

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
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Date Filed: February 10, 2000
49th Day: March 30, 2000
180th Day: August 8, 2000
Staff: CLK-SF
Staff Report: March 23, 2000
Hearing Date: May 12, 2000
Item Number: **F 7b**

REGULAR CALENDAR

APPLICATION FILE NO.: 2-00-001

APPLICANTS: Marin County Department of Parks, Open Space and Cultural Services

PROJECT DESCRIPTION: Construction of a pathway adjacent to Sir Francis Drake Blvd., near Chicken Ranch Beach, a public beach owned by the County of Marin, near Inverness.

PROJECT LOCATION: Sir Francis Drake Blvd., 500 feet south of Camino Del Mar., Inverness, Marin County. (See Exhibit 1)
APNs: 112-091-01, 112-042-04, 112-042-05, 112-042-06

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit File 2-00-001

SUMMARY OF STAFF RECOMMENDATION

The Marin County Department of Parks, Open Space and Cultural Services proposes to construct a public access trail to provide pedestrian access from existing road shoulder parking along Sir Francis Drake Boulevard to Chicken Ranch Beach, near Inverness. At the request of the neighboring private property owners, the County is proposing to construct a six-foot-high solid wooden fence adjacent to the trail and between the trail and Third Valley Creek. This fence would interfere with wildlife movement around the creek and is unnecessary to protect the privacy of the adjacent property. Therefore, the staff recommends that the Commission approve the project with a special condition specifying that the fence shall be no more than three feet high and of an open design such as a split rail type to allow free movement of wildlife.

1.0 STAFF RECOMMENDATION

1.1 Motion

I move that the Commission approve Coastal Development Permit No. 2-00-001 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

1.2 Resolution to Approve the Permit

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2.0 STANDARD CONDITIONS

See Appendix A.

3.0 SPECIAL CONDITIONS

The Commission grants this permit subject to the following special conditions:

1. **Fence.** A fence may be installed on the north side of the trail along the boundary of the adjacent private property. The fence shall not exceed three feet in height and shall be of an open design, such as split rail, to allow free movement of small mammals and other wildlife.

4.0 FINDINGS AND DECLARATIONS

4.1 Project Description and Location

The Marin County Department of Parks, Open Space and Cultural Services (County) proposes to improve public access to Chicken Ranch Beach by constructing an approximately 5-foot-wide and 500-foot-long trail located on the north (bay) side of Sir Francis Drake Boulevard. Currently, public parking for Chicken Ranch Beach extends along Sir Francis Drake Boulevard requiring beach users to walk in the traveled portion of the roadway. The proposed trail would provide safer off-road access to the beach (Exhibit 2).

The proposed trail would begin at Sir Francis Drake Boulevard and run east to the beach. The first 280 feet of the trail would be located on County property. The remaining portion would be on State Property. The County-owned portion of the trail would be located immediately adjacent

to a privately owned lot to the north developed with a single-family residence ("the Coles Property") (Exhibit 4). The proposed trail passes within approximately 300 feet of the Coles' residence. At the request of the Coles, the County proposes to construct a 6-foot-high solid wooden "privacy" fence along this portion of the trail. The fence would be located directly adjacent to the trail, on the boundary between public and private land between the trail and the creek.

The trail would run between the roadway and Third Valley Creek. The creek crosses under Sir Francis Drake Boulevard through a culvert approximately 600 feet west of the beginning of the trail. From this point, the creek flows west toward Tomales Bay, traversing first the Coles Property for approximately 1,000 feet, then onto State property and into the Bay at Chicken Ranch Beach.

According to County Parks and Open Space District Superintendent Ron Paolini, the proposed trail is located roughly within the alignment of an informal trail previously used by locals to access the beach. Currently the trail is unusable, as it has become overgrown with dense vegetation. Nevertheless, evidence of the historic trail-use of this public property remains. Construction of the trail will require thinning and trimming of vegetation and the removal of one willow tree.

4.2 Coastal Act Issues

4.2.1 Public Access

Coastal Act Section 30210 states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30214 states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California.

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

As described above, the proposed project includes the construction of an approximately 280-foot-long six-foot-high solid wooden fence adjacent to the trail and along the boundary between public and private land. Coastal Act Section 30210 states that public access shall be provided consistent with the need to protect the rights of private property owners. Coastal Act Section 30214 provides that depending on the facts and circumstances in any particular case, it may be appropriate to limit public access to the right to pass and repass depending on the proximity of the access to adjacent residential uses.

In this case, the proposed trail passes within 300 feet of an existing private residence. The proposed trail is five feet wide and only provides for pass and repass from the parking areas on Sir Francis Drake Boulevard to Chicken Ranch Beach in conformance with Coastal Act Section 30214. Although the improved trail would pass no closer than approximately 300 feet from the private residence, the residential landowners have requested that the County also install a six-foot-high solid wooden fence to physically and visually separate the trail from the adjacent private property. However, the Commission finds that a six-foot-high solid wooden fence is not necessary to delimit public access to the right to pass and repass or to otherwise protect adjacent private residential uses. A lower fence with an open design, such as a split rail type, could be constructed to demarcate the boundary between public and private property, without also creating a visual barrier. Furthermore, as discussed in Section 4.2.2 below, a low open style fence would allow for small mammals to pass through, thereby preserving wildlife corridors. Therefore, Special Condition 1 specifies that the fence along the boundary between the trail and the private property shall be of a low open design, no higher than three feet.

The proposed trail will improve public access to a popular beach by providing a safe, off-road pedestrian pathway from the parking areas west of the beach on Sir Francis Drake Boulevard. The trail will provide for pass and repass only thereby protecting the privacy of the adjacent residential use. As conditioned, the low open style fence will implement public access at the site consistent with Sections 30214 and 30251 of the Coastal Act. Therefore, the Commission finds that as conditioned the development is consistent with the public access and visual resource policies of the Coastal Act.

4.2.2 Environmentally Sensitive Habitat Area

Coastal Act Section 30240(b) states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed trail will be located adjacent to Third Valley Creek. The preservation of wildlife corridors, especially to and from waterways is important for the protection of biological resources. The proposed six-foot-high solid fence would be constructed for a length of 280 feet, creating a significant barrier to wildlife utilizing the creek. As such, the fence is not compatible with the continuance of this environmentally sensitive habitat area.

A low fence with an open design, such as a split rail type, could be constructed to establish the boundary between the public property and the adjacent private property, without impeding passage of wildlife. A fence of such design would have the advantage of discouraging people and pets from disturbing the creek, but allow small mammals to pass through. Furthermore, as discussed in Section 4.2.1 above, the Coles' privacy is sufficiently protected without a six-foot-high solid fence. Therefore, Special Condition 1 specifies that the fence along the boundary between the trail and the Coles property shall be of a low, open design, no more than three feet high. The Commission finds that as conditioned, the proposed development is consistent with Coastal Act Section 30240(b).

4.2.3 California Environmental Quality Act

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 that the activity may have on the environment.

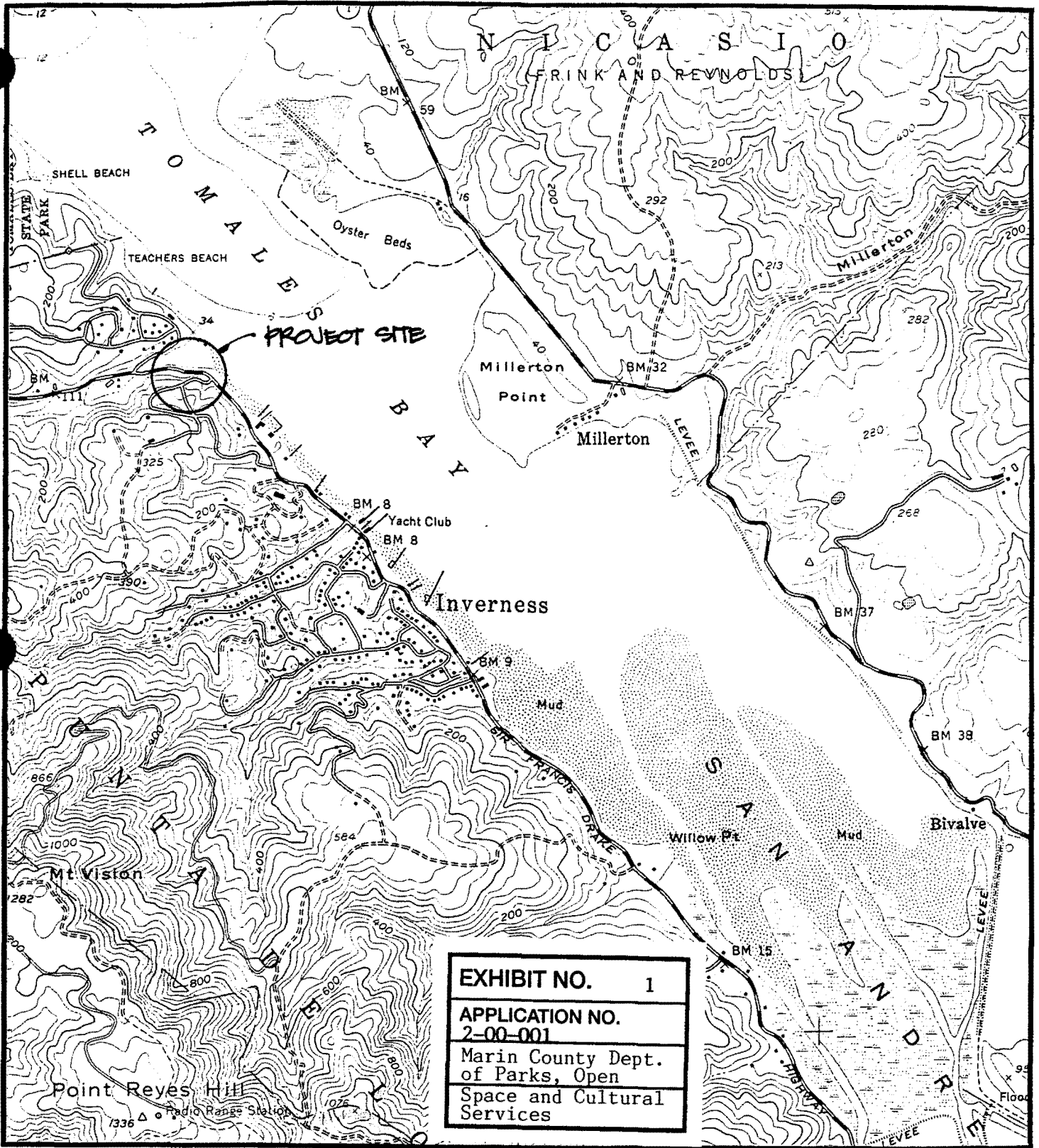
The proposed project has been conditioned to be found consistent with the policies of the Coastal Act and to minimize all adverse environmental effects. Mitigation measures have been imposed to replace a solid wooden fence that would have created a barrier to wildlife along an environmentally sensitive creek corridor with a design that will be compatible with use of the habitat.

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, can be found consistent with Coastal Act requirements to conform to CEQA.

APPENDIX A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the executive director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

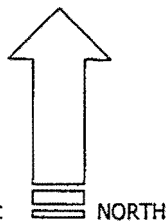
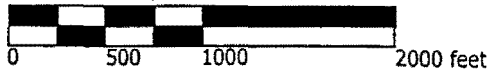


Vicinity Map

(from USGS Inverness Quad)

Date: January 2000

Scale: 1:24,000



Chicken Ranch Beach

Marin County, California
 Marin County Department of Parks & Open Space

Sheet ___ of ___

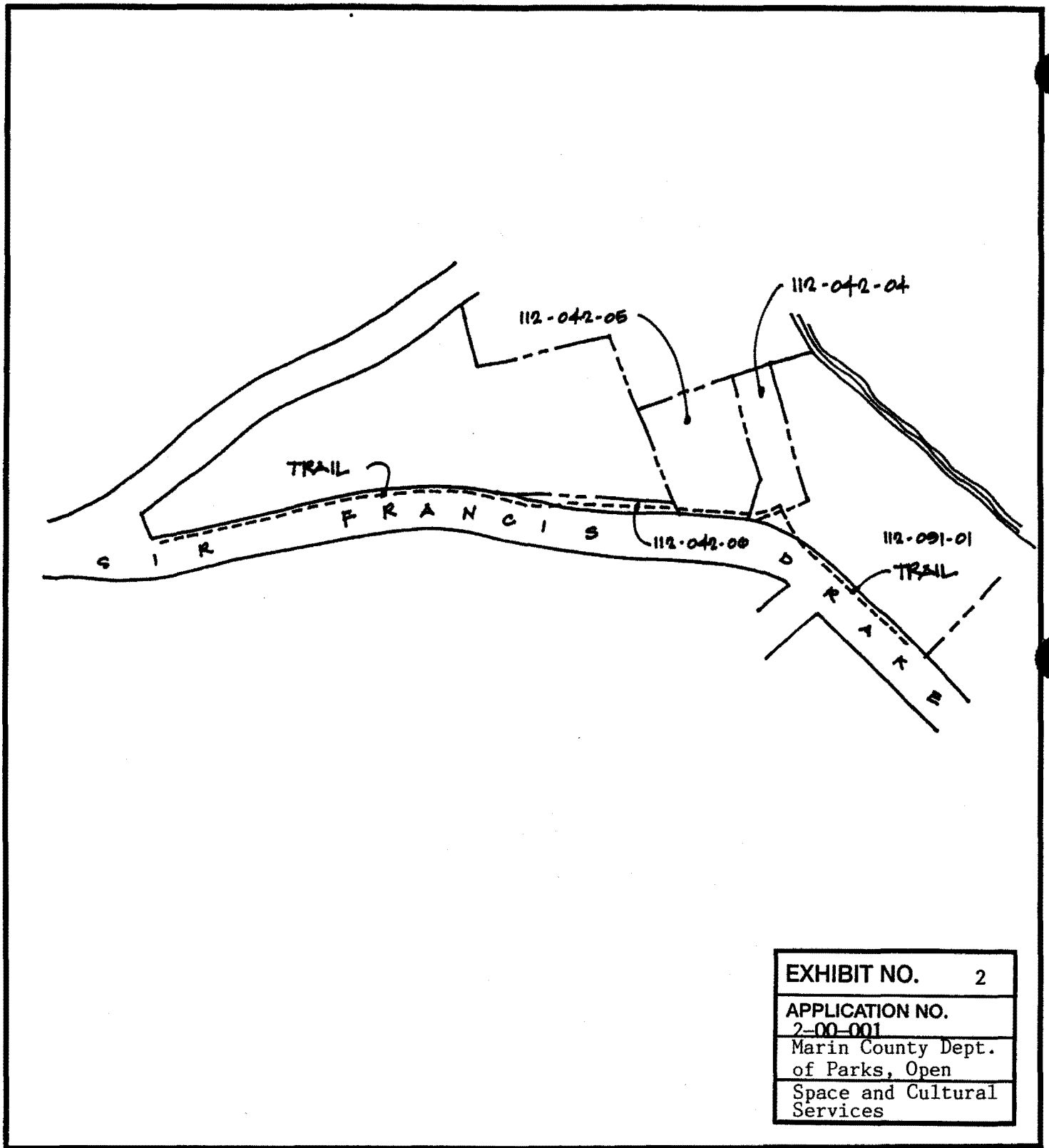
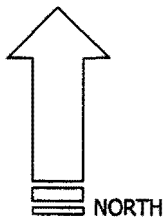


EXHIBIT NO.	2
APPLICATION NO.	2-00-001
Marin County Dept. of Parks, Open Space and Cultural Services	

Trail Plan

Date: January 2000
 Scale: 1 inch = 225 feet (approx.)



Chicken Ranch Beach

Marin County, California
 Marin County Department of Parks & Open Space

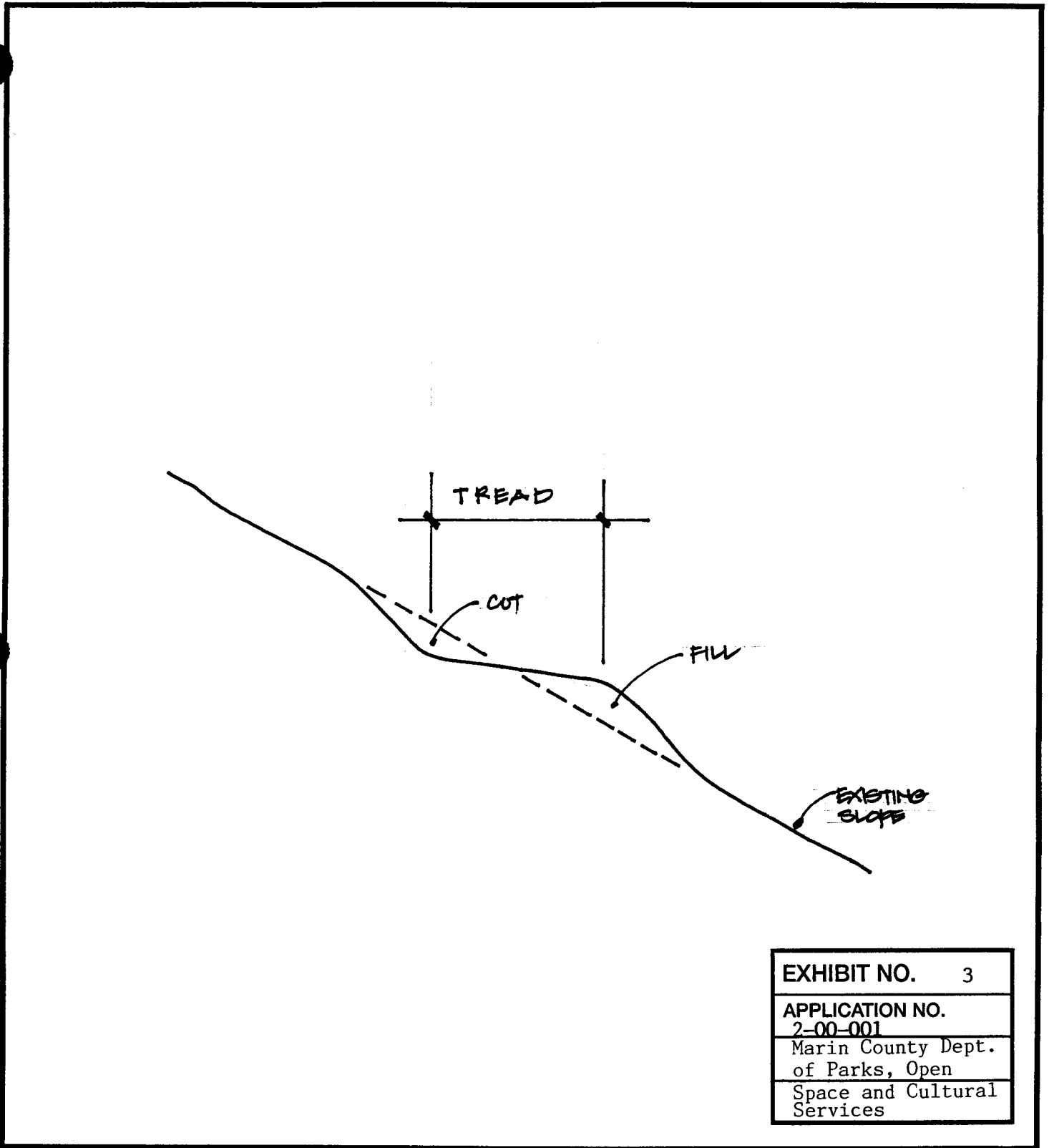


EXHIBIT NO.	3
APPLICATION NO.	2-00-001
Marin County Dept. of Parks, Open Space and Cultural Services	

Trail Section

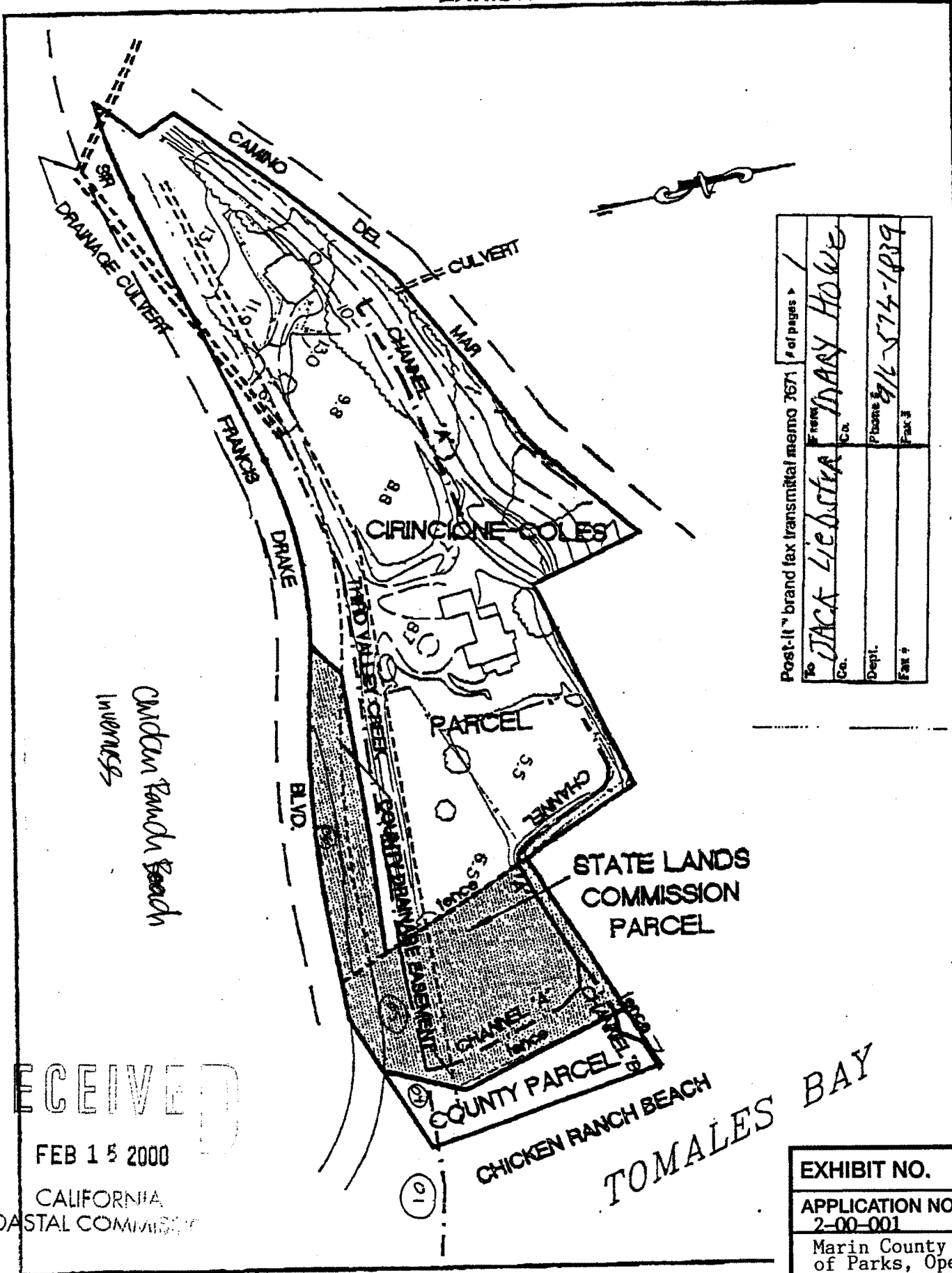
Chicken Ranch Beach

Date: January 2000
Scale: No Scale

Marin County, California
Marin County Department of Parks & Open Space

Sheet ____ of ____

EXHIBIT 1



Post-it™ brand fax transmittal memo 7671 # of pages 1

To	FROM
JACK LICHTER	MARY HOWE
Co.	Co.
	Phone 916 574-1839
	Fax #

RECEIVED
 FEB 15 2000
 CALIFORNIA
 COASTAL COMMISSION

EXHIBIT NO. 4
 APPLICATION NO. 2-00-001
 Marin County Dept. of Parks, Open Space and Cultural Services