

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
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Staff : VAE-SF
Staff Report: June 22, 2000
Hearing Date: July 13, 2000

STAFF REPORT: REGULAR CALENDAR

APPLICATION FILE NO.: 2-00-014

APPLICANTS: George and Nanci McCullagh

PROJECT DESCRIPTION: Construction of a single-family residence, sand filter septic system, deck, gravel parking area, and 6-foot tall fence.

PROJECT LOCATION: APN: 195-331-30
231 Seadrift Road, Stinson Beach, Marin County
(Exhibit 1, Regional Map)

LOCAL APPROVALS: Marin County Design/Architectural Review

SUBSTANTIVE FILE DOCUMENTS: Appendix A

STAFF NOTE**1. Standard of Review**

The proposed project is located in the Seadrift Lagoon Subdivision of Stinson Beach in Marin County (Exhibit 2, Project Location Map). Although Marin County has a certified LCP, the project site is located on filled public trust lands over which the State retains a public trust interest. Therefore, pursuant to Section 30519 of the Coastal Act, the Commission maintains development review authority. The standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

1.0 EXECUTIVE SUMMARY

The applicant proposes to construct a 2,004 square-foot single-family residence with a sand filter septic system, 1,812 square feet of deck, 400 square feet of gravel parking, and an approximately 50-foot long, 6-foot tall fence on a 7,500 square-foot parcel (Exhibit 4, Project Plan). Commission staff recommends approval of the permit with conditions to mitigate impacts related to geologic hazards, future development, surface drainage, and erosion control.

2.0 STAFF RECOMMENDATION

STAFF RECOMMENDATION OF APPROVAL:

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.

MOTION: *I move that the Commission approve Coastal Development Permit No. 2-00-014 pursuant to the staff recommendation.*

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.

2.1 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. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

2-00-014 (McCullagh)

4. 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.
5. 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.

2.2 Special Conditions

1. Bulkhead Repair and Maintenance - Future Development Deed Restriction

- A. This permit is only for the development described in Coastal Development Permit No. 2-00-014. Except as provided in Public Resources Code Section 30610 and applicable regulations, any future development as defined in PRC Section 30106, including but not limited to, a change in the density or intensity of use and shall require an amendment to Permit No. 2-00-014 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.
- B. *Prior to the issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. 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. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees:
 - i. that the site may be subject to hazards from seismic activity;
 - ii. to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with 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 issuance of the coastal development permit*, 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. Erosion and Runoff Control Plans

A. *Prior to issuance of the coastal development permit*, the applicant shall submit, for review and approval of the Executive Director, plans for erosion and runoff control.

1. Erosion Control Plan

- a. The erosion control plan shall demonstrate that:
 - i. during construction, erosion on the site shall be controlled to avoid entering Seadrift Lagoon.
 - ii. the following temporary erosion control measures and best management practices (BMPs) shall be used during construction: installation of silt fences; covering of excavated material with plastic during storm events; and restriction of washing and cleaning of equipment and construction vehicles within 50 feet of Seadrift Lagoon.
- b. The plan shall include, at a minimum, the following components:
 - i. a narrative report describing all temporary runoff and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control .
 - ii. a site plan showing the location of all temporary erosion control measures.
 - iii. a schedule for installation and removal of the temporary erosion control measures.

2. Runoff Control Plan

- a. The runoff control plan shall demonstrate that:
 - i. runoff from the project shall be prevented from entering Seadrift Lagoon.
 - ii. runoff from all roofs, decks, and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off the site. This will be accomplished through the elimination of downspouts located within 30 feet of the lagoon, or the installation of a cistern at a point farthest from Seadrift Lagoon which will receive all runoff entering the rain gutters.
 - iii. appropriate vegetation around the splashguards shall be planted at the downspout outlets or around the cistern (if applicable).
- b. The plan shall include, at a minimum, the following components:
 - i. a schedule for installation and maintenance of the cistern (if applicable).
 - ii. a site plan showing finished grades and drainage improvements.

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

3.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

3.1 Project/Site Description

The parcel is located on the filled portion of the sand spit between Bolinas Lagoon and Bolinas Bay at Stinson Beach, north of Seadrift Road and immediately south of Seadrift Lagoon in Marin County (Exhibit 2). Seadrift Lagoon is an interior lagoon located between Dipsea and Seadrift Roads. The Seadrift area is a privately maintained, gated community. The parcel has an existing bulkhead on the Seadrift Lagoon side. The applicant proposes the construction of a 2,004 square-foot single-family residence with a sand filter septic system, a 1,812 square-foot deck, a 400 square-foot gravel parking area, and an approximately 50-foot long, 6-foot tall fence on a 7,500 square-foot parcel (Exhibit 4, Project Plan).

3.2 Approved Development

Section 30610 states in relevant part:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

- (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.*

Section 13252 of the Commission's regulations states in relevant part:

- (a) Pursuant to Public Resources Code Section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:*
 - (1) Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:*
 - (A) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;*
 - (D) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.*
 - (2) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*
 - (A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;*
 - (B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

The project site plan and west elevation plan, dated March 31, 2000 and originally submitted on April 21, 2000 as part of the permit application, contained language stating that any bulkhead maintenance is to be in-kind. The site plan noted that the maintenance may consist of repairing, replacing, realigning, and refastening existing posts and planking, adding filter cloth, and replacing the sand fill.

Commission staff's communications with the project representative on May 23, 2000 indicated that the applicant is not proposing bulkhead repair and maintenance as part of this project. To clarify the project description, on June 20, 2000, the applicant amended the project to delete any reference to bulkhead maintenance and repair from the plans (Mitchell 2000).

Within and adjacent to the project area is an existing bulkhead, approximately 4 feet tall, which runs approximately 2 miles around the perimeter of Seadrift Lagoon. The bulkhead prevents the sandy, artificially-created fill on which the area surrounding the Lagoon is built from eroding into the Lagoon. Since Seadrift Lagoon is not subject to wave action from open coastal water, and since the tides do not directly cause the water elevation of the Lagoon to rise and fall, there is no substantial threat of destruction of the bulkhead by water. Although there is no evidence of bulkhead failure at the project site, the bulkhead may require repair or maintenance in the future.

Section 13252 of the Commission's regulations lists the methods of repair and maintenance activities that involve a risk of adverse environmental effect and therefore are not exempt from permit requirements under Section 30610(d) of the Coastal Act. Among these are repair or maintenance of shoreline works or use of mechanized construction equipment or materials on sand or within 20 feet of coastal waters. Since the site consists of medium dense to loose silty sand, and the bulkhead is located within 20 feet of coastal waters, bulkhead repair, maintenance or replacement requires a CDP. While repair and maintenance is not proposed at this time, if the bulkhead requires repair and maintenance in the future, the applicant will need to amend this permit or apply for a new coastal development permit.

Therefore, to prevent development which may adversely impact Seadrift Lagoon, Special Condition 1 requires the applicant to record a deed restriction acknowledging that all future development such as repair, maintenance, or replacement of the bulkhead, any future improvements to the approved development, or any other development as defined in Section 30106 of the Coastal Act will require an amendment to Permit No. 2-00-014 from the California Coastal Commission or an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

3.3 Hazards

Section 30253 states in relevant part:

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.

Salem Howes Associates, Inc. submitted a geotechnical investigation, dated March 14, 2000 as part of the project file documents (SHA 2000 A). The report notes that the project is located within the San Andreas Fault Zone, approximately 4,000 feet east of the 1906 fracture trace (Exhibit 5, Local Geologic Map), and that "the fault passes through the Bolinas Lagoon in a broad rift [sic] zone approximately a mile wide and continues southeast directly under Seadrift". The report states that an earthquake of magnitude 6.5 or above with an epicenter on the San Andreas Fault in the vicinity of the project would subject the site to liquefaction below the water table to a depth of 30 feet. The geotechnical report concludes that there is "an inherent risk of instability associated with any construction adjacent to the San Andreas Fault ... therefore we [Salem Howes Associates, Inc.] are unable to guarantee the stability of any construction subjected to a significant seismic event." To mitigate the geotechnical risk to the project, the report specifies design measures for soil preparation, foundation design, and construction inspection. The report declares 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."

Given the information presented above, the Commission finds that the subject lot is an inherently hazardous piece of property. In order to minimize the development's risk to life and property in an area of high geologic hazard consistent with Section 30253 of the Coastal Act., the applicant has incorporated the geotechnical report's recommended design measures into the project. However, because the applicants propose development on a geologically hazardous site, the Commission imposes Special Condition 2, which requires the landowner to assume the risks of any losses associated with the proposed development due to seismic, geologic, and geotechnical hazards of the property; waive any claim of liability on the part of the Commission for such losses; and indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards.

The Commission finds that Special Condition 2 is required because the applicant has voluntarily chosen to implement the project despite the risk of hazards. Recordation of the deed restriction will also provide notice of potential hazards of the property and eliminate false expectations 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. In addition, the condition ensures that future owners will be informed of the Commission's immunity from liability and the indemnity afforded the Commission. Therefore, as conditioned, the proposed development minimizes risks to life and property in areas of high geologic, flood, and fire hazard and is consistent with Section 30253 of the Coastal Act.

3.4 Runoff and Erosion Control

Section 30231 states:

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

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

Section 30253 states in relevant part:

New development shall:

- 1. 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.*

To address surface runoff from the roof's impervious surface, the applicant propose to install rain gutters, downspouts, and splashguards at approximately 16-foot intervals around the house. Rain gutters placed at the edges of the slanted roof collect runoff and drain into the downspouts, which contain the runoff and carry it to the ground. The splashguards positioned at the bottom of the downspouts block runoff from directly hitting the ground, thereby preventing erosion at the downspout outlets. Runoff from the proposed decks reaches the ground through slots in the planks. The project does not propose erosion control measures during project construction (SHA 2000 B).

The project site is level and is located on loose to medium dense fine-grained poorly sorted silty sand (SHA 2000 A, SHA 2000 B). While the substrate is fine-grained sand which generally percolates water quickly, the geotechnical report states that the top 24 inches are very soft and loose. The condition of the substrate may pose a risk of erosion and surface runoff into Seadrift Lagoon. The Commission finds that the proposed surface drainage measures do not guarantee that the new development will not create or contribute to erosion. The project is therefore inconsistent with Section 30253 of the Coastal Act, which provides that new development must not create or contribute to erosion. Erosion and surface runoff may also adversely impact the biological productivity and quality of Seadrift Lagoon and the health of people using the Lagoon, in conflict with Section 30231 of the Coastal Act.

The Commission's water quality staff has reviewed the proposed development and concluded that in order to reduce or prevent site erosion, and surface runoff from entering into Seadrift Lagoon, the project must integrate erosion control and additional surface drainage measures. Water quality staff recommended the following temporary erosion control and best management practices (BMPs) in place during construction:

- installation of silt fences to prevent sediment from entering Seadrift Lagoon;
- covering of excavated material with plastic during storm events to reduce the potential of erosion; and
- restriction of washing and cleaning of equipment and construction vehicles within 50 feet of Seadrift Lagoon to prevent runoff which may enter the Lagoon.

Water quality staff recommended the following permanent surface drainage measures:

- installation of a cistern, an above-ground tank which connects to one downspout and stores rainwater. The cistern would receive all runoff entering the rain gutters of the roof. The runoff

can then be regulated as it is released from the cistern through an outlet pipe. If the cistern is located toward Seadrift Road, the likelihood that the roof runoff will enter the Lagoon is greatly reduced; or

- elimination of downspouts located within 30 feet of the lagoon. As with the cistern, the purpose of this measure is to direct runoff away from the Lagoon. The rain gutters will channel the runoff to the remaining downspouts; and
- the planting of appropriate vegetation around the splashguards at the downspout outlets or around the cistern. Vegetation helps to dissipate water and reduce the concentration of runoff. It can also hold the runoff at the site aiding infiltration.

Therefore, to protect the quality of coastal waters, Special Condition 3 requires that prior to the issuance of the permit, the applicant shall submit for the review and approval of the Executive Director erosion control and surface runoff control plans in accordance with the above recommendations. As conditioned, the Commission finds that the proposed development will protect the biological productivity and the quality of Seadrift Lagoon, in conformance with Sections 30231 and 30253 of the Coastal Act.

4.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

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

EXHIBITS:

1. Regional map
2. Project location map
3. Assessor parcel map
4. Project plan
5. Local geologic map

APPENDIX:

- A. Substantive File Documents

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Bay Area Stormwater Management Agencies Association. *Start at the Source: Design Guidance Manual for Stormwater Quality Protection*. 1999.

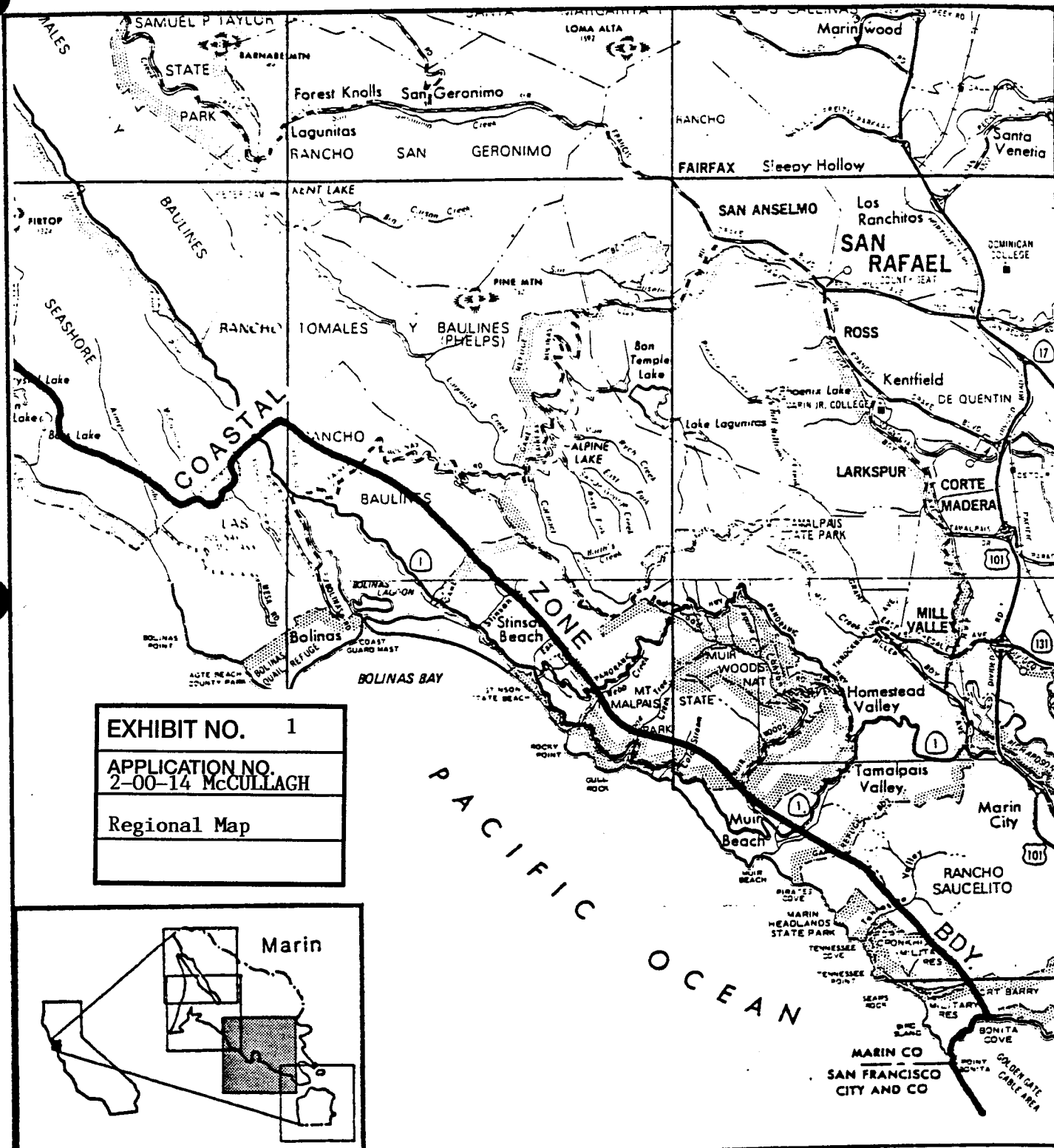
California Coastal Commission. Findings for Executive Director approval for CDP 2-99-003, Durst residence, March 23, 2000.

Michael Mitchell. Letter from Michael Mitchell to Virginia Esperanza. June 20, 2000.

Salem Howes Associates, Inc.

A. *Report: Geotechnical Investigation, McCullagh Residence, 231 Seadrift Road, Stinson Beach, California*. March 14, 2000.

B. Letter from E. Vincent Howes to Virginia Esperanza. May 23, 2000.



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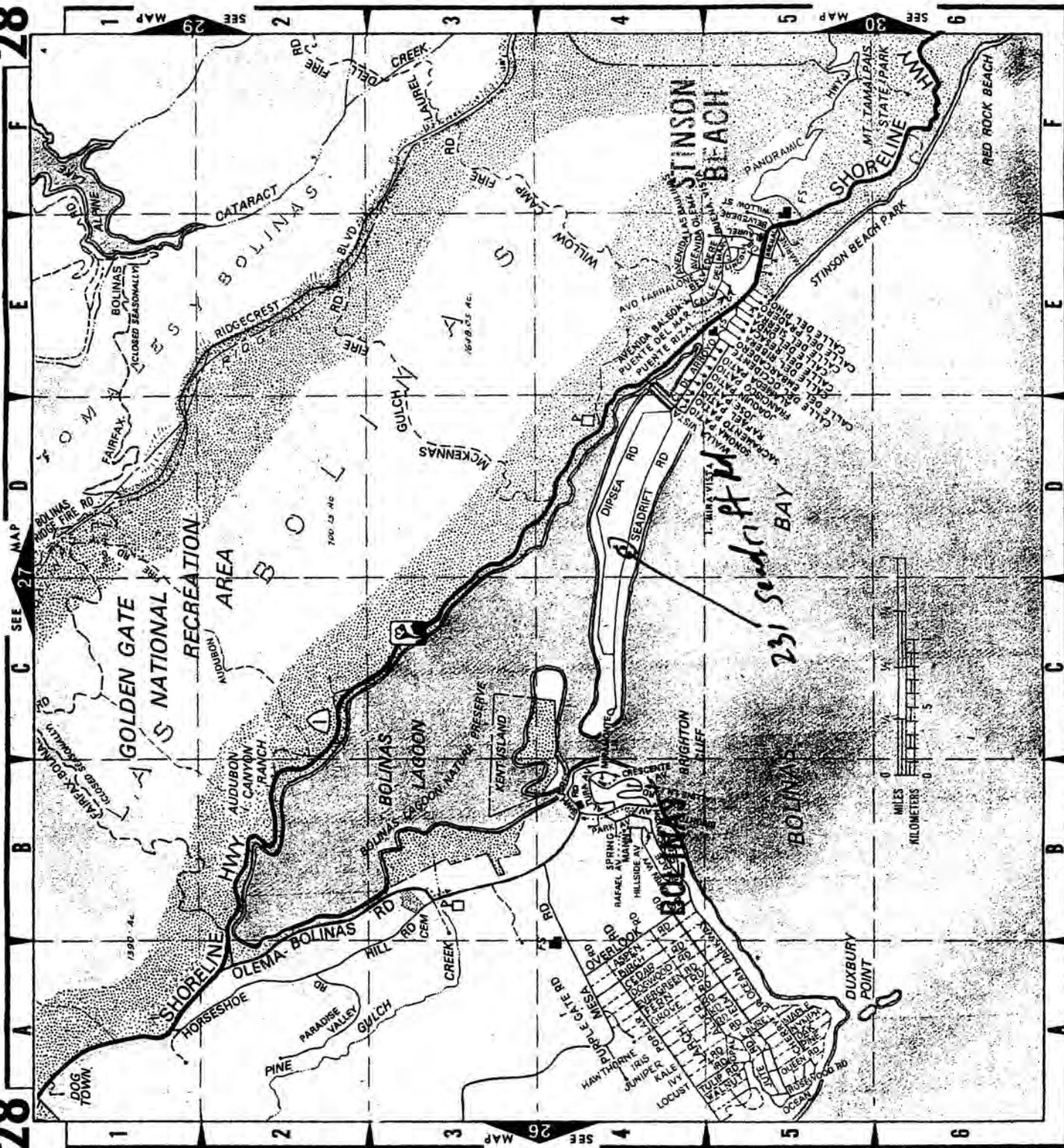
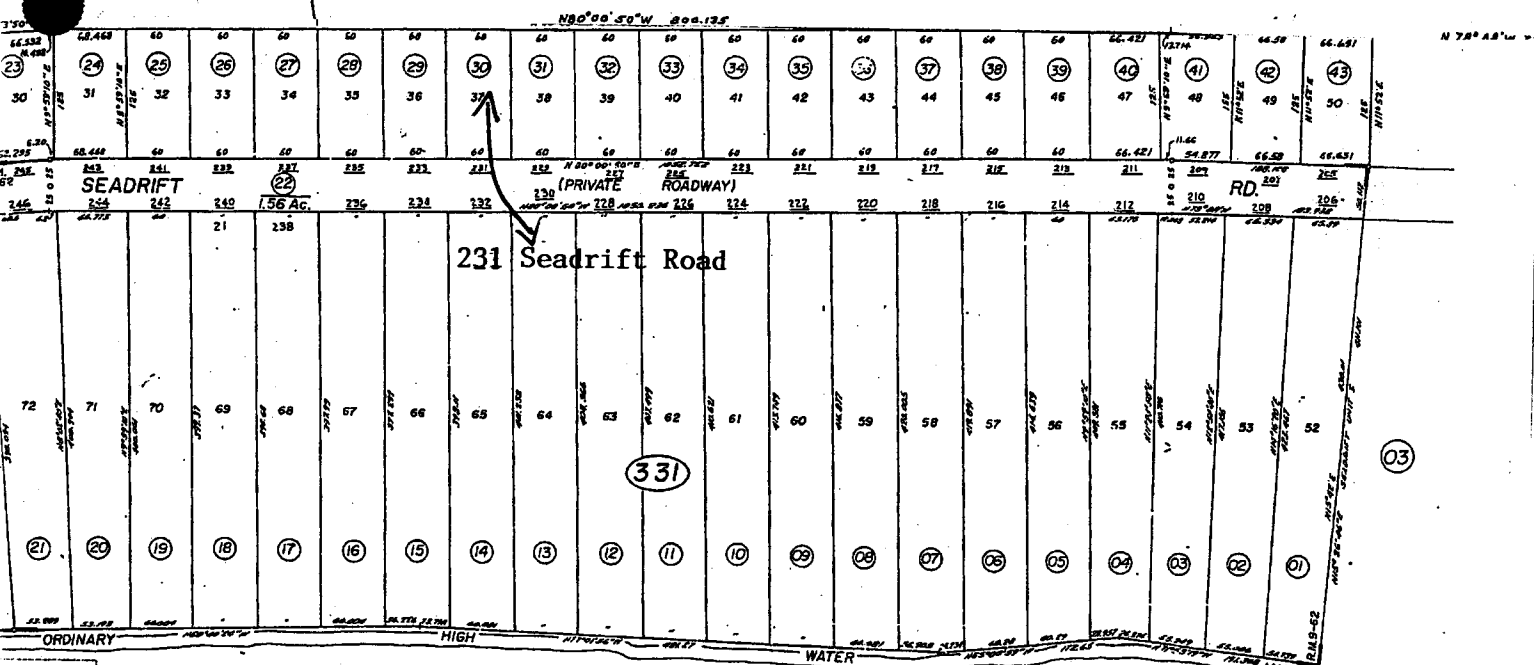
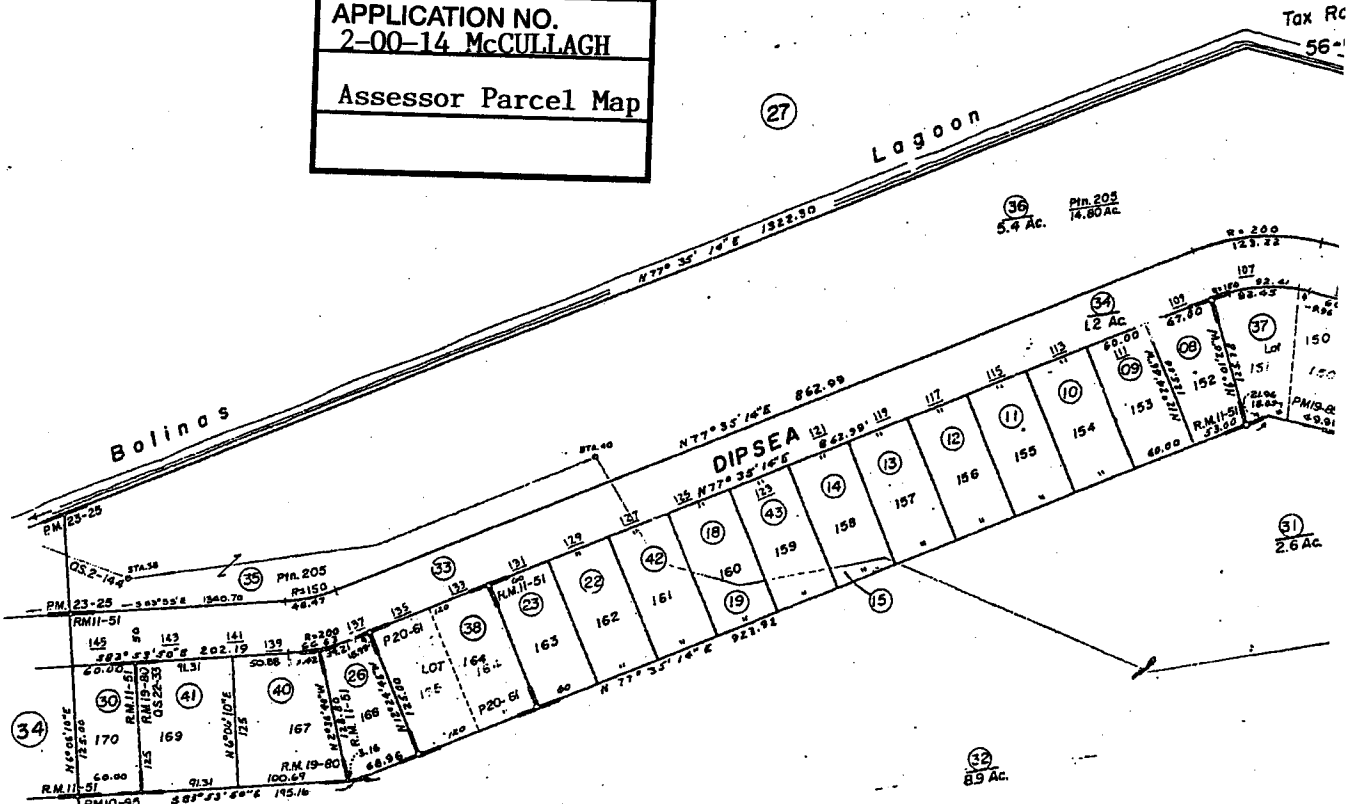


EXHIBIT NO.	2
APPLICATION NO.	2-00-14 McCULLAGH
Project Location	
Map	

EXHIBIT NO. 3
APPLICATION NO. 2-00-14 McCULLAGH
Assessor Parcel Map

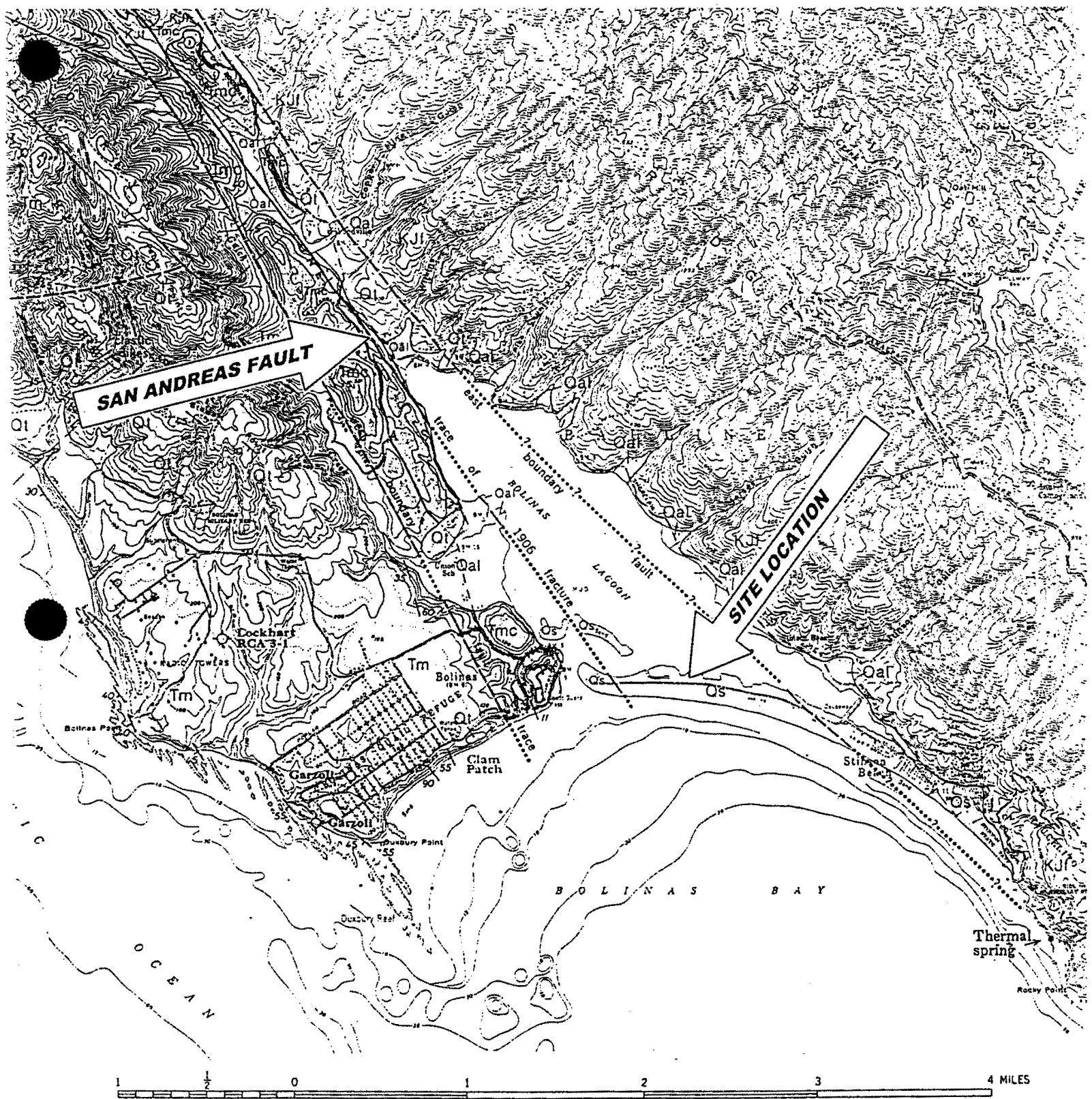


Map of Seadrift Subdivision No. 2, R.M. Bk. 9-Pg. 62
 Map of Seadrift Lagoon Subdivision No. 1, R.M. Bk. 10-Pg. 95

Assessor's Map Bk. 195-Pg. 33
 County of Marin, Calif.

NOTE—Assessor's Block Numbers Shown in Ellipses.
 Assessor's Parcel Numbers Shown in Circles.

SITE PLAN, DRAINAGE PLAN, &
LANDSCAPE PLAN



See following page for
for an explanation of
symbols on the map



LOCAL GEOLOGIC MAP

1" = 4000'

From: Galloway⁽¹⁾

EXHIBIT NO. 5

APPLICATION NO.
2-00-14 McCULLAGH

Local Geologic Map

