

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

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 Staff: Jo Ginsberg
 Staff Report: December 22, 2000
 Hearing Date: January 9-12, 2001
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 2-00-042-A1

APPLICANTS: Gerry and Kathryn Cirincione-Coles

PROJECT LOCATION: 12990 Sir Francis Drake Blvd., Inverness, Marin County,
 APN 112-042-07 (formerly 112-042-03).

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a two-bedroom single-family residence, septic system, and drainage trench.

DESCRIPTION OF AMENDMENT: After-the-fact authorization for (1) conversion of storage space above an existing attached garage to two guest units; (2) the addition of 126 square feet for storage and a stairway; and (3) conversion from residential use to commercial, visitor-serving use of the residence and garage, resulting in one guest unit and one bedroom for the owners' use in the residence, and two guest units in the area above the garage. The total number of proposed guest units at the Sandy Cove Inn, including the residence and the area above the garage, is three.

LOCAL APPROVALS RECEIVED: Marin County Septic Permit # 99/00-69 and Local Agency Review approval.

SUBSTANTIVE FILE DOCUMENTS: Marin County Local Coastal Program (LCP), Local Agency Review approval, Environmental Health Services septic permit No. 90/00-69, and Coastal Permit No. 84-54/Design Review No. 84-128/ Use Permit No. 85-10; CDP File 250-79; Litigation Settlement Agreement from 1/31/90 between CCC, State Lands Commission, County of Marin, and Cirincione-Coles.

1.0 EXECUTIVE SUMMARY

The staff recommends that the Commission **approve** with conditions the requested coastal permit amendment. Gerry and Kathryn Cirincione-Coles seek an amendment to Coastal Development Permit No. 2-00-042 (previously permit 250-79), which authorized construction of a two-story, two-bedroom single-family residence on Sir Francis Drake Boulevard in Inverness in Marin County. The amendment request seeks after-the-fact authorization for (1) conversion of storage space above the existing attached garage to two guest units; (2) the addition of 126 square feet for storage and a stairway; and (3) conversion from residential use to commercial, visitor-serving use of the residence and garage, resulting in one guest unit and one owner bedroom in the residence, and two guest units in the area above the garage. The total number of proposed guest units at the "Sandy Cove Inn," including the residence and the area above the garage, is three.

The certified Marin County LCP, as amended by Marin County LCP Amendment 2-85 to Units I and II Zoning Ordinance, provides a definition of "Bed and Breakfast," and allows the establishment of Bed and Breakfast operations that offer up to three guest rooms as a principal permitted use in C-RSP zoning districts. Therefore, the proposed conversion of the residence to a three-unit inn is an allowable use under the certified LCP.

The staff recommends attaching a special condition requiring the applicant to (1) begin installation of an expanded septic system to accommodate the additional septic use no later than April 15, 2001; (2) install the septic system consistent with Marin County Septic Permit #99/00-69; and (3) complete installation no later than May 15, 2001.

The staff thus recommends that the Commission find the proposed project, as conditioned, is consistent with the certified Marin County LCP and with the public access and public recreation policies of Chapter 3 of the Coastal Act.

2.0 STAFF NOTES

2.1 Subject Amendment and Standard of Review

On November 15, 1979, the Coastal Commission granted CDP 250-79 (now Permit 2-00-42) to the applicants, Gerry and Kathryn Cirincione-Coles, for a two-bedroom single-family residence, septic system, and drainage trench. In its action to approve the original permit, the Commission imposed six special conditions. These conditions included (1) a requirement that the applicants record a document offering to dedicate a public access easement over public trust lands on the subject property; (2) a requirement for submittal of landscape plans to mitigate visual impacts; (3) a requirement that the proposed septic system conform to the recommendations of the Regional Water Quality Control Board; (4) a requirement that all utility connections be

underground; (5) a requirement that the applicant install water-saving devices; and (6) a requirement that construction begin within 12 months and be completed within 18 months of the date of Commission action, and that construction subsequent to such period shall require a new or extended coastal permit. In May, 1981 the Commission approved a time extension for completion of the project. (A 1990 Litigation Settlement Agreement between the applicants, the State Lands Commission, the Coastal Commission, and Marin County resulted in about one acre of the subject site being granted to State Lands, and, as a result, the public access easement offered by the applicants pursuant to Special Condition No. 1 of this permit, and accepted for management in 1983 by the County of Marin, was rescinded, as the easement was located on the property granted to State Lands.)

The proposed development is located between the first public road and the sea, within Marin County's primary permit jurisdiction under its certified local coastal program (LCP). Any new coastal permit for development at this location would be considered by the County (and appealable to the Commission). However, the proposed project seeks to modify a development approved by the Coastal Commission prior to the certification of the LCP, and thus, is being processed as an amendment to the original coastal development permit. The project is before the Commission and not the County because only the Commission can amend a previously granted Commission permit. In accordance with Coastal Act Section 30604(b) and (c), the standards of review for the proposed development with the proposed amendment are the LCP and the public access and public recreation policies of Chapter 3 of the Coastal Act.

2.2 Procedural Note

Section 13166 of the California Code of Regulations states that the Executive Director shall reject an amendment request if it lessens or avoids the intent of the approved permit unless the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

In this case, the amendment request before the Commission would not lessen or avoid the intent of the originally approved permit as the original permit authorized construction of a single-family residence, and the amendment request seeks to authorize a change in use to a visitor-serving facility. There are no special conditions attached to the original permit that would prohibit such a change in use.

3.0 STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

3.1 Motion

I move that the Commission approve with conditions the proposed amendment to Coastal Development Permit No. 2-00-42 (previously 250-79) pursuant to the staff recommendation.

3.2 Staff Recommendation of Approval

Staff recommends a **YES** vote. To pass the motion, a majority of the Commissioners present is required. Approval of the motion will result in the adoption of the following resolution and findings.

3.3 Resolution to Approve Permit Amendment

The Commission hereby **approves** with conditions the coastal development permit amendment on the grounds that the development as amended and subject to conditions will be in conformity with the certified Marin County Local Coastal Program and with the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended 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.

4.0 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. 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.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

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.

5.0 SPECIAL CONDITIONS

All previous permit conditions of CDP 2-00-042 remain effective and unchanged. The Commission adds a new special condition, as described below.

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

1. Installation of New Septic System.

The permittee shall begin installation of a new septic system no later than April 15, 2001. The permittee shall install the septic system pursuant to the terms and conditions of Septic Permit No. 99/00-69 (or subsequent renewal of this permit), issued by the Marin County Department of Environmental Health Services on March 30, 2000. The permittee shall complete installation of the septic system no later than May 15, 2001.

6.0 FINDINGS AND DECLARATIONS

6.1 Project Description and Location

The site is an approximately 3.91-acre parcel located on the Bay side of Sir Francis Drake Boulevard and Camino Del Mar in Inverness, on the western side of Tomales Bay. The parcel is relatively flat with a steep uphill slope along the north side of the property. On the eastern boundary of the site is a parcel now owned by State Lands (originally owned by the applicants as part of the subject parcel but deeded to the State as part of a settlement agreement in 1990) that contains marshland. Just east of the State Lands parcel is a county park, Chicken Ranch Beach, which fronts on Tomales Bay. Third Valley Creek, which runs parallel to Sir Francis Drake Blvd., borders the property on the south, and supports riparian habitat that serves as a visual shield between the property and the road. Another creek runs through the northern portion of the site.

The site contains a single-family residence with an attached garage approved by the Commission in 1979 (CDP 250-79, now 2-00-42), and an accessory structure—a barn with storage space and a workshop—approved by the County in 1985.

The proposed amendment request seeks to authorize after-the-fact (1) conversion of storage space above the existing garage to two guest units; (2) construction of an additional 126 square feet for storage and a stairway; and (3) conversion of the existing residence and garage to a three-unit visitor-serving facility containing one unit and an additional bedroom for the owners'

use in the main residence, and two units in the area above the attached garage. The total number of proposed guest units at the site is three.

6.2 Background

In 1979 the Coastal Commission approved Coastal Permit #250-79 (now 2-00-42) for construction of a 2,140-square-foot, two-bedroom residence with an attached 600-square-foot garage with a 390-square-foot storage loft (see Exhibit No. 11). In 1981, the Commission approved a time-extension request to extend the period of time during which the project could be commenced.

In 1981 the Commission certified the Southern Marin County (Unit 1) LCP and the County assumed permit-issuing authority for that portion of its coastal zone. In 1982 the Commission certified the Northern Marin County (Unit 2) LCP and the County assumed coastal permit-issuing authority for that portion of its coastal zone; the subject property is located within Unit 2.

In July of 1984, the Commission approved CDP 2-84-09 for construction of a berm for flood control protection involving placement of 3,000 cubic yards of fill on the subject site.

In April of 1985, the Marin County Planning Commission approved with conditions Coastal Permit No. 84-54/Design Review No. 84-128 to allow the removal of an existing accessory structure and the construction of a new accessory structure to be used as a studio-workshop and storage building and Use Permit No. 85-10 to allow the detached accessory structure to exceed the 15-foot (one story) height requirement of the Marin County Code, but not to exceed two stories or 24'6". The accessory structure is two stories, 24'6" in height, and comprises 2,034 square feet.

In 1990, a Litigation Settlement Agreement was reached between the applicants, the State Lands Commission, the Coastal Commission, and Marin County. As part of this agreement, the applicants agreed to grant approximately one acre of their property to State Lands. This is the portion of the site that contained the public access easement offered pursuant to Coastal Permit 250-79 (now 2-00-42) and accepted for management by the County; the offer has since been rescinded.

Sometime in 1993, without benefit of a coastal development permit, the applicants converted the storage space above the attached garage to two guest units, constructed an additional 126 square feet for storage and a stairway, and converted the existing residential use of the property to commercial, visitor-serving use. There are a total of three guest units on the site—two above the garage, and one in the main residence—along with a bedroom for the owners' use. The site is known as the Sandy Cove Inn.

6.3 Water and Septic Services

Public Services LUP Policy 2 states that new development within the boundary of a community or mutual water system shall be required to utilize such water service.

Zoning Code Section 22.66.130(A) states in relevant part:

Water Supply: Coastal project permits shall be granted only upon a determination that water service to the proposed project is of an adequate quantity and quality to serve the proposed use.

- 1) *Except as provided in (a) or (b) below, new development (including division of land) within the boundaries of a community or mutual water system shall be required to utilize such water service...*

The proposed project is located within the Inverness Public Utility District, which currently provides water service to the site. No additional water meter or increase in service is required to accommodate the proposed change in use. The proposed development, as amended, is thus consistent with the relevant LCP policies concerning water supply.

LUP Policy 3 in the Public Services section states that all septic systems in the coastal zone must meet the standards contained in either the Minimum Guidelines for the Control of Individual Wastewater Treatment and Disposal System adopted by the Regional Water Quality Control Board on April 17, 1979 or the County's revised septic system code, when approved by the Regional Board, and that where a coastal development permit is necessary for an enlargement or change in the type or intensity of use of an existing structure, the existing or enlarged septic system must meet the Minimum Guidelines of the Regional Water Quality Control Board, or the County's revised septic system code as approved by the Regional Board, before a permit for such an enlargement or change can be granted.

Zoning Code Section 22.66.130(B) states:

Septic System Standards: The following standards apply for projects which utilize septic systems for sewage disposal.

- 1) *All septic systems within the coastal zone shall conform with the Minimum Guidelines for the Control of Individual Wastewater Treatment and Disposal Systems adopted by the Regional Water Quality Control Board of April 17, 1979 or, Marin County Code, whichever is more stringent...*

- 3) *Where a coastal project permit is necessary for the enlargement or change in the type of intensity of use of an existing structure, the project's septic system must be determined consistent with the current Guidelines of the Regional Water Quality Control Board or such other program standards as adopted by the County of Marin.*

Coastal Permit 250-79 (now 2-00-42) authorized installation of a special septic system designed for the subject parcel that included a mound and a French drain. The Department of Environmental Health Services has approved a new, larger septic system to serve the proposed additional development. Septic Permit No. 99/00-69 was issued by Environmental Health Services on March 30, 2000. The approved septic system is suitable to serve a three-bedroom house and two-bedroom accessory structure, and is consistent with the County Health Code standards, which incorporate the Regional Water Quality Control Board guidelines for septic systems.

To ensure that there is adequate septic capacity to serve the proposed new development, the Commission attaches to this permit Special Condition No. 1. Special Condition No. 1 requires the permittee to (1) begin installation of the septic system no later than April 15, 2001 (after the end of the rainy season); (2) install the septic system pursuant to the terms and conditions of County Septic Permit No. 99/00-69; and (3) complete installation no later than May 15, 2001. Since the new septic system meets the standards in the Marin County Public Health Code, is consistent with the requirements of Zoning Code Section 22.66.130(B) and LUP Policy 3 of the Public Services section, and is adequate to meet the needs of the proposed project for septic disposal, the Commission finds that the proposed amendment, as conditioned, is consistent with the policies concerning sewage disposal in the County's certified LCP.

6.4 Public Access

The subject parcel is located between the first public road and the sea. In accordance with Coastal Act Section 30604(c), projects located between the first public road and the sea that are within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP.

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum public access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, the rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent

with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

The Marin County LUP for Unit 2 includes policies regarding standards for providing and maintaining public access. Policy No. 3(a)(1) in the Public Access section specifically discusses public access in the area from Tomales Bay State Park to Chicken Ranch Beach, which encompasses the subject site. This policy states that "An offer of dedication of an easement was required as a condition of permit approval by the Regional Coastal Commission for AP #112-042-03 (the subject parcel, now 112-042-07), which abuts Chicken Ranch Beach," and recommends that agricultural use of the public trust portion of AP #112-042-03, included in the offered easement, should be permitted to continue until such time as the public access offer is accepted and opened for public use.

In addition, the Marin County Zoning Code Section 22.66.130(E) states that all coastal project permits shall be evaluated to determine the project's relationship to the maintenance and provision of public access and use of coastal beaches, waters, and tide lands.

As noted above, CDP 250-79 (now 2-00-42) required an offer of dedication of a public access easement, which was accepted for management in 1983 by Marin County. Subsequent to the 1990 Litigation Settlement Agreement between the applicant, the State Lands Commission, the Coastal Commission, and the County, the applicant deeded approximately one acre of the subject parcel to State Lands; this portion of the parcel contained the access easement, which was thus rescinded.

In May, 2000, the Commission approved CDP 2-00-001, authorizing the Marin County Department of Parks, Open Space, and Cultural Services to construct a public access trail adjacent to Sir Francis Drake Blvd. to provide pedestrian access from the existing road shoulder parking along Sir Francis Drake Blvd. to Chicken Ranch Beach.

The subject site is located between the first public road and the sea and is separated from Tomales Bay by the adjacent State Lands parcel and Chicken Ranch Beach to the east. The proposed development consists of conversion of storage space to guest units and a change in use from residential to visitor-serving use. As discussed further below, visitor-serving uses are afforded priority under the Coastal Act and the County LCP. The adjacent access trail to Chicken Ranch Beach is adequate to serve the public access needs of the proposed visitor-serving use. Since the proposed development, as amended, will not increase significantly the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed development with the proposed amendment, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

6.5 Parking

Marin County Code Section 24.04.340(d) requires one off-street parking space per guest room, plus one space for each employee, for hotels and motels. There is no specific reference to parking requirements for Bed and Breakfast facilities.

The Recreation and Visitor Serving section of the Marin County LUP for Unit 2 includes a section on Chicken Ranch Beach. It states:

Chicken Ranch Beach is a small county beach located north of the Golden Hinde Boatel on the west side of Tomales Bay. The four-acre beach has 700 feet of shoreline frontage and is unimproved. Shoulder parking is available for approximately 10 cars along Sir Francis Drake Boulevard.

The subject parcel is located just west of a County park known as Chicken Ranch Beach (the parcel now owned by State Lands but formerly part of the subject lot intervenes) (see Exhibit No. 3). The shoulder parking used by visitors to Chicken Ranch Beach is located adjacent to the subject site. The proposed project includes authorization for conversion of storage space above the existing garage to two guest units, and conversion from residential use to commercial, visitor-serving use of the residence and garage, resulting in one guest unit and one bedroom for the owners' use in the residence, and two guest units in the area above the garage. The total number of proposed guest units at the site, including the residence and the area above the garage, is three. The proposed project has the potential to adversely affect public access, should visitors to the inn park on the shoulder near Chicken Ranch Beach, using some of the limited parking available for the County Park.

The subject property contains six designated parking spaces, two near the barn structure, and four near the main residence. In addition, the circle driveway provides room for at least ten additional vehicles to park on-site. Since there is adequate on-site parking, the proposed development as amended will not displace the limited parking available for the County park. The Commission finds, therefore, that there is ample off-street parking to serve the proposed development as amended, and thus finds the proposed development with the proposed amendment to be consistent with the public access policies of the certified LCP.

6.6 Recreation and Visitor-Serving Facilities

The Marin County LUP for Unit 2 includes a number of policies regarding recreation and visitor-serving facilities. Policy 1 states that the County of Marin supports and encourages the enhancement of public recreational opportunities and the development of visitor-serving facilities in its coastal zone. Policy 1 further states that:

New visitor-serving commercial development shall be compatible in style, scale, and character with that of the community in which it is located and other uses in the area.

Policy 3(a) states:

In order to preserve the integrity and special qualities of coastal villages in Unit II, visitor-serving and commercial development shall be compatible in architectural style, scale, and function with the character of the community in which it is located. Such development shall also be evaluated for its conformance with LCP policies on natural resources and agriculture, visual quality, public access, and public services, among others.

Policy 3(h) states in relevant part:

Bed and Breakfast Program. The County encourages the continuation and expansion of bed and breakfast facilities in the Unit II coastal zone.

Marin County LCP Amendment No. 2-85 adds a definition of "Bed and Breakfast" to Marin County Zoning Code. "Bed and Breakfast" is now defined as:

"Bed and Breakfast" means the providing of not more than five (5) guest bedrooms and which may include providing limited meal service such as light breakfasts and late night snacks and other refreshments and which use is clearly subordinate, secondary and incidental to the use of the property as a single family residence. Prior to the establishment of any "Bed and Breakfast" operation, it shall be the responsibility of the operator to secure and/or satisfy all prevailing off-street parking, water supply, waste disposal and fire safety requirements as may be applicable.

LCP Amendment No. 2-85 also amended Zoning Code Section 22.57.092 and Section 22.57.082 to include "Bed and Breakfast" operations as principal permitted uses in C-RSP Districts. Section 22.22.020 was amended to state that a use permit is necessary for establishment of a Bed and Breakfast facility if more than three rooms are provided.

The subject site is zoned C-RSP (Coastal Residential Single Family Planned District). The proposed development includes a change in use from residential to visitor-serving use in the form of a three-unit Bed and Breakfast facility. Such a Bed and Breakfast facility is allowed as a principal permitted use in the C-RSP zoning district without a County use permit, and so is consistent with the applicable zoning.

Bed and Breakfast facilities are encouraged pursuant to the LUP, so long as they are compatible with the character of the community in which they are located. The proposed project does not propose any changes to the exterior of the existing residence (except for a minor addition of a stairway). When the Commission considered the coastal permit application for construction of the original residence in 1979, it assessed the visual impacts of the proposed structure and determined that the proposed two-story dwelling would be visible from adjacent Chicken Ranch Beach, from Tomales Bay, and from Highway One on the east side of Tomales Bay. The Commission determined that the views from Tomales Bay and from Highway One were not significant, but that the view from Chicken Ranch Beach was significant. As a result, the Commission required landscaping to screen the house from the park. The Commission thus concluded that the proposed project, as conditioned, would protect the scenic and visual qualities of the area.

Since no major changes to the exterior of the existing residence are proposed, the Commission finds that the proposed visitor-serving facility is compatible with the surrounding area, and, as discussed above, is consistent with the policies of the LCP concerning off-street parking, water supply, and waste disposal, pursuant to Zoning Code Section 22.02.103 (as amended). The Commission thus finds that the proposed development with the proposed amendment is consistent with the policies of the Marin County Zoning Code concerning visitor-serving facilities.

6.7 Visual Resources

LUP Policy 3 in the New Development and Land Use section, and Zoning Code Section 22.66.130(O) include a number of requirements that new development shall be designed and sited so as to protect public views. The County has a design review ordinance for the purposes of protecting visual quality and stimulating creative design that establishes design standards for new development in planned districts.

The proposed development as amended does not include any changes to the exterior of the existing house (except for the addition of a stairway), and, as such, there will be no adverse impacts to visual resources. County planning staff has indicated that after a review of the project, it has been determined that there would be no change in the visual mass and bulk of the existing structure in order to accommodate new uses, that the project is minor and incidental, and therefore is exempt from Design Review.

The Commission finds, therefore, that the proposed development with the proposed amendment is consistent with the policies of the Marin County LCP concerning visual resources.

6.8 Environmentally Sensitive Habitat Areas

Policy 3 in the Natural Resources section of the LUP contains requirements concerning protection of riparian habitat and wetlands. Zoning Code Section 22.66.130(G) includes standards for development located adjacent to streams and wetlands.

The subject parcel contains two stream corridors. In addition, there are two brackish marsh areas located to the east of the subject site, on the parcel now owned by State Lands but previously part of the subject site. However, the proposed development as amended does not include the construction of new structures or any changes to the exterior of the existing structures (except for a new stairway). Therefore, the proposed development with the proposed amendment will not have any adverse impacts on environmentally sensitive habitat. The Commission thus finds that the proposed development with the proposed amendment is consistent with the policies of the certified LCP concerning Environmentally Sensitive Habitat.

6.9 Alleged Violation

Development consisting of the conversion of the storage area above the garage to two guest units; the addition of 126 square feet for storage and a stairway; and the change in use from residential to commercial visitor-serving of the property resulting in the establishment of a three-unit visitor-serving facility, has taken place without benefit of a coastal development permit. Although development has taken place prior to submission of this permit amendment application, consideration of the application by the Commission has been based solely upon the policies of the LCP and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit amendment does not constitute a waiver of any legal action with regard to the alleged violation, nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

6.10 California Environmental Quality Act (CEQA)

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

The Commission incorporates its findings on conformity of the permit amendment with the certified LCP and the Coastal Act at this point as if set forth in full. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the

environment. Therefore, the Commission finds that the proposed development with the proposed amendment, as conditioned to mitigate the identified impacts, can be found consistent with Coastal Act requirements to conform to CEQA.

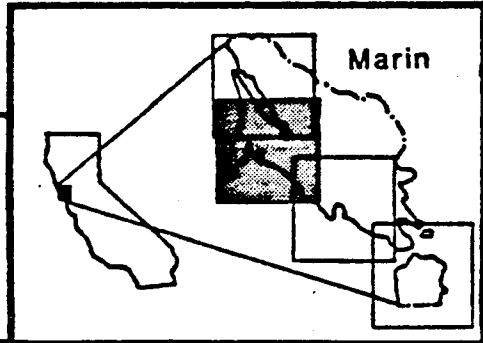
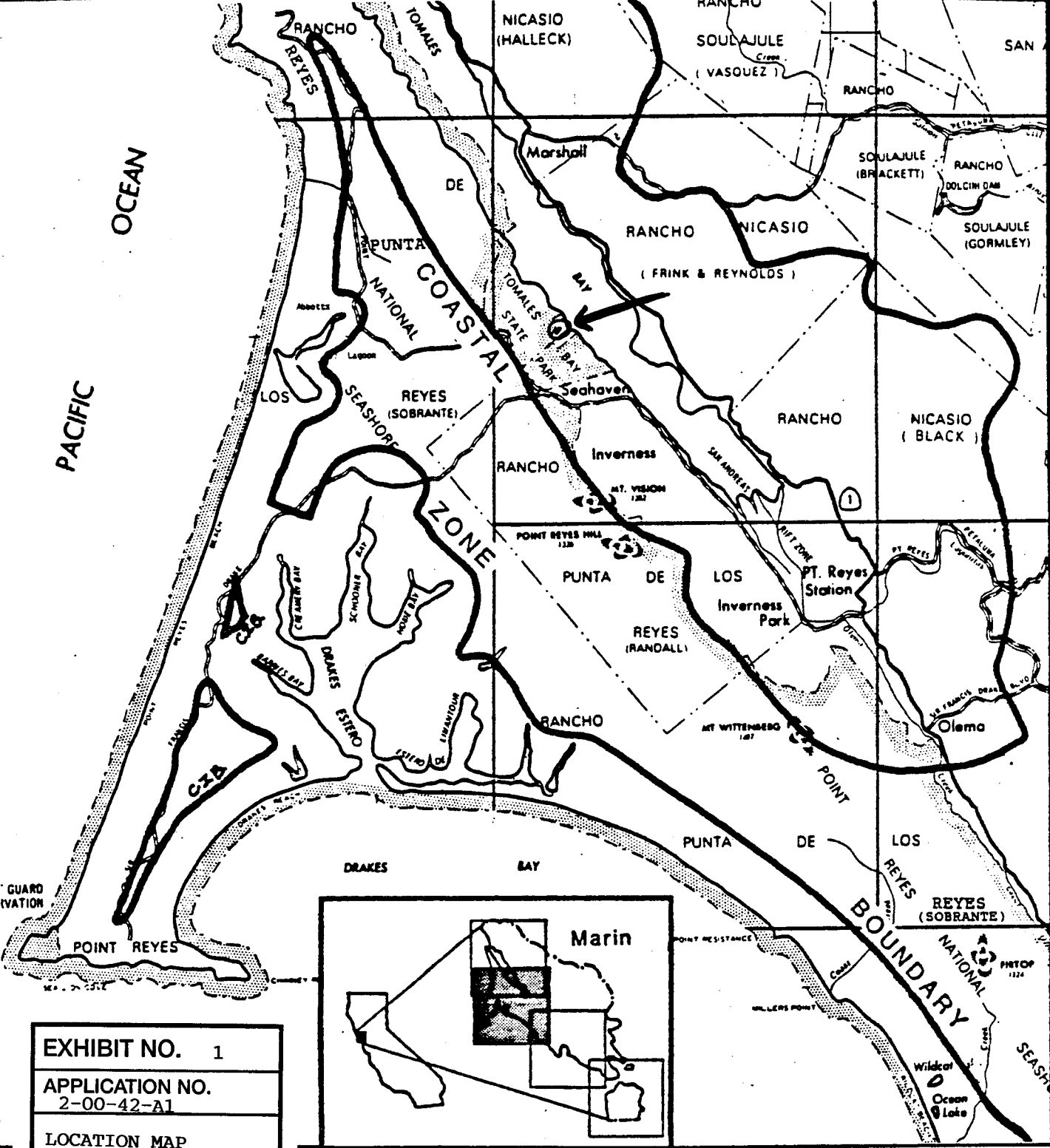
EXHIBITS

1. Location Map
2. Vicinity Map
3. Subject Parcel
4. Site Plan
5. Garage Structure
6. Lower Floor Plan Garage Structure
7. Upper Floor Plan (Two Guest Rooms)
8. Proposed Stair/Storage addition
9. Garage Elevations (East/West)
10. Garage Elevations (North/South)
11. Staff Report for CDP 250-79

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PACIFIC OCEAN

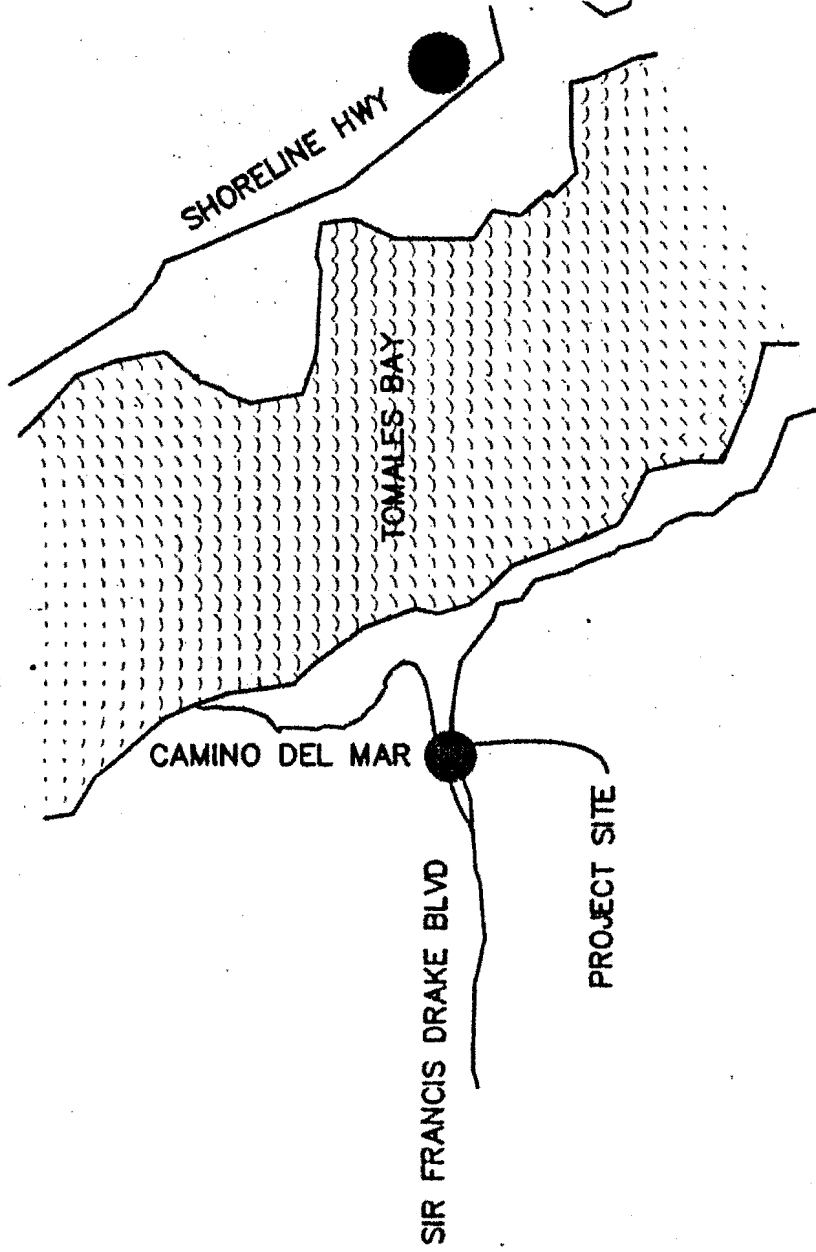


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| EXHIBIT NO. | 1 |
| APPLICATION NO. | 2-00-42-A1 |
| LOCATION MAP | |
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LOCATION MAP



California Coastal Commission

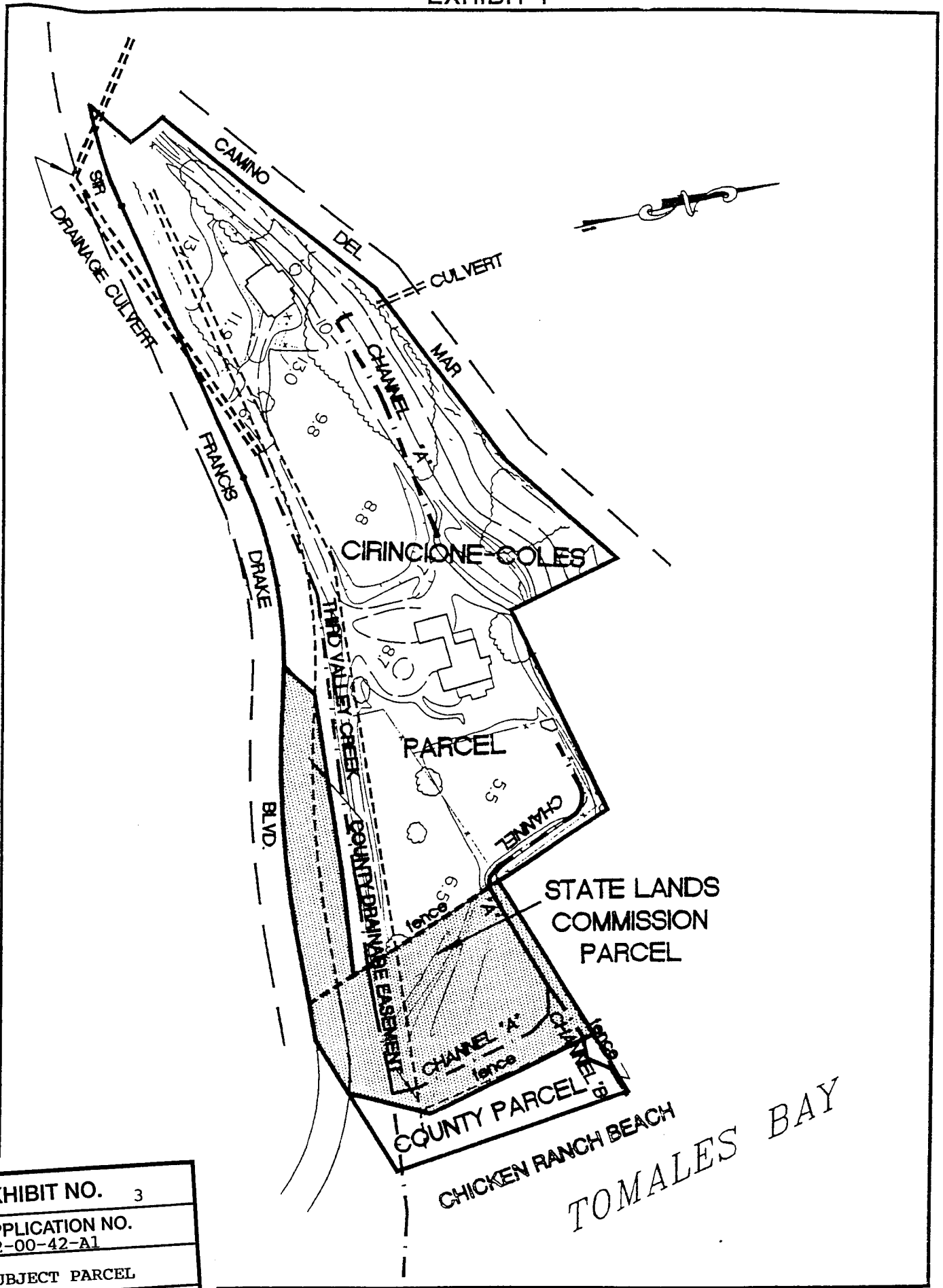


VICINITY MAP

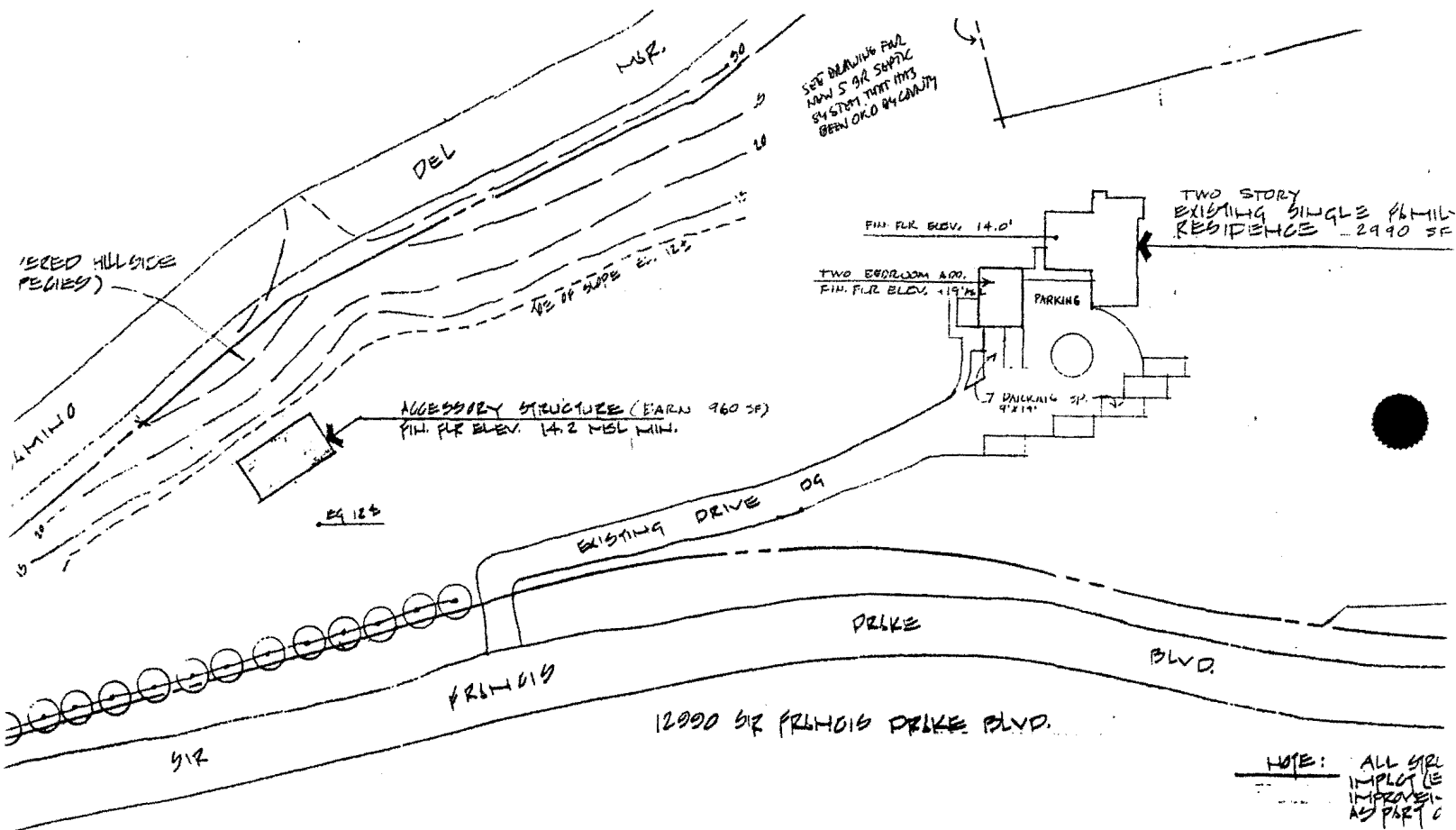
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| EXHIBIT NO. 2 |
| APPLICATION NO. 2-00-42-A1 |
| VICINITY MAP |
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EXHIBIT 1



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| EXHIBIT NO. | 3 |
| APPLICATION NO. | 2-00-42-A1 |
| SUBJECT PARCEL | |

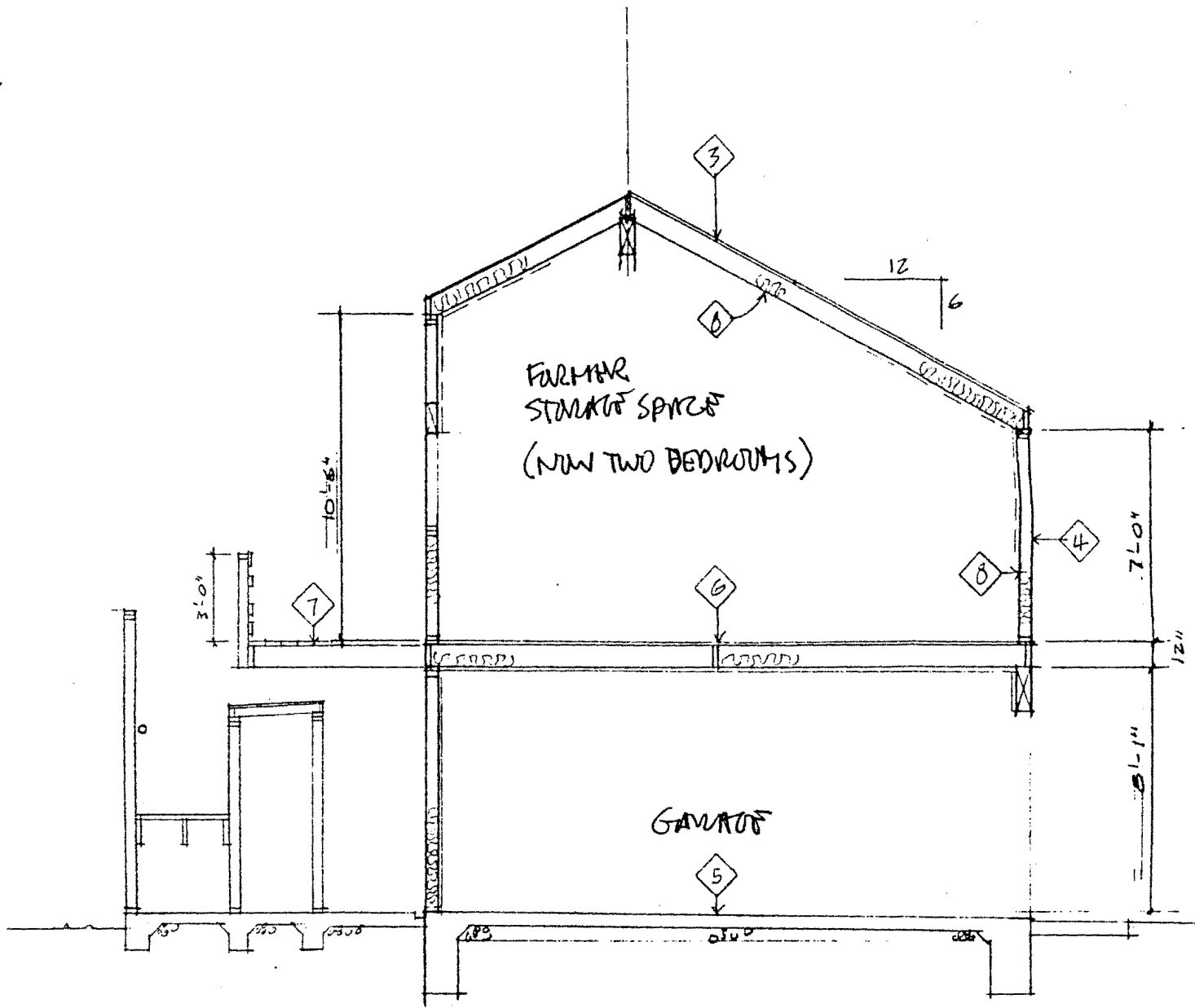


SIR FRANCIS DRIKE BLVD. 12990 SIR FRANCIS DRIKE BLVD.

S I T E P L A N

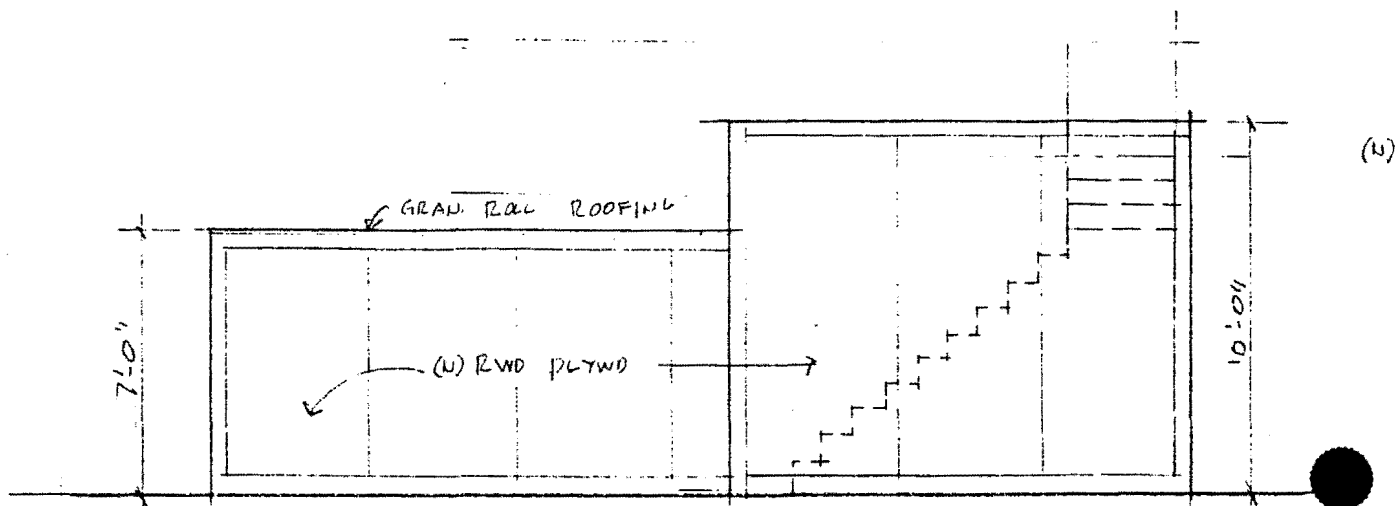
TOTAL FRONTAGE SIR FRANCIS DRIKE BLVD = 970 LIN. FT.

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| EXHIBIT NO. 4 |
| APPLICATION NO. 2-00-42-A-1 |
| SITE PLAN |
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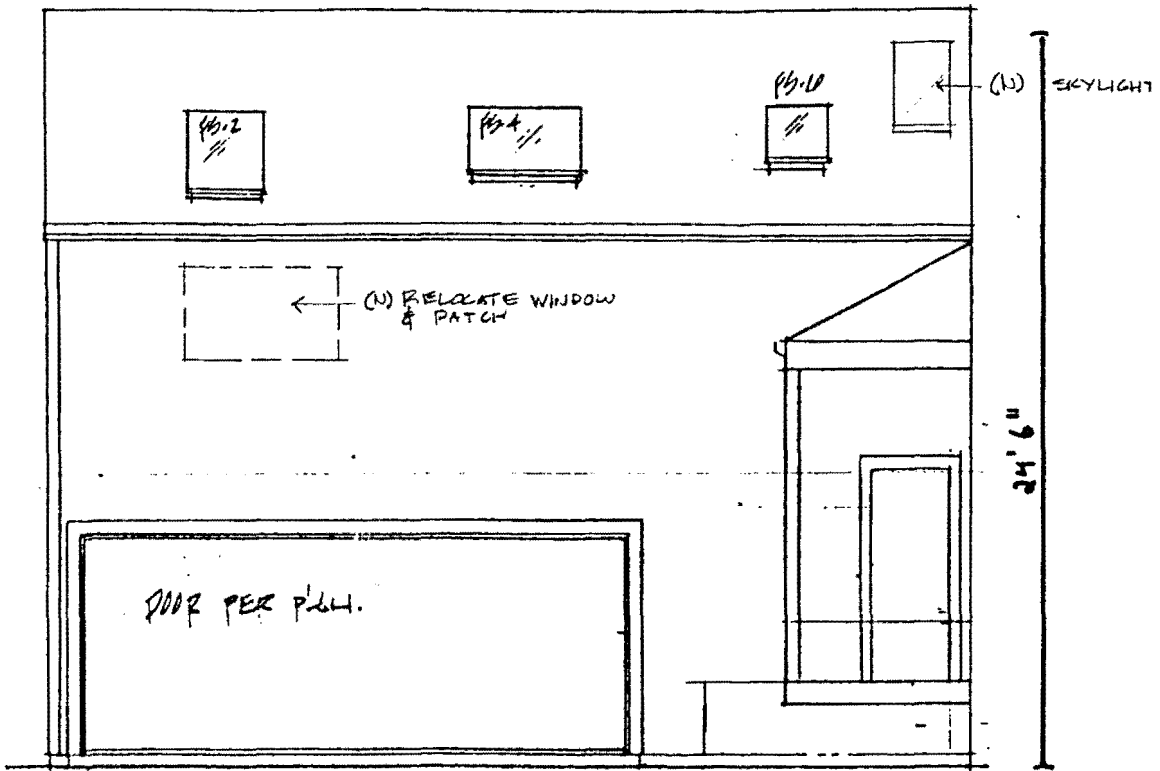
A SECTION
 1/4" = 1'-0"

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| EXHIBIT NO. | 5 |
| APPLICATION NO. | 2-00-42-A1 |
| GARAGE STRUCTURE | |

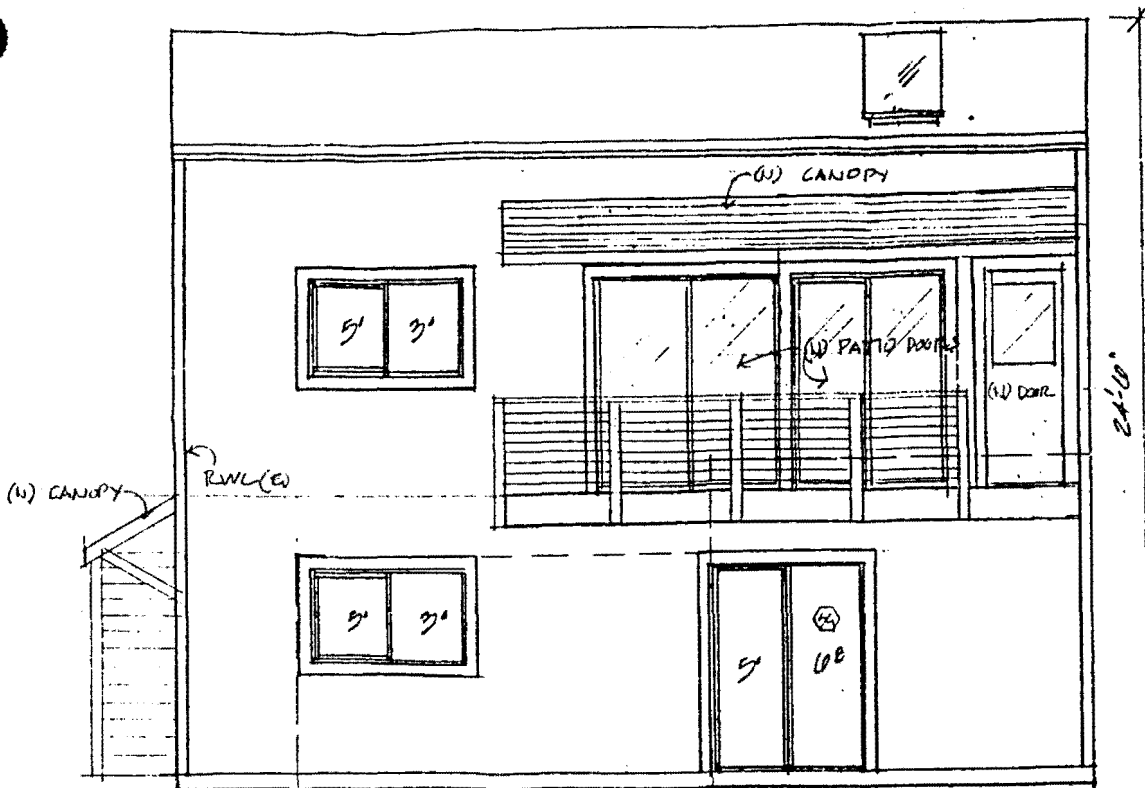


STAIR & STORAGE WALLS

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| EXHIBIT NO. 8 |
| APPLICATION NO. 2-00-42-A1 |
| PROPOSED STAIR/ STORAGE ADDITION |



GARAGE - EAST ELEVATION



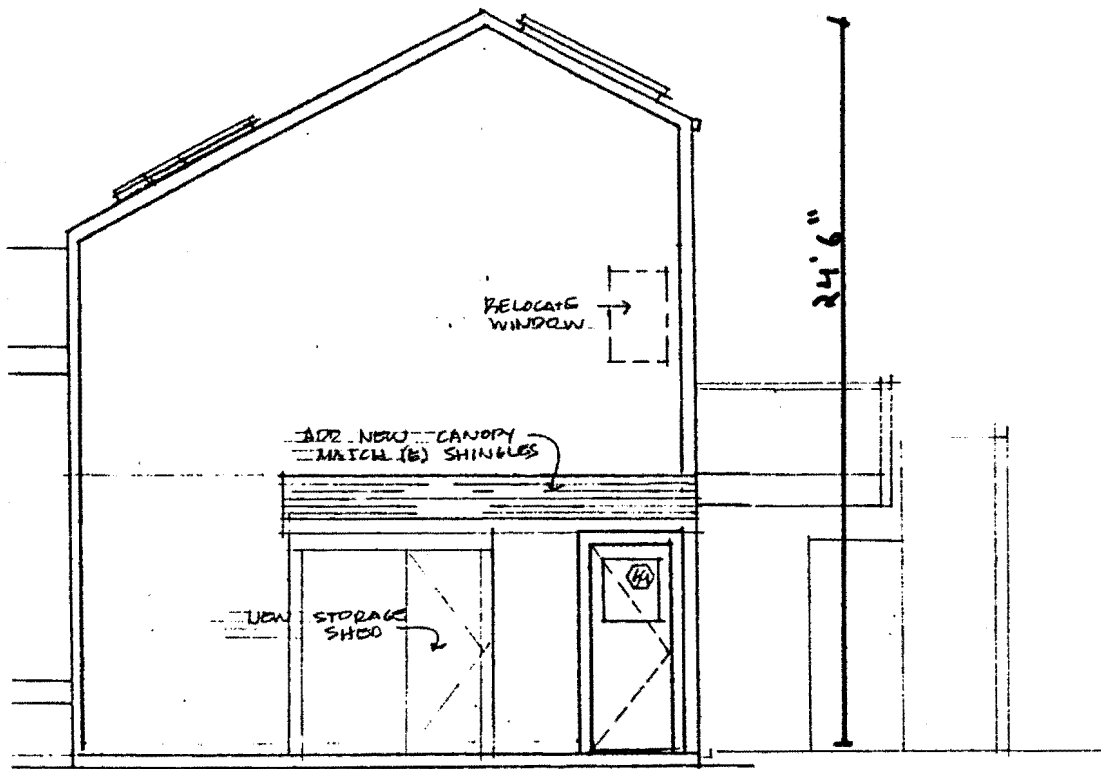
GARAGE - WEST ELEVATION

EXHIBIT NO. 9

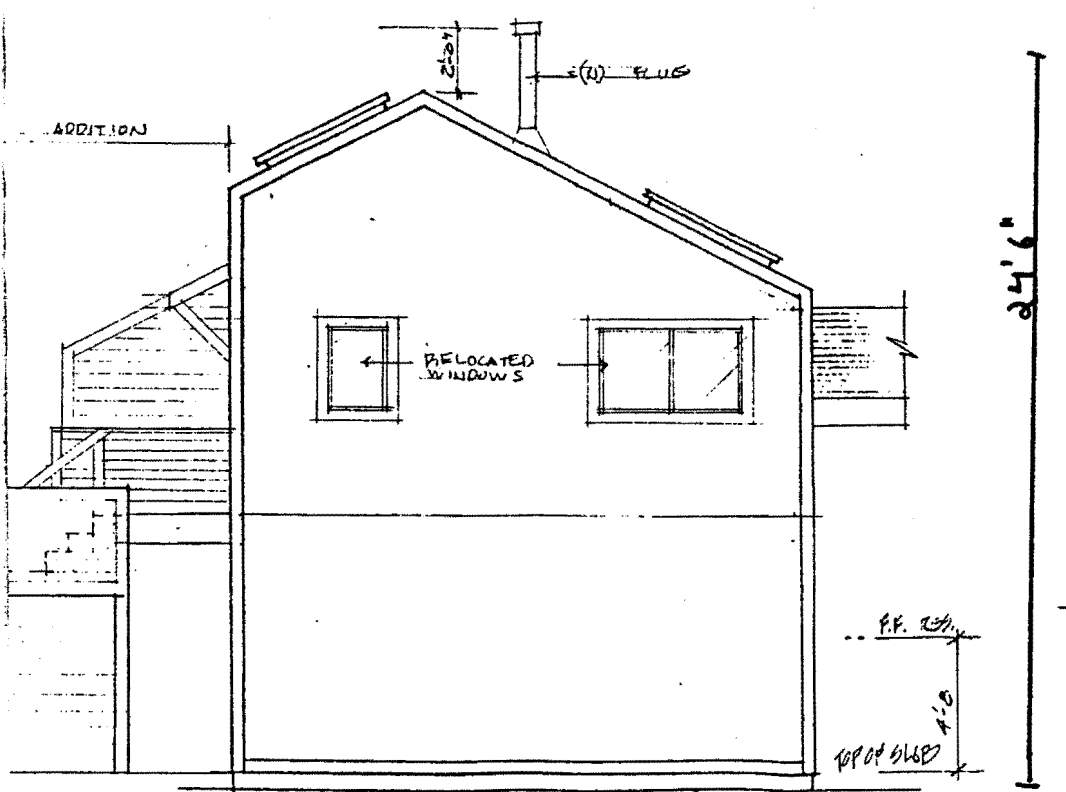
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GARAGE ELEVATIONS

(EAST/WEST)



GARAGE - NORTH ELEVATION



GARAGE - SOUTH ELEVATION

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| EXHIBIT NO. | 10 |
| APPLICATION NO. | 2-00-42-A1 |
| GARAGE ELEVATIONS | |
| (NORTH/SOUTH) | |

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST REGIONAL COMMISSION
1050 NORINGATE DRIVE, SUITE 130
SAN RAFAEL, CALIFORNIA 94903
(415) 472-4321

EXHIBIT B (1 of 2)

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| EXHIBIT NO. 11 |
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| STAFF REPORT FOR CDP 250-79 |
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PERMIT # 250-79

APPLICANT: Kathy & Gerry Cirincione-Coles

A permit is hereby issued for the following project: Construct a single-family dwelling, 12990 Sir Francis Drake Boulevard (AP#112-042-03), Inverness, Marin County.

This permit is subject to the following terms and conditions:

(PLEASE REFER TO ATTACHED LIST OF CONDITIONS)

This permit may not be assigned to another person except pursuant to the provisions of the California Administrative Code (Division 5.5, Section 13170).

This permit is not effective until a copy of the permit is signed by all permittees in the space provided below, and returned to the Commission.

A time extension of this permit requires Commission action and must be applied for prior to expiration of this permit.

11/15/79
Date

Robert Brown
Robert Brown
Executive Director

I/We acknowledge that I/We have received a copy of this permit, have read it, and understand its contents, and agree to the conditions.

Kathy & Gerry Cirincione-Coles
Kathy & Gerry Cirincione-Coles

Permit granted pursuant to Public Resources Code Section 30600 and following, and provisions of the Administrative Code enacted pursuant thereto. Failure to conform to the provisions of this permit shall subject Permittee to the penalties provided by Public Resources Code...

Conditions:

1. Prior to the issuance of a permit, the applicants shall execute and record a document irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public access over public trust lands on the subject property.

This easement shall be for limited public use as defined below. The offer shall run with the land free and clear of any prior liens or encumbrances except for tax liens. Upon acceptance of the offer, the subject public trust land shall be opened to public access and passive recreational use. Furthermore, the fence that currently separates Chicken Ranch Beach from the contiguous public trust land shall be dismantled, and no further development shall occur upon this public trust land. The types of use shall be limited to passive recreational types such as exploring, hiking and sunbathing. Recreational support facilities such as picnic tables, and bathrooms shall be prohibited. If the State Lands Commission changes the public trust boundary line, the easement boundary shall also be changed to conform to this alteration.

Should the certified Local Coastal Plan adopt any other use of this public trust property, and/or the State Lands Commission issue a waiver allowing agricultural use, the applicant may request an amendment of this condition from the Commission or successor agency.

2. Prior to the commencement of construction, the applicant shall submit for the Executive Director's approval landscape plans to mitigate the visual impact of the development from the county beach.
3. The applicant shall conform to the following recommendations of the California Regional Water Quality Control Board for the proposed septic system:

1. The design should be modified to provide an impermeable barrier to possible horizontal flow of wastewater to the proposed subdrain. The barrier should extend to a depth at least two feet below the bottom of the subdrain.
2. The downhill slope shall be modified to extend the toe of the fill to a point an additional ten feet further out, with the top of mound to be left unchanged.
3. The design should extend the french drain to pass by the replacement leach field on the uphill side of the mound.

4. All utility connections shall be underground.
5. The applicant shall install water saving devices meeting the following requirements: All faucets and showerheads shall be fitted with flow control devices that restrict flow to a maximum of approximately 3 gallons per minute.
6. Construction pursuant to this permit must be commenced within 12 months and completed within 18 months of the date of Commission action. A copy of the Notice of Completion shall be submitted within 18 months from the date of Commission action. Construction subsequent to such period shall require a new or extended coastal permit.

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NORTH CENTRAL COAST REGIONAL COMMISSION

1050 NORTHGATE DRIVE, SUITE 130
SAN RAFAEL, CALIFORNIA 94903 - (415) 472-4321

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CDP 250-79

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INITIAL SUMMARY REPORT AND STAFF RECOMMENDATIONS

November 8, 1979

Permit Number: 250-79
Applicant: Kathy and Gerry Cirincione-Coles
Project Location: 12990 Sir Francis Drake Blvd. (AP#112-042-03),
Inverness, Marin County.
Proposed Development: Construction of a single-family residence, septic
system and drainage trench.

Staff Note: This permit application involves a possible violation of the Coastal Act. In review of this permit request there are three determinations which the Commission must make:

1. Has a violation occurred?
2. If a finding of violation is made, should the Commission pursue legal action for fines or penalties.
3. Should the permit application be approved?

Permit Violation- Background

In April of 1979 the applicant constructed a drainage trench across the subject parcel without a coastal permit. The trench is approximately 110 feet long and drains standing water created by flow from a culvert which crosses under Camino Del Mar. This trench drains into an existing creek at the south side of the property. The applicant was notified of the possible violation and was asked to submit an application for the trench at the same time he submitted an application for his septic system and house.

Staff Recommendation of the Violation: The Commission should find a violation of the 1976 California Coastal Act has occurred.

Site Description

The site of this project is a 3.13 acre parcel located on the Bay side of Sir Francis Drake Blvd. and Camino Del Mar in Inverness. Its eastern boundary is separated from Tomales Bay by a county park, Chicken Ranch Beach. The southern boundary is bordered by a creek which runs parallel to Sir Francis Drake Blvd. The creek vegetation, mainly mature alders, serves as a visual shield between the property and the road. Another creek, which was man-made 10 years ago, runs along the northern section of the property. It was fed by the Camino del Mar culvert prior to the construction of the drainage trench discussed in the violation section. Since the creation of the drainage trench drainage from the culvert has been diverted across the parcel to the natural creek on the southern property boundary. (See Map) The man-made creek is now fed with fresh water from the high groundwater table and the immediate watershed. Fresh water flow in this creek is very limited. However, much of this creek is subject to tidal fluctuation which extends inland on the property approximately 150 feet. This tidal action has created a healthy brackish marsh habitat.

Commission meeting
of November 15, 1979

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The State Lands Commission has a public trust easement on approximately 1/3 of the applicants parcel. The easement limits private development rights on this land unless a waiver is obtained from the State Lands Commission. No such waiver has been obtained and no development is proposed on the public trust land. However, there is a horse riding rink within the easement area. This rink contains no structures and has been used in the past by private parties. A fence along the eastern boundary of the public trust lands has prohibited public entry or use of the property.

Project Description

The applicant proposes a two-story two bedroom single-family dwelling with 2,140 square feet of floor space. The land coverage of this home would be 1.8 percent of the total parcel. Its maximum height would be approximately 26 feet and would be located along the border of the State Lands jurisdiction.

The proposed septic system is unique and specially designed for this parcel. Because of the high water table the leachfield would be placed on a mound built up against the toe of a hill at the northern portion of the property. This would raise the leachlines the required 3 feet above the groundwater table. A french drain (trench filled with gravel) will be placed on the uphill side of the leachfield to intercept hillside drainage from entering the leachfield. An impermeable barrier will be placed between the french drain and the leachfield to prevent horizontal wastewater flow into the drain. This system has approval from Marin County Department of Public Works and the Regional Water Quality Control Board.

The project is located in the service area of the Inverness Water Company. This proposal will utilize the 10th of the 11 existing water meters.

Another consideration of this application is approval for the drainage trench which was dug in April of 1979 (details discussed in violation section). If the trench did not exist, water would drain onto the property from the Camino Del Mar culvert, collect in low elevations and create small ponds. Some of the water would flow into the man-made creek and down into the brackish marsh located at the north east corner of the parcel. The applicant intends to fill this currently open trench with gravel or lay a culvert as a safety measure against people falling into it. Without this drainage trench the proposed septic system would not drain as effectively.

Coastal Issues

1. Will the proposed development infringe upon the scenic and visual qualities of coastal areas, considered as a resource of public importance? Will the development be sited and designed in a manner to protect views along the ocean and scenic coastal areas (Coastal Act Section 30251)
2. Will the proposed development impact the quality of environmentally sensitive habitat areas on or near the subject parcel? (Coastal Act Section 30240)

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3. Will the proposed development interfere with the ability of the Commission to maximize public access and recreational opportunities consistent with sound resource conservation principles (Coastal Act Section 30601, 30603, 30001.5 and 30221)

1. Section 30251 states that "the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas..."

The primary concern of this section is the protection of public views from highways, roads, beaches, parks, trails, vista points and streams and waters used for recreational purposes.

The proposed two-story dwelling would be visible from adjacent Chicken Ranch Beach, from the Bay itself and from Highway One on the east side of Tomales Bay. The latter two viewpoints are considered to be of negligible impact. The view from the beach, however, is significant due to the proximity of the proposed dwelling and the relatively flat topography. This visibility could be screened by planting shrubs midway between the house and the county park boundary. This would adequately shield the house from beach users but still supply the applicants view of the Bay.

2. Section 30240 states that "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas..."

Two brackish marsh areas are located on the parcel. These areas are characterized by salt tolerant vegetation typical of salt and brackish marshes. Both of these areas are within the boundaries of the public trust land.

These areas should be adequately protected with the implementation of the suggestions of the State Regional Water Quality Control Board for the septic system and the suggested relocation of the system's french drain.

3. Sections 30610 and 30603 of the 1976 Coastal Act provide for the Commission's jurisdiction over tidelands, submerged lands, and public trust land. These provisions clearly emphasize the statewide importance of these areas. Section 30001.5 and 30221 states that among the basic goals of the state are to "maximize public access opportunities in the coastal zone consistent with sound resources conservation principles..." and "oceanfront land suitable for recreational use shall be protected for recreational use and development..."

Approximately 1/3 of 3.13 acre site is under public trust jurisdiction (see attached map). This jurisdiction is adjacent to the county park, Chicken Ranch Creek. The land is characterized by grasses and lupines with a narrow brackish marsh along the northern boundary and a natural creek along the southern boundary.

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Past recreational use on the public trust land has been limited because of a fence that runs along the eastern public trust boundary and separates the park from the subject parcel.

Because of the proximity of the public trust lands on this property to the county park and its suitability for recreational use - the dedication of an easement over these trust lands and removal of the existing fence which now obstructs the public's exercise of the trust, will facilitate public use of the land consistent with both public trust doctrine and Section 30221 of the Coastal Act.

Recreational use should be limited to passive types of recreation (exploring, hiking, and sunbathing). Intensive recreational use may impose harmful effects on the ecology of the riparian and marsh habitats. Therefore no recreational support facilities (bathroom, picnic tables, etc.) should be located in this area and all intensive types of recreation should be prohibited.

Continued use of the existing horse rink should not be allowed. Trampling of vegetation and nitrogen pollution from horse feces could impact the ecological vitality of the area.

NOTE: The applicant is currently trying to obtain a waiver for agricultural use of the public trust lands from the State Lands Commission. This waiver would allow the applicant to leave the existing fence which separates the public trust lands and the county beach intact. The Commission should allow the applicant six months to try and acquire this waiver, as agricultural use of the property would be an alternative to public use which would be consistent with Coastal Act policies. If he does not succeed he should be required to offer a dedication of an easement on the public trust lands.

Findings:

- a. The proposed development is a single-family dwelling, septic system and drainage trench on a parcel located between the first public road (Sir Francis Drake Blvd.) and the sea (Tomales Bay). There are adequate public services to serve the development. The location of the proposed development has required a permit review. The result of the review revealed that the proposal is consistent with Section 30250.a. and other Coastal Act policies pertaining to location of development.
- b. The development will be visible from public viewing points. The visual impact is only a minor concern, however, and can be mitigated by an appropriately designed landscaping plan. With said mitigation, the project is consistent with Section 30251.
- c. The project will not significantly impact the brackish marsh areas located on adjacent public trust lands. It is therefore consistent with Section 30240 and other Coastal Act policies concerning environmentally sensitive habitats.

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- d. The septic system of the proposed development, being of somewhat unorthodox design, has gained approval of both the Marin County Department of Public Works and the Regional Water Quality Control Board. It is therefore considered adequate to avoid significant impact to the environment. As conditioned the proposed development will not significantly impact the environment with the meaning of the California Environmental Quality Act.
- e. The development will obtain its domestic water supply from the Inverness Water Company. This project will utilize the 10th of the 11 water meters found by the Commission to be available for residential use.
- f. As detailed in the body of the staff report, the project is located on a parcel contiguous to a county beach. Approximately 1/3 of the said parcel is public trust lands. No development is proposed for this land but the applicant is trying to obtain a waiver for agricultural use.
- g. The development, as conditioned, will not hinder continued recreational use and will provide access to adjacent public lands. Therefore it is consistent with public access and recreational policies in Section 30211 and Section 30221 of the Coastal Act.
- h. Approval of a permit for the development will in no way prejudice the ability of the local government to prepare a certifiable Local Coastal Program.
- i. Therefore, the Commission finds that the proposed project, as conditioned, is in substantial conformance with the applicable provisions of Chapter 3 of the Coastal Act of 1976, and is consistent with the policies, declarations, and objectives of that Act.

Conditions:

- 1. The applicant shall be allowed 180 days to obtain a waiver for agricultural use of the public trust lands from the State Lands Commission. If the applicant is unsuccessful then within 180 days from the date of Commission approval, the applicant shall record an irrevocable offer of an easement for limited public recreational use, as defined below, of the public trust lands held by the applicant. The offer shall run with the land free and clear of any prior liens or encumbrances except for tax liens. Public trust land within the boundar of the applicant's parcel shall be opened to public access and passive recreational use. To accomplish this end, the fence that currently separates Chicken Ranch Beach from the contiguous public trust land shall be dismantled. Further, the riding area, which is considered an inappropriate use in this location, shall be obliterated to allow passive recreational use of the land. In addition, no

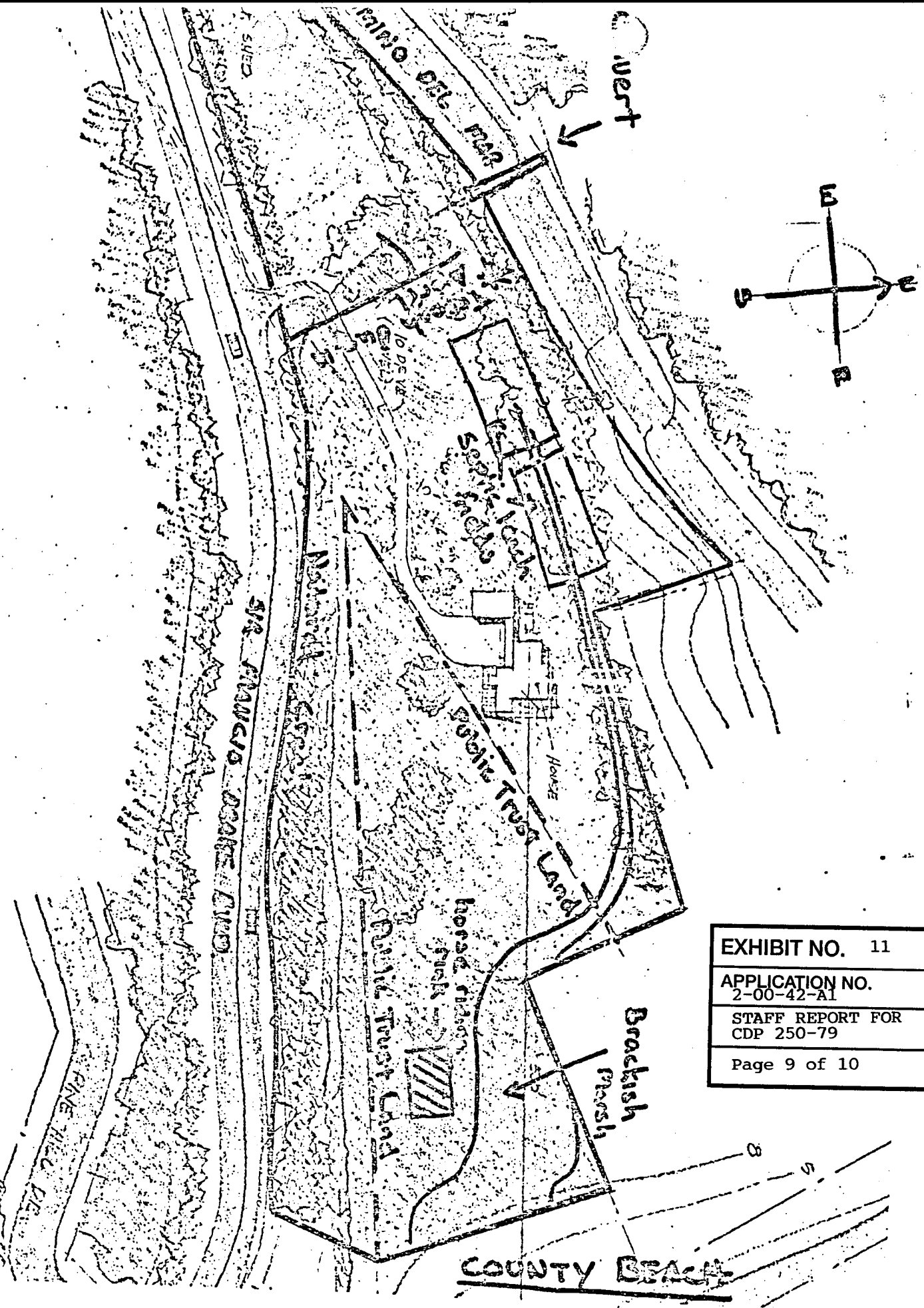
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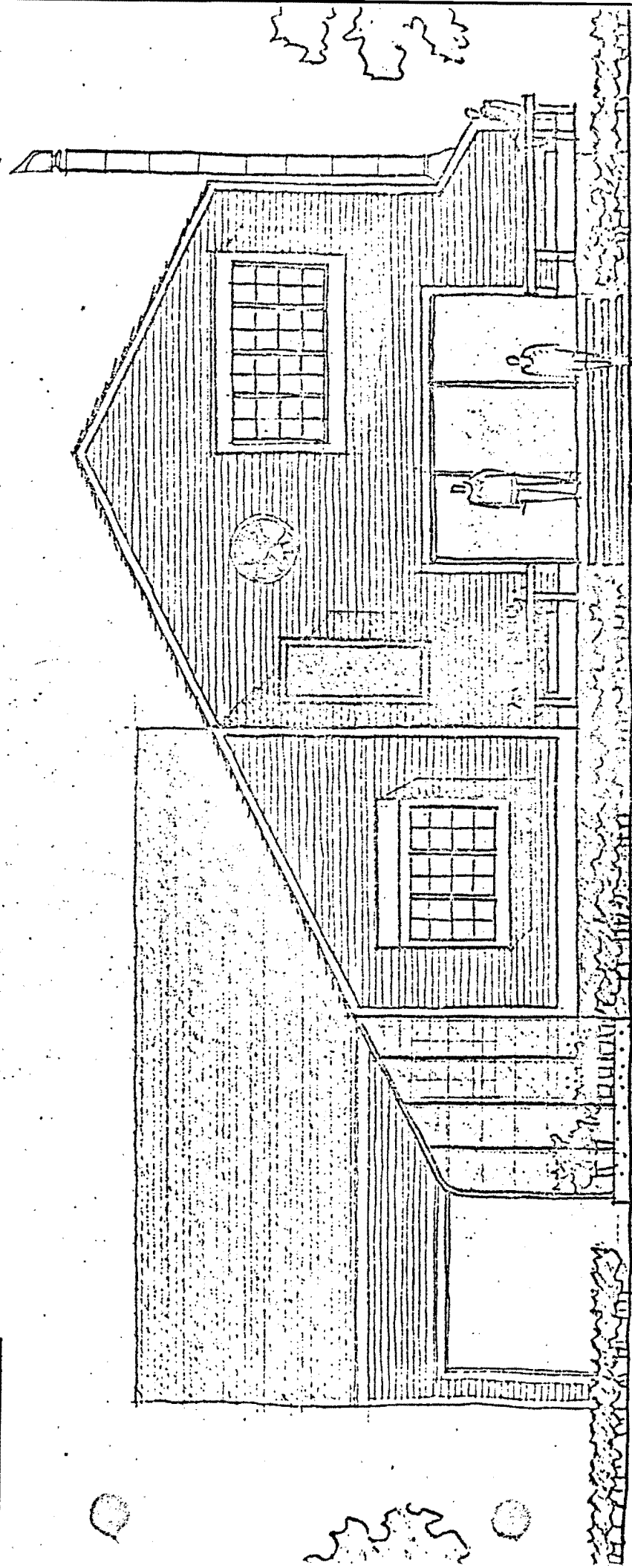
Kathy and Gerry Cirincione-Coles

further development shall occur upon this public trust land. The type of recreational use shall be limited to very passive types of use such as exploring, hiking and sunbathing. Recreational support facilities such as picnic tables, and bathrooms shall be prohibited.

2. Prior to the commencement of construction, the applicant shall submit for the Executive Director's approval landscape plans to mitigate the visual impact of the development from the county beach.
3. The applicant shall conform to the following recommendations of the California Regional Water Quality Control Board for the proposed septic system:
 1. The design should be modified to provide an impermeable barrier to possible horizontal flow of wastewater to the proposed subdrain. The barrier should extend to a depth at least two feet below the bottom of the subdrain.
 2. The downhill slope shall be modified to extend the toe of the fill to a point an additional ten feet further out, with the top of mound to be left unchanged.
 3. The design should extend the french drain to pass by the replacement leach field on the uphill side of the mound.
4. All utility connections shall be underground.
5. The applicant shall install water saving devices meeting the following requirements: All faucets and showerheads shall be fitted with flow control devices that restrict flow to a maximum of approximately 3 gallons per minute.
6. Construction pursuant to this permit must be commenced within 12 months and completed within 18 months of the date of Commission action. A copy of the Notice of Completion shall be submitted within 18 months from the date of Commission action. Construction subsequent to such period shall require a new or extended coastal permit.



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This elevation will be
exposed to the County
beach, Bay and Hwy 1
across the Bay

EAST ELEVATION

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