
EXHIBIT NO. 8  
 APPLICATION NO. A-2-SUN-00-016  
 ALOISE



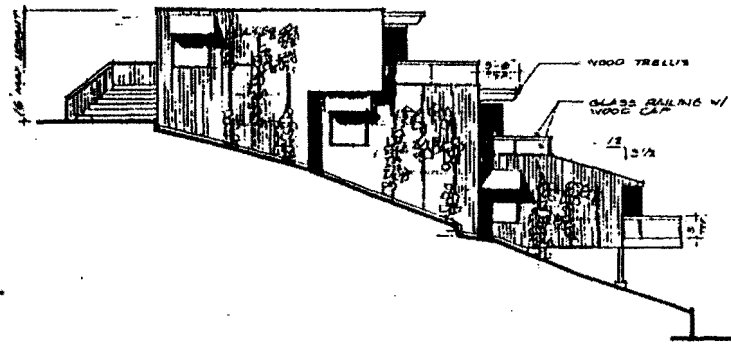
NORTH ELEVATION (MAIN HOUSE)



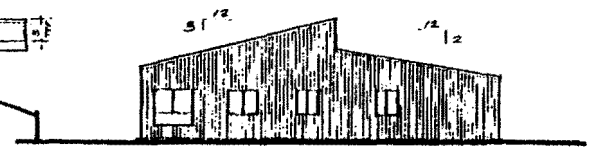
NORTH ELEVATION (GUEST HOUSE)



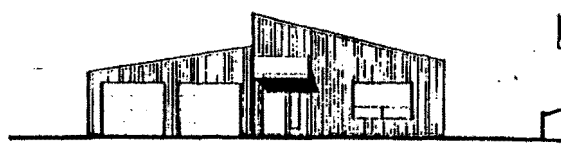
SOUTH ELEVATION (MAIN HOUSE)



COMPOSITE WEST ELEVATION



SOUTH ELEVATION (GUEST HOUSE)



COMPOSITE EAST ELEVATION



Elevations



REVISIONS

ALAN B. COMEN  
ARCHITECT  
107 SECOND STREET  
SAN FRANCISCO, CA 94102  
707-528-1995

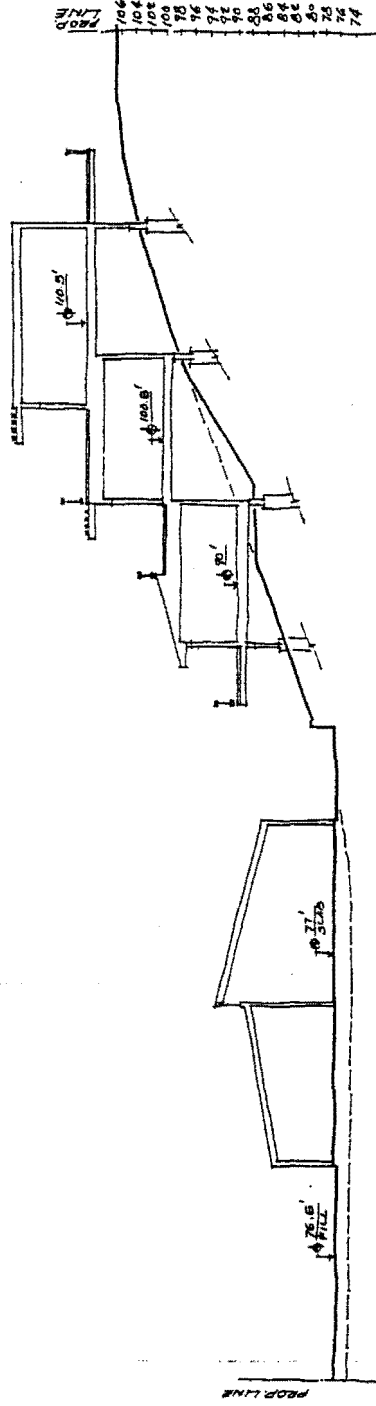


ALOISE RESIDENCE  
1075 BAY BLVD. #A.D.  
BOUSSA OAK, CA

SECTION

DATE 07/01/99  
BY AS NOTED  
SCALE 1/8"=1'-0"  
NO. 7507  
SHEET

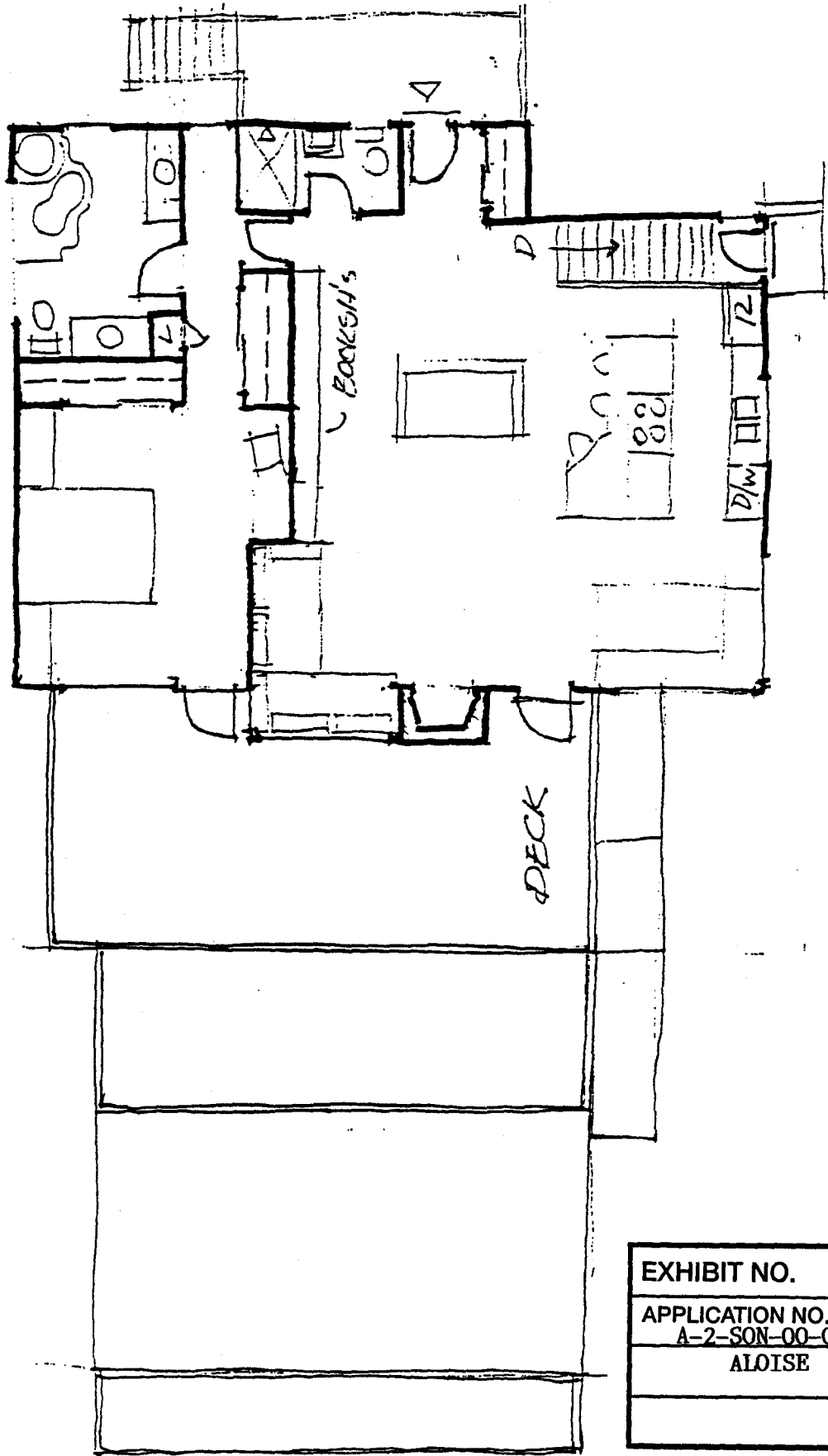
3



SECTION THRU SITE 1/8"=1'-0"

EXHIBIT NO.	9
APPLICATION NO.	A-2-SON-00-016
ALOISE	

CPH 98-0008



Upper Level

EXHIBIT NO.	10
APPLICATION NO.	A-2-SON-00-016
	ALOISE

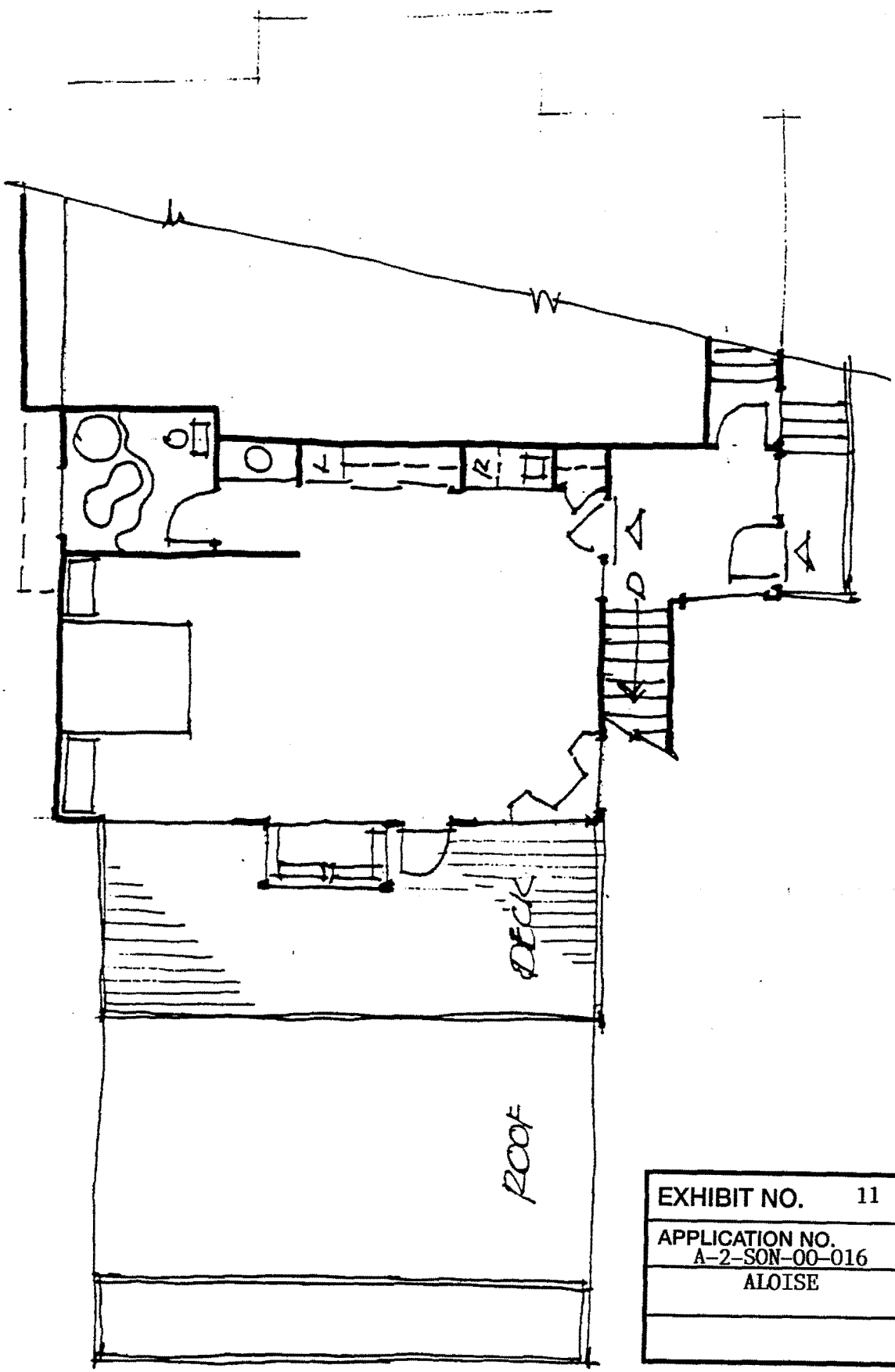


EXHIBIT NO.	11
APPLICATION NO.	A-2-SON-00-016
	ALOISE

CPH 98-0008

Lower Bedroom

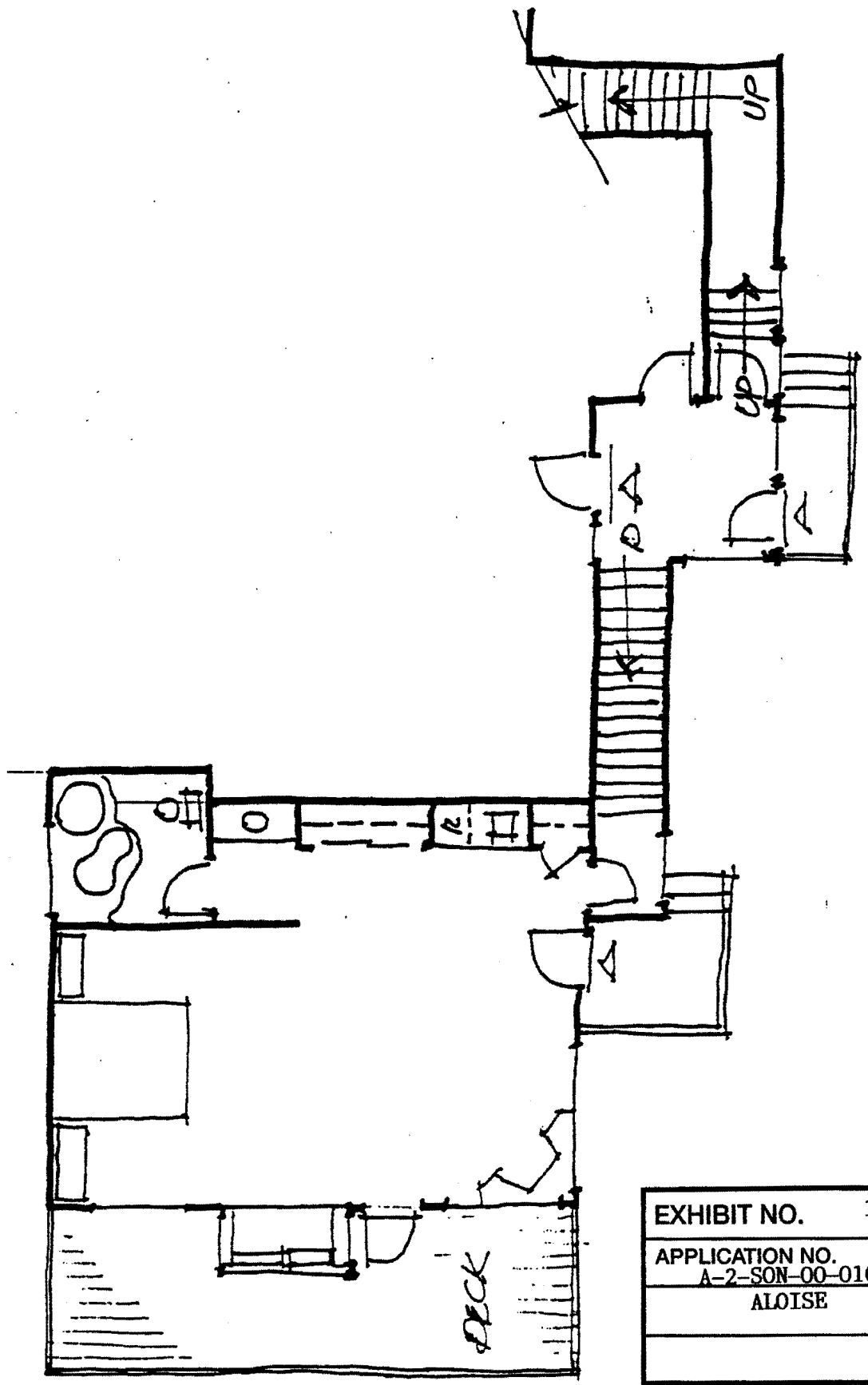
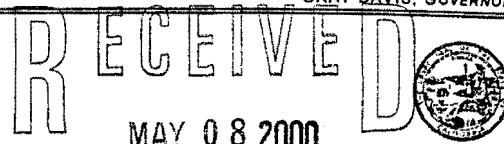


EXHIBIT NO.	12
APPLICATION NO.	A-2-SON-00-016
	ALOISE

CALIFORNIA COASTAL COMMISSION

FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

CALIFORNIA  
COASTAL COMMISSION

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

SECTION I. Appellant(s)

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

LINDA Kepner + neighbors  
1705 Bay FLET RD  
DORCEA Bay, CA 94923 ( ) 415-203-7607  
Zip Area Code Phone No.  
415-875-9449

SECTION II. Decision Being Appealed

1. Name of local/port government: see attached

2. Brief description of development being appealed: see attached

3. Development's location (street address, assessor's parcel no., cross street, etc.): see attached

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions:  see attached

c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SON-00-016

DATE FILED: 5/8/2000

DISTRICT: North Central Coast

H5: 4/88

EXHIBIT NO.	13
APPLICATION NO.	A-2-SON-00-016
ALOISE	
(Page 1 of 9)	

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

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

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

6. Date of local government's decision: 4/25/00

7. Local government's file number (if any): CPH 98-008

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

See attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

- (1) See attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

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

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

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

see attached

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

SECTION V. Certification

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

Linda L. Kepner  
Signature of Appellant(s) or  
Authorized Agent

Date 5/4/00

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

Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

Appeal to California Coastal Commission  
Of a Coastal Permit at 1695 Bay Flat Rd  
File:CPH 98-0008

**Section I. Appellant (s)**

Linda Kepner & neighbors  
1705 Bay Flat Rd  
Bodega Bay, Ca 94923  
707-875-9449  
415-203-7607  
llkep@aol.com

**Section II. Decision being appealed**

1. Sonoma County Board of Supervisors
2. A request for a permit to construct a single family dwelling with three bedrooms and four bathrooms and a detached garage/guest house building with one bedroom and one bathroom on a 0.25 acre vacant parcel in Bodega bay.
3. 1695 Bay Flat Road, Bodega Bay Parcel # 100-060-009
4. Approval with special conditions: Please see attached letter from the Sonoma County Permit and Resource Management Department dated April 26, 2000 outlining the decision and conditions of approval.
5. The decision being appealed was made by the Sonoma County Board of Supervisors.
6. The decision was made on 4/25/00
7. The local government file # CPH 98-008

**Section III. Identification of other interested person/s**

- a. Permit applicant  
Alan Cohen/Ronald & Sally Aloise  
887 2<sup>nd</sup> St  
Santa Rosa, CA 95404
- a. Name and addresses of interested neighbors and interested parties.  
  
Chuck and Katie Dirkse  
1681 Bay Flat Rd.



707-875 9663  
209-634 6838  
Fax 209 634 6415  
[Dirkc@ainet.com](mailto:Dirkc@ainet.com)

Phyllis Satre  
1685 Bay Flat Rd.  
707-875 3330

Amy Pribram  
1677 Bay Flat Rd.  
707-875 2807

Jim and Patty Flugum  
1707 Bay Flat Rd  
707-875 3326  
[jpflug@eudoramail.com](mailto:jpflug@eudoramail.com)

Randy and Joyce Flugum  
1697 Bay Flat Rd.  
503-807-5375  
[rjflug@earthlink.net](mailto:rjflug@earthlink.net)

**Other interested parties**

Gunter and Aurora Konold  
209-957-3744  
fax 209-957-3744  
[konold@cwlx.com](mailto:konold@cwlx.com)

**Section IV. Reasons Supporting this Appeal.**

The neighbors of the property at 1695 Bay Flat Road wish to appeal the approval of the Coastal Permit as stated in our letters (Neighbors letters are included in this package they are also in the staff reports of the public record of this project) for the following reasons.

**Design Review: Neighborhood Compatibility**

According to Sonoma County Permit and Resource Management Department's staff report, the County's Local Coastal Plan (LCP)

**“requires development to be compatible with the characteristics of the surrounding community and to relate to the size and scale of adjacent structures (LCP Recommendations 10 and 11, respectively, page VII-46).**

The Sonoma County Architectural Design Review Committee compared the project with the houses in the **Whaleship Subdivision (not to adjacent structures)** and determined its contemporary architectural design and its size and scale is similar to the other structures within its surrounding community. . . .“

The Neighbors strongly disagree with this finding.

Our area is zoned Rural Residential/Coastal Combining, an area of relatively small homes on relatively large lots, sandwiched between a lush wetland and the bay to the south, and state park land to the north. This zoning is in contrast to the Residential zoning of the Whaleship Road subdivision, a neighborhood of small lots, which the applicant presented in a slide show at the Board of Zoning Adjustments hearing, in a misleading attempt to show compatibility.

Although this determination may be understandable in light of the misleading information presented to the Architectural Review Committee on November 17, 1999 (at which there was no opportunity for input from the adjacent property owners), we believe that this finding was clearly incorrect.

We believe the surrounding community is more appropriately defined by the 6 properties **adjacent to** the subject property, which are zoned Rural Residential/Coastal Combining (RR-CC). This is a distinctly different area of relatively small homes on relatively large lots, sandwiched between a lush wetland and the bay to the south, and state park land to the north. This zoning is in contrast to the R1 Residential zoning of the Whaleship Road subdivision.

The applicant's proposal is entirely out of character with all of the surrounding properties, with a living area much greater in proportion to its lot size. In addition, the applicant's building is the only one in the surrounding community with a flat roof.

## Compatibility with Local Neighborhood Rural Residential/Coastal Combining

Name/Address on Bayflat Road	Lot size (acres)	Lot size ( sq ft)	Building/Living Area (Sq ft)	Living Area as % of lot Size	Type of roof	Total height of building (approx)
Diekmann, Herman 1665	1.42	61,855	1,743	3.7%	pitched	
Dirkse, Chuck & Katie 1681	0.78	34,250	512	1.5%	Pitched	
Applicatn Cohen & Aloise 1695	0.26	11,340	3,181 (2,556+625)	32.8%	Flat	46'
Pribram, Amy 1677	0.67	29,210	1,686	5.8%	pitched	
Satre, Phyllis 1685	0.58	25,500	1,456	5.7%	pitched	
Flugum, Randy 1697	0.95	41,400	1,258	3.0%	pitched	28'
Kepner, Linda 1705	1.07	46,609	1,743	3.7%	pitched	28'
Flugum, James 1707	0.68	29,620	1,896	6.4%	Pitched	25'
Average, excluding Applicant	0.88	36,349	1,470	4.30%		

### Compliance with Local Coastal Plan

Although the permit is for a single-family dwelling, the applicant's own stated intention is that two families will occupy the structure. Although the single full-service kitchen meets the definition of a single family dwelling, this building clearly stretches the limits. Its 4 bedrooms, each on a separate level with its own bathroom, wet bar, refrigerator, and door to the outside, strongly suggest a mini hotel or condominium. Mr. Jimerson, who identifies himself as the "owner's representative," is vague about his intentions for use of the home, but is clear that he and his partners, Ronald and Sally Aloise, will share the home with their adult children and grandchildren. Is this a single family? Or could it be a set-up for some other type of use?

### Wetland Protection

PRMD's staff report, states that "the limit of a wetland is defined as the area where hydrophytic plant cover predominate or where hydric soils have formed" and that "the small cluster of sedge plants growing at the base of the slope are hydrophytic plants that indicate the possibility of a wetland." PRMD's staff report found that these plants are not the predominate plant cover as they occupy a very small area and no other hydrophytic plants are located in the remaining area. The Neighbors are not surprised at this latter finding in that the entire lot was

bulldozed (after removal of the trees) at some point in the last year. We can recall several months of looking at the bulldozer, mired in the mud, and only regret that none of us had the foresight to take photos. A wetland delineation was done for this property after the bulldozer completed its work. We are saddened that we may never know what was there before the bulldozer arrived.

We believe that, since they have now had some time to recover, the wetlands on the subject property should be surveyed again before any final determination on the wetlands. We don't believe that the 100-foot setback from the Rail Pond across the road (as required in Exhibit A, Conditions of Approval, from April 25, 2000) goes far enough to protect the wetland on the subject lot.

### **Public View Impact From California Highway 1**

The proposed structure will negatively impact the public view from Highway 1, most notably from the stretch of highway 1 directly in front of the visitor center. The structure will occupy a slot in the currently unbroken tree line lying directly down the centerline of the northbound highway view. The combination structure starts at several feet above high tide line and extends 16 feet above the high point of the steeply upsloping lot, a total height from grade exceeding 40 feet. It's visual impact will likely be greater than the existing tall structure sited on Whaleship Road that is commonly noted as an appearance blight on the local landscape. There are several reasons why this is so: 1) The very tall flat roofed commercial appearing architecture is boldly assertive, 2) The structure occupies a slot in an otherwise unbroken sweep of trees across the skyline as viewed from Highway 1. A lower, gabled roof structure would not completely eliminate the impact but would minimize this jarring visual impairment to the Highway vista.

### **Recommendations**

We would welcome the addition of a single-family residence in our neighborhood in a compatible scale and perspective. We therefore offer the following specifics on design elements that we believe would make the project compatible with the adjacent homes in the RR-CC zoning area:

1. Architectural style - The home should be constructed with a pitched roof, using either a gable or hip roof, similar to other homes in the RR-CC zoning area.
2. Footprint - We recognize that the subject lot is small relative to other lots in the RR-CC zoning area, and that to restrict the percentage coverage on this lot to fit within the range described above would unreasonably restrict the home size. We therefore recommend that the total footprint of the house and garage be within the range of comparable homes within the RR-CC zoning (2500 sf or less).

3. Overall height - The tallest of the homes in the RR-CC zoning area is approximately 28 feet in total height (lowest point on grade to top of roof). We believe this more appropriately describes compatibility than the limitation currently governing structure height (16 feet from highest point on grade to top of roof), which has resulted in a proposed structure with a total height of approximately 39 feet. We believe that the overall structure height should be reduced to 28 feet or less.

In summary, we would welcome the addition of a single-family residence in our neighborhood, in a compatible scale and perspective. We believe that the recommendations above would not unreasonably restrict development on this lot.

These changes would also reduce the impact of this project on the public view from California Highway 1. We therefore request that the California Coastal Commission require this project be modified accordingly,

Please note that the appellants were prevented from fully presenting this information at the Sonoma County Board of Supervisors February 29, 2000 hearing due to a malfunction in the slide projection equipment provided by the County of Sonoma.

Thank you for considering our request.

# CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

### SECTION I. Appellant(s)

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

Californians Organized to Acquire Access to State Tidelands  
1475 Los Alamos Rd. Santa Rosa, CA  
95409 (707) 539-0153  
Zip Area Code Phone No.

### SECTION II. Decision Being Appealed

1. Name of local/port government: Sonoma County Board of Supervisors

2. Brief description of development being appealed: CPH 98-0028 Further consideration  
Modified Plan omitting construction of  
covered garage and guest house from Wetland Setback.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 1695 Bay Flat Rd Bodega Bay, CA.  
APN 100-060009

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions:  \_\_\_\_\_
- c. Denial: \_\_\_\_\_

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

### TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SON-00-016

DATE FILED: 5/12/2000

DISTRICT: North Central Coast

H5: 4/88

EXHIBIT NO.	14
APPLICATION NO.	A-2-SON-00-016
ALOISE	
(Page 1 of 4)	

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

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

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

6. Date of local government's decision: 4-25-'007. Local government's file number (if any): CAH 98-0008SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Alan Cohen  
887 2nd Street  
Santa Rosa, CA 95404

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

- (1) Ms Lynda Kenney (testimony & letters)  
1705 Bay Flat Road  
Redeja Bay, CA 94923
- (2) Jim & Patty Flugum (testimony & letters)  
1707 Bay Flat Road  
Redeja Bay, CA 94923
- (3) Patty & Joyce Flugum (testimony & letters)  
1697 Bay Flat Road  
Redeja Bay, CA 94923
- (4) Chuck & Katie Dirkse (2 letters)  
1691 Bay Flat Road  
Redeja Bay, CA 94923
- (5) Ms. Myllis Satre (letter)  
1685 Bay Flat Road  
Redeja Bay, CA 94923

SECTION IV. Reasons Supporting This Appeal

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

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

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

LCP 111-14 #20, #25 #26 #20 Prohibits discharge of wastewater into wetlands, and etc. #25 Pro-  
hibits construction of residential structures  
within 100 feet of wetlands. #26 Prohibits cons-  
truction of residential structure between 100  
and 300 feet of wetlands unless an environ-  
mental assessment finds the wetland would  
not be affected by such construction. cont'd on  
attached sheet.

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

SECTION V. Certification

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

Charles A. Rhoads

Signature of Appellant(s) or  
Authorized Agent

Date 6-11-00  
Co-Chair C.O.A.A.S.T.

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

Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_



## ATTACHMENT

Page 3, APPEAL FROM COASTAL PERMIT, CONTINUED.

### COASTAL ACT

Section 30231 is not honored by the permitting of a driveway and parking area in the wetland setback area.

Section 30240 (a) This project required stripping the plant habitat from the front part of this parcel, which in itself is a violation of the above section. The driveway and parking area within the setback area would be a further significant disruption. Undergrounding electrical service would also add a great amount of habitat disruption and undergrounding services in the wetland setback area, ~~is~~ along with the driveway and parking area is not acceptable and cannot be said to be minimizing negative environmental impacts. Electrical service would best be served by entering it at the rear of the parcel where necessary service is available.

We have not found adequate evidence to conclude <sup>that</sup> the front third of this parcel is not a wetland area.

THE WITHIN INSTRUMENT IS A  
CORRECT COPY OF THE ORIGINAL  
ON FILE IN THIS OFFICE.

# 49

Resolution Number 00-0462

EXHIBIT NO.	15
APPLICATION NO.	A-2-SON-00-016
ALOISE	
(Page 1 Of 4)	

ATTEST: APR 27 2000

County of Sonoma  
Santa Rosa, California

April 25, 2000  
CPH 98-0008 Andy Gustavson

EEVE T. LEWIS  
County Clerk & ex-officio Clerk of the Board of  
Supervisors of the State of California, In & for  
the County of Sonoma.  
By E. T. Lewis Deputy

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF  
SONOMA, STATE OF CALIFORNIA, MODIFYING THE COASTAL  
PERMIT GRANTED TO ALAN COHEN/RONALD & SALLY ALOISE.

WHEREAS, the applicant, Alan Cohen/Ronald & Sally Aloise, filed a coastal permit application with the Sonoma County Permit and Resource Management Department for construction of a 3 bedroom, 4 bath single family dwelling (2,600 square feet), a detached garage and a guest house on property located at 1695 Bay Flat Road, Bodega Bay; APN 100-060-009; Zoned RR (Rural Residential), CC (Coastal Combining), B7 (Frozen Lot Size); Supervisorial District No 5; and

WHEREAS, at its regularly scheduled meeting on December 9, 1999, the Board of Zoning Adjustments, with a 3-1-0 vote, approved the request; and

WHEREAS, on December 21, 1999, COAAST and Linda Kepner on behalf of herself and several neighbors, each filed an appeal of the approval with the Board of Supervisors; and

WHEREAS, on February 29, 2000, in accordance with the provisions of law, the Board of Supervisors held a public hearing on the appeals, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, on February 29, 2000, the Board of Supervisors adopted Resolution No. 00-0230, wherein the Board denied the appeals and granted the requested coastal permit, but retained jurisdiction over the project until staff determined whether a hydrologic connection existed between the property and the adjacent wetlands; and

WHEREAS, on February 30, 2000, staff visited the site and found that a drainage pipe exists below the adjacent driveway and that a hydrologic connection exists between the subject property and the wetland located across Bay Flat Road, also known as the Rail Pond; and

WHEREAS, pursuant to Resolution No. 00-230, staff set the required coastal permit for further hearing in order for the Board of Supervisors to consider modification of the requested coastal permit to ensure compliance with the Local Coastal Plan's 100/300 foot wetland setback requirement; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on modification of the requested coastal permit, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors makes the following findings:

1. Based on information in the record, the Local Coastal Plan's 100/300 foot setback requirement cannot be waived for the project because Bay Flat Road and the adjacent driveway do not establish a physical barrier which prevents the project from adversely affecting any nearby wetland. Staff found and confirmed there is a drainage pipe below the

adjacent driveway which hydrologically connects the subject property and the nearby wetland.

2. The granted coastal permit must be modified to remove the detached garage/guest house structure from the 100 foot wetland setback area as Local Coastal Plan Environmental Resource Policy III-25 does not allow any structure within the 100-foot wetland setback area.
3. The design and size of the driveway and parking area and any walkway must be revised and is subject to drainage review to ensure the improvement would prevent erosion and sediment transport from entering the adjacent wetlands.

NOW, THEREFORE, BE IT RESOLVED that the Sonoma County Board of Supervisors modifies the coastal permit granted in Resolution No. 00-230 by replacing the conditions of approval attached to Resolution No. 00-230 with the conditions set forth in Exhibit A, attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

SUPERVISORS VOTE:

Cale: aye    Kerns: aye    Smith: no    Kelley: aye    Reilly: aye

Ayes: 4    Noes: 1    Absent:    Abstain:

SO ORDERED.

EXHIBIT "A"  
Conditions of Approval  
CPH 98-0008  
April 25, 2000

Building:

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, and grading permit.

Transportation and Public Works:

2. To allow for the smooth and safe movement of passenger vehicles entering and exiting the public road on the existing driveway, the driveway must meet AASHTO standards. More specifically, the Developer/Applicant shall, if necessary, improve the existing driveway so that the driveway has a throat width of 12 feet and entrance curves having a radius for at least 15 feet. Alternately, the entrance curves may have a radius of at least 10 feet providing there are 1:10 tapers preceding and following the entrance curves. The driveway shall enter the public road as close to perpendicular as possible, but in no case shall the driveway enter the public road at more than 20 degrees from perpendicular. The minimum sight distance for vehicles entering and exiting the driveway shall be in accordance with Caltrans requirements for the actual speed traveled on the public road servicing the property. The Developer/Applicant shall surface the entry with asphalt concrete between the edge of the existing pavement and the right-of-way line or a minimum distance of 15 feet, whichever is greater. (This condition shall be met prior to occupancy of the new dwelling.) (This condition shall be void if the existing entry already meets these standards.)
3. A development fee (Traffic Mitigation Fee) shall be paid to the County of Sonoma, as required by Section 26, Article 98 of the Sonoma County Code, inclusive before issuance of any building permit associated with this application.
4. Prior to construction of any improvements that are to be made within County Road Right-of-way, the Developer/Applicant must obtain an Encroachment Permit from the Permit and Resource Management Department.

Flood and Drainage:

5. Drainage improvements shall be designed by a civil engineer in accordance with the Water Agency's Flood Control Design Criteria for approval by the Director of the Permit and Resource Management Department and shall be shown on the improvement plans. These drainage improvements shall ensure the development of the subject parcel would prevent erosion or sediment transport to the nearby wetlands.
6. The developer's engineer shall include a site grading plan and an erosion control plan as part of the required improvement drawings.

Planning:

7. The applicant shall submit a revised site plan that (1) delineates the 100-foot wetland setback area, (2) shows the detached garage/guesthouse is not located within the setback area, and (3) minimizes the area needed for a driveway and two parking spaces.
8. Prior to the issuance of the building permit, the applicant shall submit for PRMD review and approval a grant deed restriction that describes the wetland setback area and prohibits vegetation removal, grading, fill, or excavation, within the Wetland setback area. Prior to the

final inspection, the applicant shall submit to PRMD a conforming copy of the approved recorded grant deed restriction.

9. All utilities shall be placed underground.
10. All exterior light fixtures shall be shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property.
11. Prior to issuance of the building permit, the applicant shall revise the plans to show the buildings would not exceed a maximum height of 16 feet as required by section 26C-356 of the Coastal Zoning Regulations
12. Prior to the final inspection for the Building Permit, the applicant shall comply with all County Fire Marshal conditions, including but not limited to those outlined in the memo dated August 24, 1998.
13. Prior to the issuance of the building permit, the applicant shall submit a revised landscape plan showing vegetation and fencing to screen the new parking area from public view, and landscape materials and vegetation that complement the setting.
14. Any proposed modification, alteration, and/or expansion of the single family dwelling as approved by this coastal permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate. Such changes may require a new or modified coastal permit.
15. This permit shall be subject to revocation or modification by the Permit and Resource Management Department if: (a) the Department finds that there has been non-compliance with any of the conditions or (b) the Department finds that the use for which this permit is here by granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26-465.1 and 26-465.2 of the Sonoma County Code.

In any case where a zoning permit, coastal permit, coastal permit, or variance permit has not been used within two (2) years after the date of granting thereof, or for such additional period as may be specified in the permit, such permit shall become automatically void and of no further effect provided, however, that upon written request by the applicant prior to the expiration of the two year period the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26-465.1 of the Sonoma County Code.

**interoffice**  
MEMORANDUM

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to: Andy Gustavson  
from: Richard Stabler  
subject: 1695 Bayflat Rd  
date: February 18, 2000

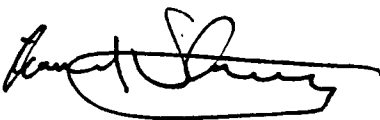
Dear Andy:

This memorandum is in response to your request to have a plant list made for the lower portion of the property at 1695 Bay Flat Rd. I visited the site in the morning of Feb 14th, 2000, after heavy rains in the area. I found there to be relatively little standing water, even in the lowest portions of the trenches there was but a few inches.

Principally, my identification of plants was isolated to the proximity of the trenches that run through the property. I found 22 species in a short search at the site, of which, 3-5 are listed as obligate wetland hydrophytes. Three species, that were found growing higher above the trenches are known to be upland species. The other thirteen species that I identified, are facultative wetland species, in some manner. This means that they can be found in wetlands in some cases, or upland in others. There is some finer adjustment of this in the list that I have attached.

If you have any questions about this list, or my visit to the site, feel free to come by or call me at 3647.

Sincerely



Richard Stabler  
Environmental Specialist

EXHIBIT NO. 16
APPLICATION NO.
A-2-SON-00-016 ALOTSE

# Plant List for Site at 1695 Bayflat Rd. in Bogega Bay

Feb 14th, 2000

Spp. #	Binomial	Common Name	Corps Status	Habitat found
1	<i>Lilium longiflorum</i>	Easter Lily	Not listed	In trench and margin
2	<i>Juncus effusus</i>	Soft Rush	Obl	Along trench
3	<i>Carex sp.</i>	Sedge	Fac-Obl	Along trench
4	<i>Latua serrides</i>	Prickly lettuce	Fac	Along trench
5	<i>Ammopilla arnenia</i>	Beach grass	Upland	Raised sandy soil
6	<i>Juncus bufonius</i>	Toad rush	Fac W+	In trench and margin
7	<i>Rubus discolor</i>	Himalayan Black berry	Fac W	In trench and margin
8	<i>Heracleum lanatum</i>	Cow Parsnip	Fac U	In trench and margin
9	<i>Equisetum arvense</i>	Horsetail	Fac	Along trench
10	<i>Polygonum persicaria</i>	Ladies thumb	Fac W	In trench and margin
11	<i>Galium sp.</i>	Bedstraw	Possibly obl sp	Along trench
12	<i>Plantago lanceolata</i>	English plantain	Fac -	Raised sandy soil
13	<i>Enneapogon desvauxii</i>	Pappus grass	Upland	Raised sandy soil
14	<i>Iris sp.</i>	Cultivated Iris	Fac-Obl	Along trench
15	<i>Rosa californica</i>	Cal Rose	Fac +	In trench and margin
16	<i>Ludwigia peploides</i>	Water primrose	Obl	Along trench
17	<i>Scrophularia californica</i>	Figwort	Fac	In trench and margin
18	<i>Veronica perigrem</i>	speedwell	Obl	Along trench
19	<i>Oxalis laxa</i>	Sour grass	Upland	Raised sandy soil
20	<i>Vulpia bromoides</i>	Six flags	Fac w	In trench and margin
21	<i>Hordeum hystrix</i>	Barley	Fac	Raised sandy soil
22	<i>Geranium dissectum</i>	Dissectum	Upland	Raised sandy soil

## Key

Obl = Obligate hydrophyte

Fac w = Facultative Wetland

Fac = Facultative

Fac U = Facultative upland

Upland = Upland

Plus and minus symbols give more weight in either direction.

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



MEMORANDUM

December 9, 1992

TO: Susan Trachan, North Coast  
FROM: Jonathan Van Coops, Mapping Program Manager

SUBJECT: Boundary Determination 61-92

This is in response to your request for a boundary determination for Sonoma County Assessor's Parcel No. 100-06-09. I apologize for the long delay. Enclosed is a copy of a portion of the adopted Post Certification map for this area of Sonoma County (Sheet 49, Bodega Head Quadrangle) showing the area in question. Also enclosed is a copy of the assessor's parcel map showing the subject property and the Commission's Permit/Appeal jurisdiction boundary.

Based on the information available to us, it appears that the property in question is bisected by the Coastal Commission's permit boundary with approximately 1500 sq. ft. along the southernmost section of the property lying within the Commission's original permit jurisdiction. Development occurring on this roughly 20-25 ft. by 60 ft. band of property would require a coastal development permit from the Commission, and development landward of this location would require coastal development permit approval by the County which could be appealed to the Commission.

As you know, the boundary between the Commission's retained permit and appeal jurisdictions is based on the State Lands Commission staff delineation of Potential Public Trust Lands, and its exact location may vary depending on what lands are actually subject to the public trust. Questions regarding the exact location and extent of the public trust lands should be referred to the State Lands Commission for determination. Their status determination procedure may or may not result in a different boundary.

Please contact me if you have any questions about this determination.

enclosures

cc: S. Scholl, CCC-SF

6482N

State of California

California Coastal Commission  
North Coast Area  
45 Fremont, Suites 1900 and 2000  
San Francisco, CA 94105-2219  
(415) 904-5260  
ATSS 539-5260

Steven F. Scholl  
Assistant District Director

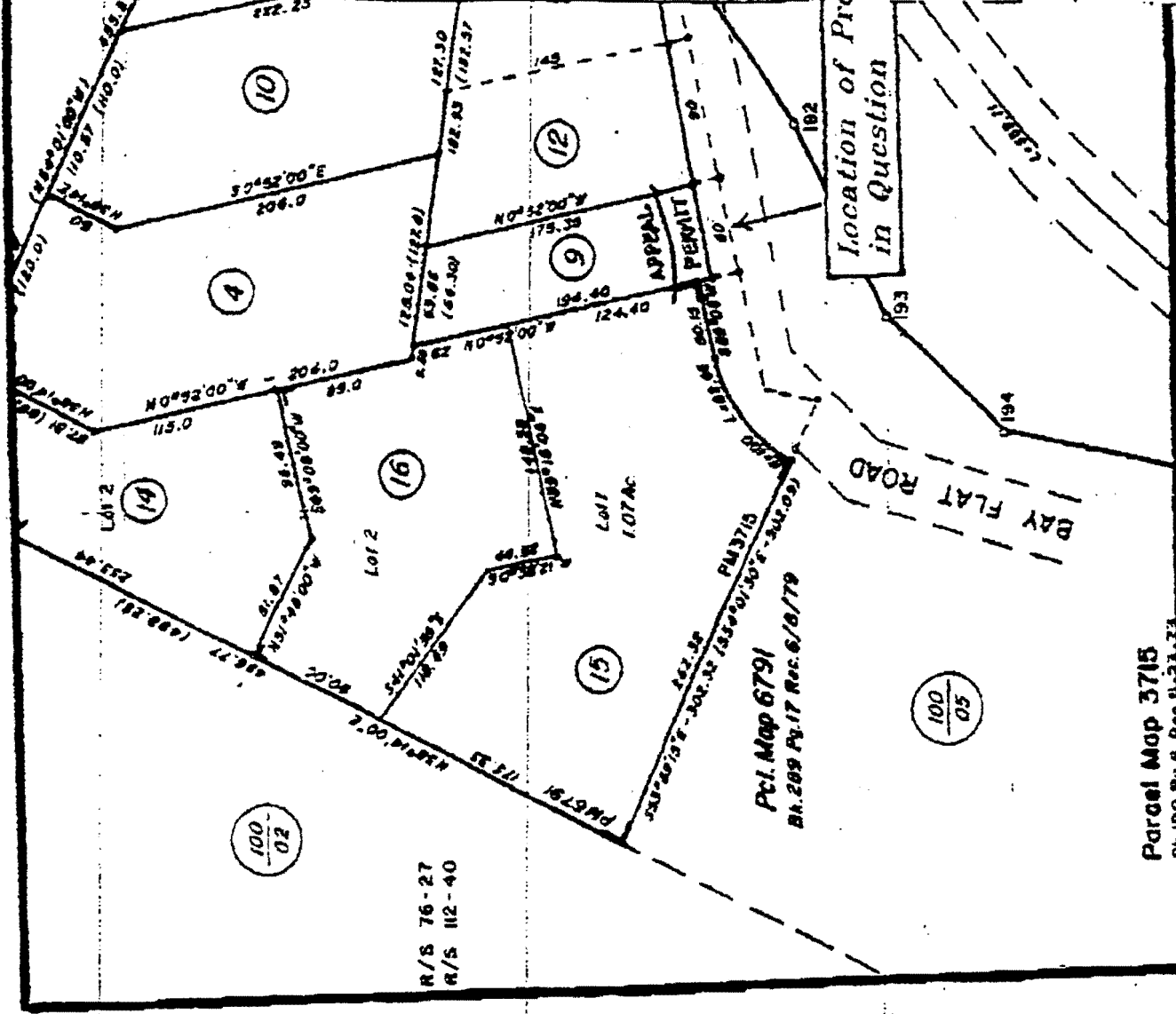
EXHIBIT NO. 17
APPLICATION NO. A-2-SON-00-016
ALOISE





BD #61-92

Sonoma Co. APN # 100 - 06 - 09



R/S 76-27  
R/S 112-40

Parcel Map 3715

R/S 76-27  
R/S 112-40

R/S 76-27  
R/S 112-40

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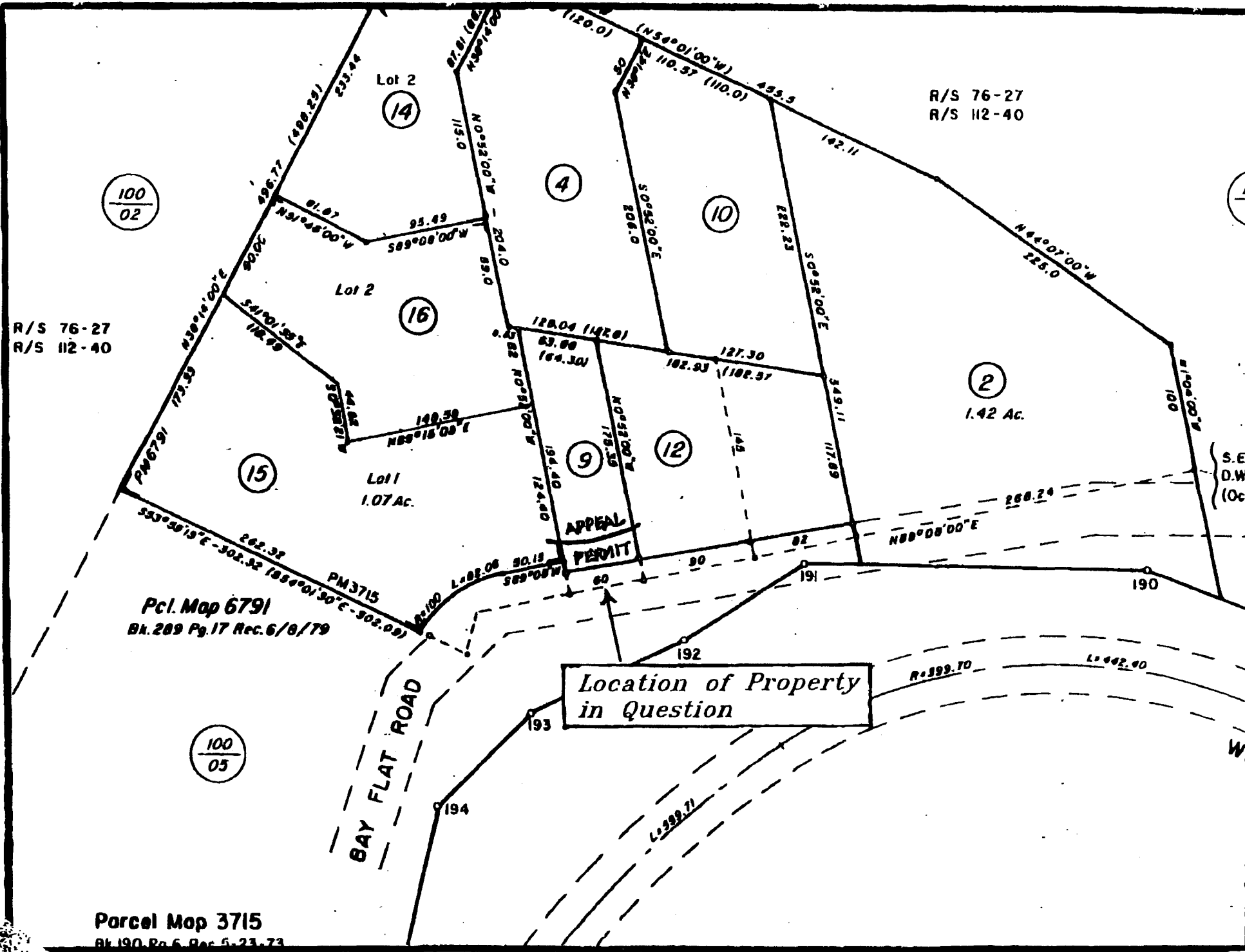
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Pcl. Map 6791  
Blk. 289 Pg. 17 Rec. 6/8/79

Parcel Map 3715  
Blk. 190 Pg. 6 Rec. 5-23-73

6.1-92

Sonoma Co. APN # 100 - 6 - 09



Location of Property  
in Question

APPEAL  
PERMIT

BAY FLAT ROAD

S.E.  
D.W.  
(10c)

W