

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260

RECORD PACKET COPY**F 3b**

Date Filed: March 3, 2000
49th Day: April 21, 2000
180th Day: August 30, 2000
Staff : Jack Liebster-SF
Staff Report: March 23, 2000
Hearing Date: April 14, 2000

ADMINISTRATIVE PERMIT

APPLICATION FILE NO.: 2-00-003

APPLICANTS: Tom and Diane Durst

PROJECT DESCRIPTION: Construction of a single family residence with septic tank and fence.

PROJECT LOCATION: 135 Seadrift Road, Stinson Beach, Marin County.
(See Exhibit 1)
APN: 195-041-35

EXECUTIVE DIRECTOR'S DETERMINATION: The Executive Director determines that the proposed development qualifies for approval through the issuance of an administrative permit pursuant to Public Resources Code Section 30624. The findings for this determination and for any special conditions follow.

NOTE: This permit shall not become effective until it is reported to the Commission at its next scheduled meeting. If one-third or more of the appointed Commissioners request, the Executive Director's permit issuance shall not be effective, and the application shall be set for public hearing at a subsequent Commission meeting.

This permit will be reported to the Commission at the following time and location:

DATE: Friday, April 14, 2000
TIME: Meeting begins at 9:00 a.m., Item F 3b
PLACE: The Queen Mary
1126 Queens Highway
Long Beach, CA
(562) 435-3511

IMPORTANT - Prior commencement of any development authorized herein, the following must occur:

1. The permittee must sign the acknowledgement and acceptance of the permit and conditions on **page 6** of this permit and return same to the Commission's offices; and
2. The permittee must receive the Notice of Permit Waiver Acceptance verifying that the Commission has concurred with the Executive Director's determination as stated above.

PETER DOUGLAS
Executive Director



By: Chris Kern
Title: North Central Coast District Supervisor

1.0 EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act.

2.0 FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

2.1 Project/Site Description

The project is the construction of a 1,747 sq. ft. single family home with 513 sq. ft. of paved area and 5,240 sq. ft. of landscaping on a 7,500 sq. ft. parcel. The project parcel is located on the the Seadrift Spit at Stinson Beach (Exhibits 1-3, Location Maps) on the north side of Seadrift Road on Seadrift Lagoon. Seadrift Lagoon is an interior lagoon located between Dipsea and Seadrift Roads. The parcel has an existing bulkhead on the Seadrift Lagoon side, aligned with the bulkheads on the neighboring properties.

The plans submitted to the Coastal Commission include a floating dock approximately 12 feet square (Exhibit 4). However, prior to the decision on design review by the County of Marin, the applicant deleted the floating dock from the proposed development.

2.2 Hazards

Coastal Act Section 30253 provides that:

New development shall.

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The project is located within the San Andreas Fault Zone approximately 4000 feet west of the 1906 fracture trace. A geotechnical investigation, dated March 2, 2000 was prepared by Salem Howe Associates, Inc. and submitted as part of the project file documents. That report specifies design measures which have been incorporated into the project design to mitigate the geotechnical risk to the project. The report concludes (page 6) that "construction in accordance with the recommendations of this report will be stable under

static conditions and that the risk of future instability during an earthquake is within the range generally accepted for construction on the Seadrift spit."

It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. The geotechnical report itself (page 6) states that there is "an inherent risk of instability associated with any construction adjacent to the San Andreas Fault ... therefore we are unable to guarantee the stability of any construction subjected to a significant seismic event."

The Commission finds that the subject lot is an inherently hazardous piece of property, and that the proposed new development may not minimize the risk to life and property in an area of high geologic hazard, inconsistent with Public Resources Code Section 30253.

The Commission thus attaches Special Condition No. 1, which requires recordation of a deed restriction whereby the landowner assumes the risks of any losses associated with the proposed development due to the extraordinary geologic hazards of the property and waives any claim of liability on the part of the Commission for such losses.

The Commission finds that Special Condition No. 1 is required to ensure that the proposed development is consistent with the Public Resources Code Section 30253 and that recordation of the deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future. Only as conditioned is the proposed development consistent with the LCP policies on geologic hazards.

2.3 Wetlands

Public Resources Codes Section 30233 limits the allowable uses for fill in wetlands and open coastal waters. Private recreational docks are not among the enumerated allowable uses. The original plans submitted by the applicant included a private floating dock approximately 12 feet square (Exhibit 4). However, prior to design review approval by the County of Marin, the applicant deleted the floating dock from the proposed development. The County's findings of approval therefore state in item 2 "[t]his Design Review approval does not allow a floating dock." In order to assure the development is consistent with PRC Section 30233, and to make clear that the floating dock is not part of the approved project, the Commission attaches Special Condition No. 2 to require submittal of plans showing the deletion of the floating dock.

3.0 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 policies of the Coastal Act and to minimize all adverse environmental effects. Mitigation measures have been imposed requiring a waiver of liability and the deletion of a proposed floating dock that would have constituted fill of a wetland.

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

4.0 Conditions

Standard Conditions

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

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. ASSUMPTION OF RISK

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from seismic and other geotechnical hazards; (ii) to assume the risks to the applicant and the property that is the subject of this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amount paid in settlement arising from any injury or damage due to such hazards.

B. **Prior to the commencement of construction**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

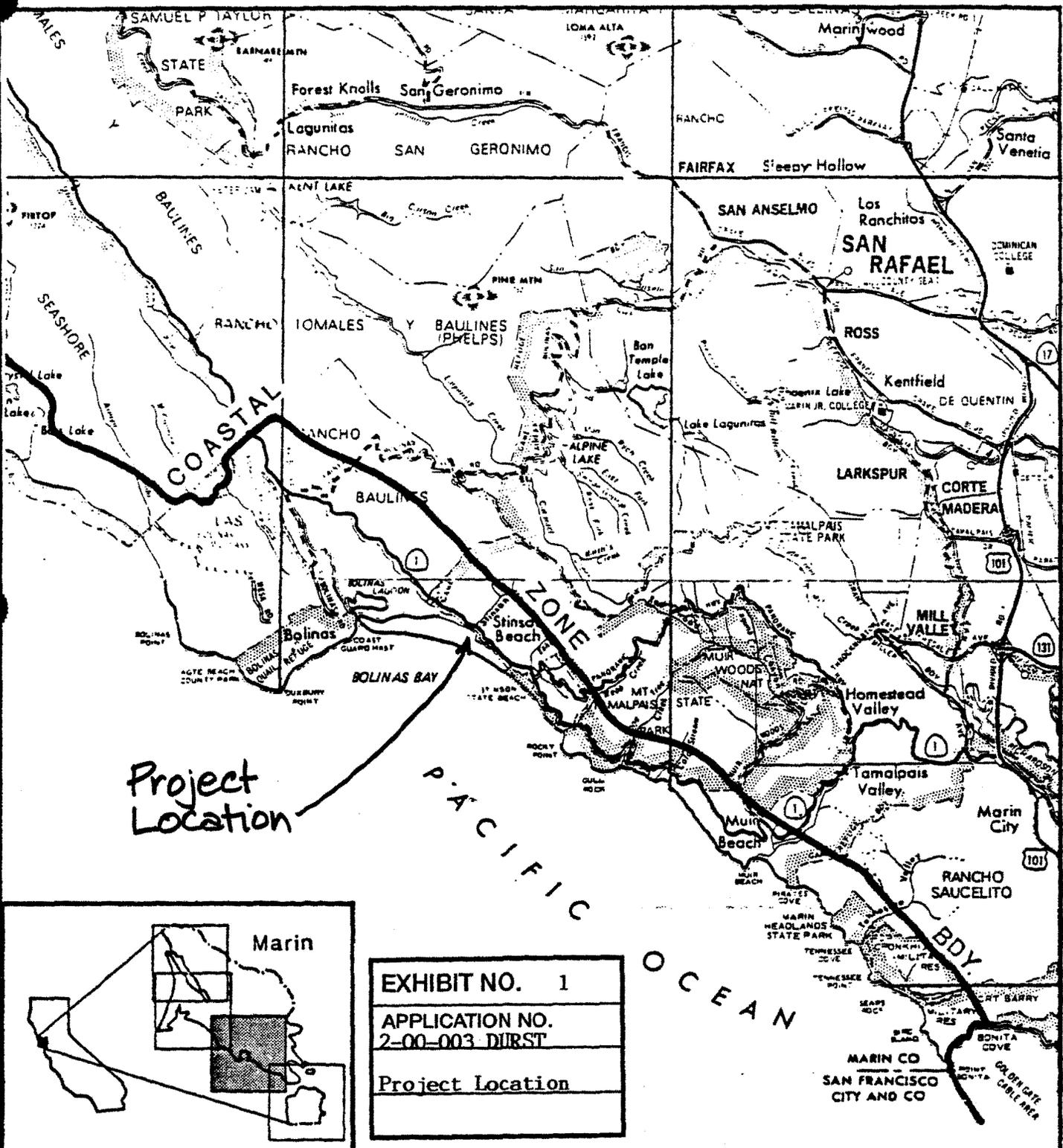
2. REVISED PLANS

Prior to the commencement of construction, the applicant shall revise the project plans to show the deletion of any floating dock.

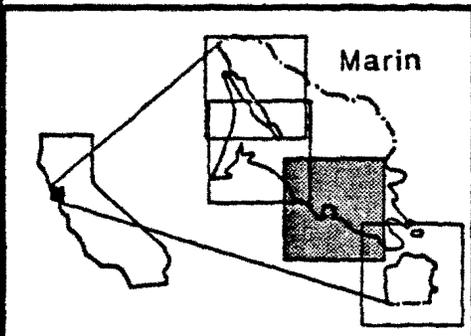
ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

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

Applicant's Signature _____ Date of Signing: _____



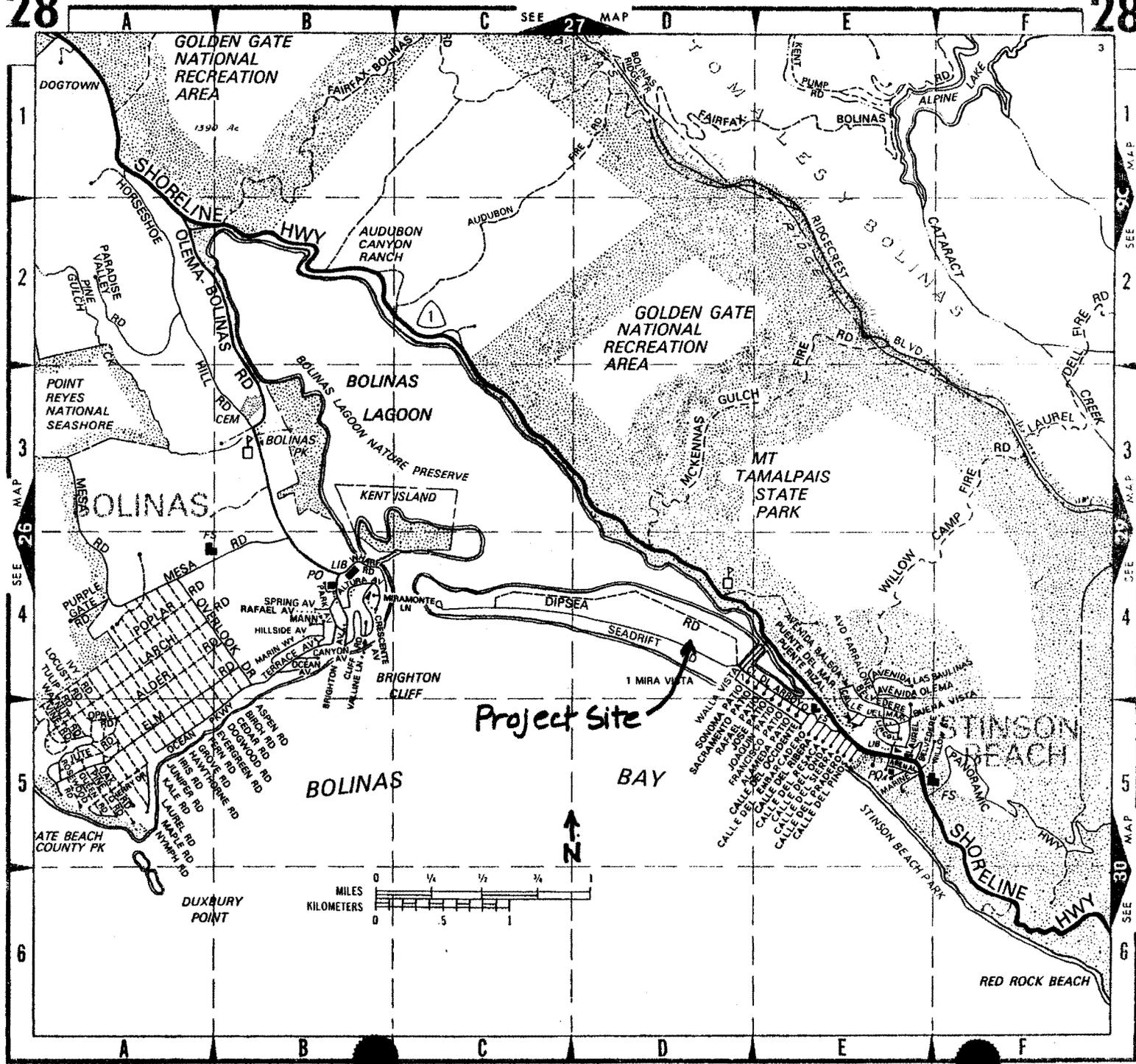
Project Location



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|--------------------------------|
| EXHIBIT NO. 1 |
| APPLICATION NO. 2-00-003 DURST |
| Project Location |



MARIN CO



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|-----------------|-----------------|
| EXHIBIT NO. | 2 |
| APPLICATION NO. | 2-00-003 DDIRST |
| Project Site | |

DETAIL

Sent By: DurstDurstDurstDurst;

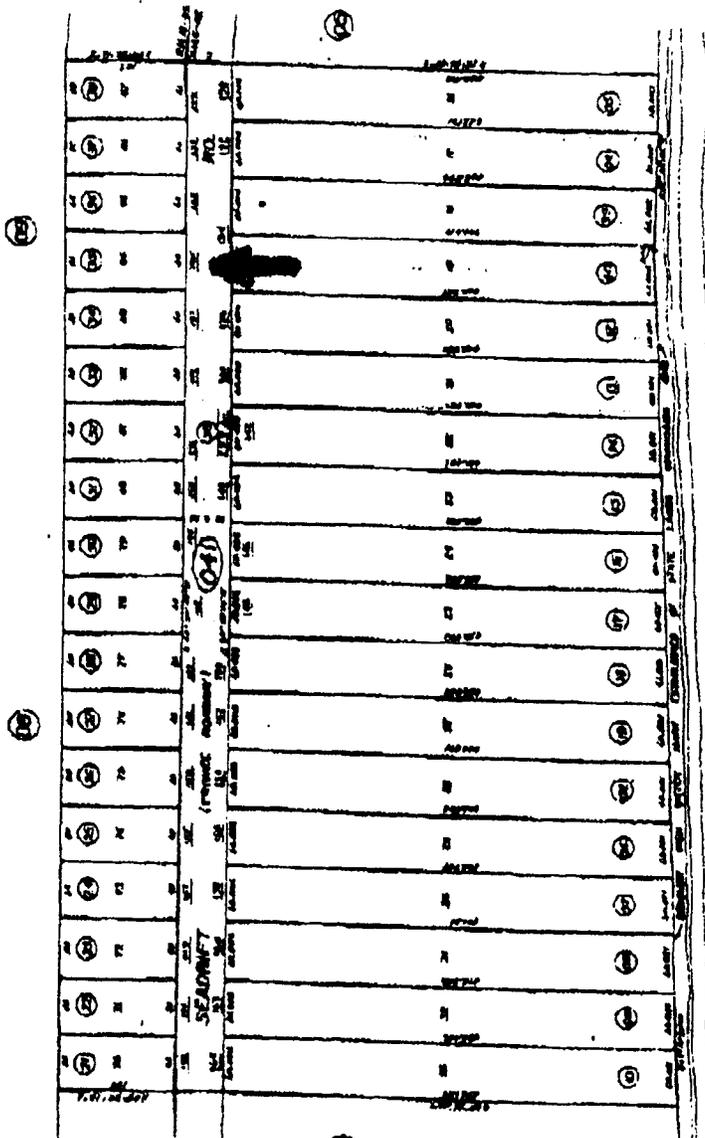
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195-04

For Area Code
56-011



Assessor's Map 84.195-Fg.04
County of Marin, Calif.

Map of Seadrift Subdivision No. 1, R.M. 84.6 Pg. 92
Map of Seadrift Lagoon Subdivision No. 1, R.M. 84.6 Pg. 95

NOTE - Assessor's Map Numbers Shown in Blue.

It is furnished merely as a convenience.
NOTES: THIS IS NOT A PLAT OF A SURVEY.
Aid you in locating the land indicated
hereon with reference to the adjacent
land. No liability is assumed by reason of
any reliance hereon.

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| EXHIBIT NO. 3 |
| APPLICATION NO. 2-00-003 DURST |
| Parcel Map |
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