

CALIFORNIA COASTAL COMMISSION

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Date Filed: September 14, 2000
49th Day: November 2, 2000
180th Day: March 13, 2001
Staff: Tiffany S. Tauber
Staff Report: January 26, 2001
Hearing Date: February 16, 2001
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-00-042**

APPLICANT: **ALICE BOST**

AGENT: Keith Stearns

PROJECT LOCATION: 488 Kane Road, Big Lagoon area, Humboldt County (APN 518-051-14Y)

PROJECT DESCRIPTION: Construction of a 16-foot-high, 1,040-square-foot, single-family residence with an attached 480-square-foot garage, septic system, and removal of an existing manufactured home.

GENERAL PLAN DESIGNATION: Area of Deferred Certification. Humboldt County North Coast Area Plan - Agricultural General, 20-acre density (AG20)

ZONING DESIGNATION: Rural Agricultural, minimum 20-acre lot size, Special Designation for Manufactured Home Building Type Modification, Coastal Elk Habitat and Design Review combining zones (RA-20-M/E,D)

LOCAL APPROVALS RECEIVED: Humboldt County Special Permit for Design Review (9/5/00); Humboldt County Department of Environmental Health septic system approval

OTHER APPROVALS: None Required

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions of the proposed construction of a single-family residence with septic system and the removal of an existing manufactured home. The site is located off of Kane Road in northern Humboldt County and consists of formerly grazed pastureland. The site is within an area of deferred certification, in an inland area of the coastal zone.

The site drains via surface grade to a small wetland located on the northeast portion of the site. The proposed building site is located more than 60 feet from the wetland and the development will not change the existing drainage patterns. Therefore, the proposed project would not adversely impact the wetland. However, future additions to the residence could potentially be sited and designed in a manner that would result in adverse impacts to the wetland. To protect the existing wetland from future development, staff recommends Special Condition No. 1 which imposes a future development deed restriction requirement that would require a coastal development permit or a permit amendment for all future development on the subject parcel that might otherwise be exempt from coastal permit requirements. This condition would allow future development to be reviewed by the Commission to ensure that future improvements would not be sited or designed in a manner that would result in adverse wetland impacts.

Much of the surrounding area has been known to support habitat for the western azalea (*Rhododendron occidentale*) which is designated in the Humboldt County North Coast Land Use Plan as environmentally sensitive. The Commission has also considered areas of western azalea habitat in the project vicinity as environmentally sensitive. The western azalea is not protected under state or federal endangered species laws as a rare, threatened, or endangered species, but it is largely endemic to California and the range of the species is limited. Staff conducted a site visit and determined that no azaleas are present at the site, which is formerly grazed pastureland comprised primarily of ruderal grassy vegetation. The future development deed restriction requirement identified in Special Condition No. 1 would also ensure that future development does not adversely impact the western azalea that may be found on the property in the future.

The project site is also designated in the Humboldt County LUP as elk habitat and is known to be within the range of the Roosevelt Elk common to this area. The Roosevelt Elk is a harvested animal and is not protected under state or federal endangered species laws. According to the Department of Fish and Game, the elk populations are doing well in the area. Nonetheless, the

proposed project will not result in adverse impacts to the elk, as no additional fencing is proposed that would block their movements and the project does not increase development density in a manner that would displace elk habitat.

Therefore, staff recommends approval of the proposed SFR if the development is conditioned upon the execution and recordation of a future development deed restriction because as conditioned to ensure that future improvements are sited and designed to avoid significant adverse habitat impacts, the proposed development would be consistent with the Chapter 3 policies of the Coastal Act.

STAFF NOTES:

1. Standard of Review

The proposed project is located in the Big Lagoon area of Humboldt County. Humboldt County has a certified LCP, but the subject property is located within an area of deferred certification. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-00-042 pursuant to the 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.

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. 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.

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. Future Development Deed Restriction

A. This permit is only for the development described in Coastal Development Permit No. 1-00-042. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the parcel. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 1-00-042 from the Commission or from the applicable certified local government.

B. **PRIOR TO 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 legal descriptions 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

1. Site Description & Project Description

The project site is a 1.87-acre parcel located in a non-certified area on Stagecoach Hill at the end of Kane Road in the Big Lagoon area of northern Humboldt County (Exhibit Nos. 1-3). The site is located on a coastal ridge inland of Highway 101 within a rural residential area surrounded by ruderal pasture and grazing land. A perimeter fence, an 840-square-foot dilapidated manufactured home, and a 144-square-foot shed exist on the site. The majority of the site is relatively flat with slopes ranging from 1-10%. The site drains via surface grade to a small wetland outside of the proposed building area on the northeast portion of the site. The project is

east of Highway 101 and is not visible from public vantage points because the surrounding forests and natural landforms screen the site from view.

The proposed development involves the construction of a 16-foot-high, 1,040-square-foot single family residence with an attached, 480-square-foot garage and septic system. The applicant also proposes to remove the existing manufactured home. The project does not involve the removal of any trees or major vegetation and would require only minimal grading.

2. Local Coastal Program History

The subject property is located within an uncertified area of Humboldt County's Local Coastal Program. In 1982, the Kane Road area was not certified by the Coastal Commission as part of the North Coast Area Land Use Plan because of substantial issues relating to: (a) litigation over alleged illegal subdivisions in the area, (b) the presence of the native Western Azalea and the absence of any protection or management plans for this species; (c) the minimum parcel size necessary to ensure agricultural productivity and to avoid adverse impacts to potential timber production on surrounding lands and ; (d) general water quality and scenic view concerns, including the protection of Roosevelt Elk habitat areas.

3. Locating and Planning New Development

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The proposed development is located in a rural area where one single-family home per parcel is a principally permitted use. The applicant proposes to install a new septic system and to utilize an existing on-site water well. The Humboldt County Health Department has determined that suitable areas exist on the property to accommodate a septic system and has determined that the existing water well is adequate to serve the development. As discussed in Finding No. 3 below, the proposed development has been conditioned to protect the small wetland area on the northeast portion of the site.

Therefore, the Commission finds that the proposed development is consistent with Coastal Act Section 30250(a) to the extent that it is located in a developed area, it has adequate water and septic capability to accommodate it, and it will not cause significant adverse effects, either individually or cumulatively, to coastal resources.

4. Protection of Environmentally Sensitive Habitat Areas (ESHA)

Coastal Act Section 30240 states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *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.*

Coastal Act Section 30107.5 states:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The subject site provides three types of habitat including (1) wetland habitat, (2) azalea habitat, and (3) elk habitat. As noted previously, a small wetland is present on the northeast portion of the project site. In addition, the site is within the habitat range of the Western Azalea (*Rhododendron occidentale*) which the Commission has, in the past, considered environmentally sensitive. The project site is also within an area designated under the Humboldt County LCP as Elk Range Habitat. Potential impacts to each of these habitats and their mitigation are discussed in the following three sections:

a) Wetland

Site drainage is directed via surface grade down a gentle slope to a small wetland on the northeast portion of the subject site. The drainage pattern and site topography result in an area of periodic standing water and habitat for hydrophytic vegetation. The proposed building site would be located more than 60 feet from the wetland area and the proposed development would not alter the existing on-site drainage patterns and hydrologic regime of the wetland. Therefore, the development as proposed would not result in a significant adverse impact to the wetland. However, the Commission notes that future development on the site such as additions to the residence, construction of outbuildings, or installation of fencing could be sited and designed in a manner that would result in adverse impacts to the wetland. Much of this kind of development is normally exempt from the need to obtain coastal development permits pursuant to Section 30610 of the Coastal act as an addition to an existing structure. Thus, the Commission would not normally be able to review such development to ensure that impacts to sensitive habitat are avoided.

To avoid such impacts to coastal resources from the development of otherwise exempt additions to existing homes, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the

Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250(b)(6) specifically authorizes the Commission to require a permit for additions to existing single family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. As noted above, certain additions or improvements to the approved residence could involve a risk of adverse impacts to the wetland on the site. Therefore, in accordance with provisions of Section 13250 (b)(6) of Title 14 of the California Code of Regulations, the Commission attaches Special Condition No. 1 which requires a coastal development permit or a permit amendment for all future development on the subject parcel that might otherwise be exempt from coastal permit requirements. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in adverse wetland impacts. Special Condition No. 1 also requires recordation of a deed restriction to ensure that all future owners of the property are aware of the requirement to obtain a permit for development that would otherwise be exempt. This requirement will reduce the potential for future landowners to make improvements to the residence without first obtaining a permit as required by this condition.

b) Western Azalea

The subject site is located in an area known to be habitat for the Western Azalea (*Rhododendron occidentale*). This species of azalea is not protected under state or federal endangered species laws as a rare, threatened, or endangered species, but it is largely endemic to California and the range of the species is limited. Thus, the habitat of the western azalea is recognized as environmentally sensitive in the Humboldt County North Coast Area Land Use Plan. The Commission has also recognized areas where the western azalea is found as environmentally sensitive and has required both deed restrictions and other special conditions to protect the plant's habitat area (e.g. 1-86-204 [Croft], 1-88-73 [Bumble Bee/Hennings], and 1-88-255 [BueaPre], 1-97-031 [Harmon]).

Staff conducted a site visit and determined that no azaleas were present on the subject parcel which is comprised primarily of ruderal grassy vegetation and blackberry brambles. However, it is possible that individual western azalea plants may exist in areas surrounding the subject site and may propagate onto the subject parcel in the future. Special Condition No. 1 discussed above requires a coastal development permit or a permit amendment for any future development that might otherwise be exempt from permit requirements to protect the wetland area on the site. This special condition will also ensure that any future development would not adversely impact western azaleas that might later be discovered on the property.

c) Roosevelt Elk Habitat

The project site is within an area designated under the Humboldt County LUP as potential elk habitat. This designation is intended to ensure that development within the range of the Roosevelt Elk is sited and designed to prevent impacts that would significantly disrupt elk use. Although the range of the species is limited, the Roosevelt Elk is not protected under state or

federal endangered species laws as a rare, threatened, or endangered species. The Roosevelt Elk is a harvested animal and according the staff of the Department of Fish and Game, the Roosevelt Elk population in the area is expanding and doing well. Therefore, the Commission finds that the use of the subject property by elk does not make the subject property an environmentally sensitive habitat area for Roosevelt Elk, as no evidence has been presented that the Roosevelt Elk or its potential habitat on the site is either rare or especially valuable because of its special nature or role in the ecosystem, as is necessary for an area to be considered environmentally sensitive under section 30107.5 of the Coastal Act. Nonetheless, the proposed development will not adversely affect the elk habitat. The applicant is not proposing any additional fencing that could impede elk migration and no significant habitat displacement would occur, as the proposed residence will replace an existing manufactured home and would not result in an increase in development density.

As conditioned, the proposed project would not result in adverse impacts to wetland habitat or azalea habitat as any future development on the site would require a coastal development permit to ensure that it is sited and designed to avoid impacts to these environmentally sensitive habitat areas. In addition, although not considered environmentally sensitive, the project would not adversely impact or displace elk habitat. Therefore, the Commission finds that the project as conditioned would not result in a significant disruption to ESHA and would be consistent with Section 30240.

5. Visual Resources

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas. Furthermore, Section 30240(b) of the Coastal Act states that development in areas adjacent to 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 recreation areas.

The proposed single-family residence will not be visible from Highway 101, or from any other public road or public lands, because the surrounding forests and natural landforms screen the house site from public view. The project will not result in the alteration of natural landforms, as the site is relatively flat and will require only a minimal amount of grading. The project is also visually compatible with the large lot, rural residential character of the surrounding area. Additionally, the proposed project will replace a dilapidated manufactured home with a new residence thereby resulting in a visual enhancement to the site.

Therefore, the project would be consistent with Section 30251, as the project would not adversely affect views to or along the coast, result in major landform alteration, or be incompatible with the character of the surrounding area.

6. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement 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 the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures which will minimize or avoid all significant adverse environmental impact have been required. 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 would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Site Location
4. Site Plan
5. Elevations

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

Approximate
Site Location

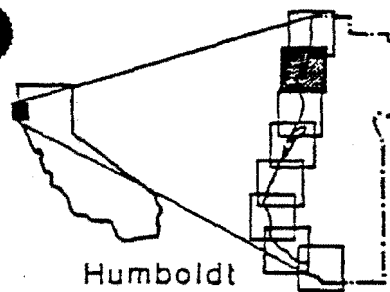


EXHIBIT NO. 1

APPLICATION NO.
1-00-042

BOST

REGIONAL LOCATION

Patrick's Point
State Park

Big
Lagoon
Park

LITTLE RIVER
BEACH
STATE PARK

TRINIDAD BEACH
STATE PARK

Trinidad
Trinidad
Indian
Rancheria

COASTAL

BOUNDARY
ZONE

RODGERS PK
2790

EXHIBIT NO. 2

APPLICATION NO.
1-00-042

BOST

VICINITY MAP

**PROJECT
SITE**

SHARP POINT

HUMBOLDT

LAGOONS

STATE

PARK

HARRY A
MERLO

STATE

RECREATION

AREA

Diamond

Pitcher

North

Fk

Maple

Creek

Creek

Creek

Creek

Creek

Creek

Creek

Creek

Creek

Creek

REDWOOD

Bond Cr

Fortyfour

NATIONAL

McDonald

Tom

RODGERS

PEAK

2790

PAR

Big Lagoon Park

PATRICKS POINT
STATE PARK

PATRICKS POINT

IC24

Burris

Savage

Creek

Creek

Creek

Creek

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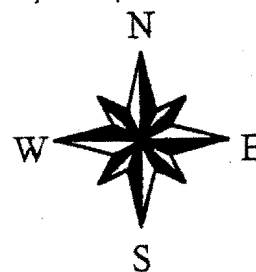
Creek

Creek

Creek

Creek

Proposed Bost Special Permit
Big Lagoon Area SP-00-04
APN: 518-051-14
Section 31 T10N R1E H.B.&M.
LOCATION MAP



518-05

NOTES :

BIR-051-03 CONTAINS 9.38A.

518 - 081 - 04 CONTAINS 8.40A.

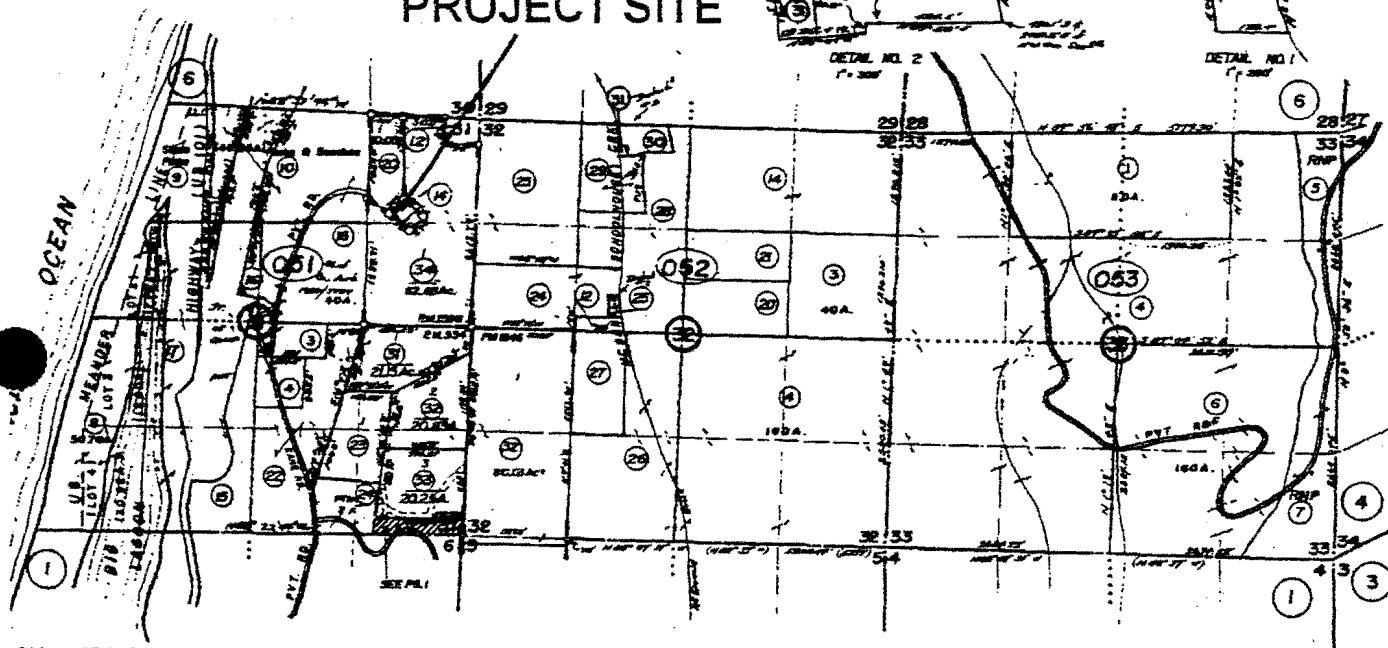
512-051-09 & 512-051-10 - PTN DEY LAGOON BEACH

STATE PARK - DEEDS 201 P 232.

PM 5 PG 124 = PM 639

LS: 12 P 74
25 P 95
11 P 70
25 P 45-46

PROJECT SITE



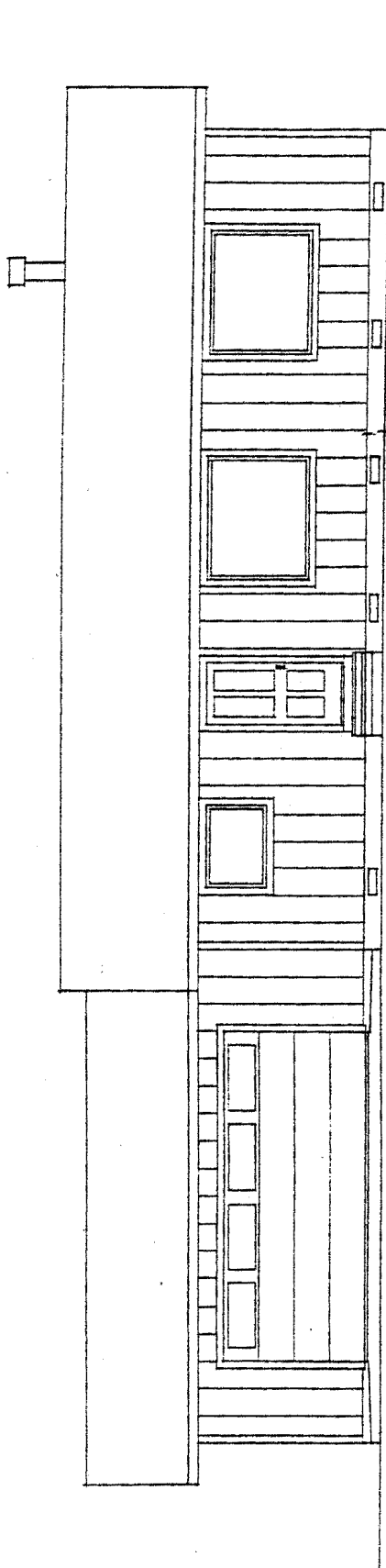
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PM. No. 1596 of PMBR-4, Pg. 11

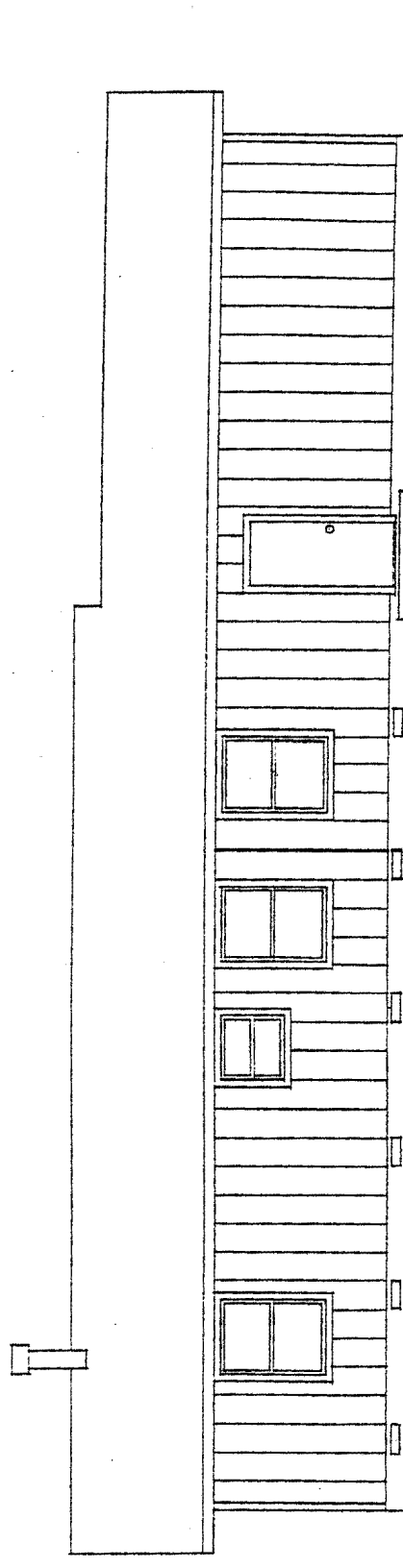
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**Proposed Bost Special Permit
Big Lagoon Area SP-00-04
APN: 518-051-14
Section 31 T10N R1E H.B.&M.
ASSESSOR PARCEL MAP**

EXHIBIT NO.	3
APPLICATION NO.	1-00-042
BOST	
SITE LOCATION	



NORTH ELEVATION

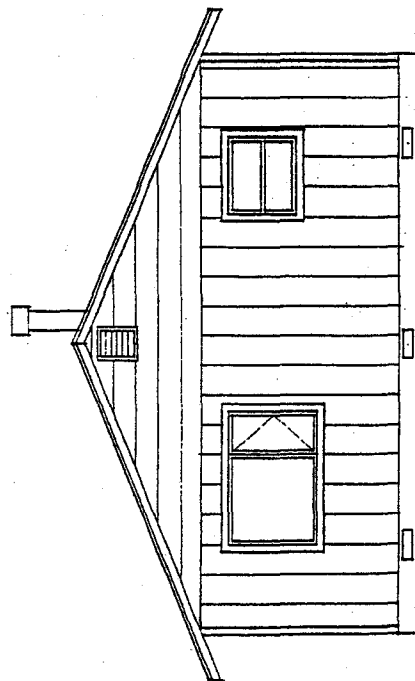


SOUTH ELEVATION

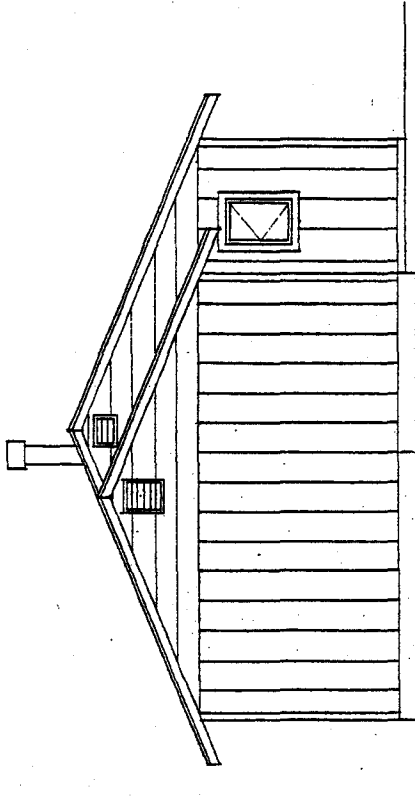
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SCALE:	APPROVED BY:	DRAWN BY: JMS	REVISED:
DATE:			
DRAWING NUMBER			

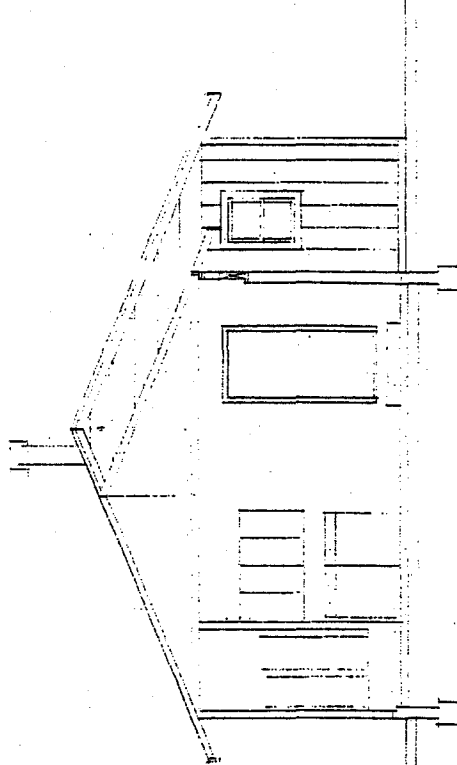
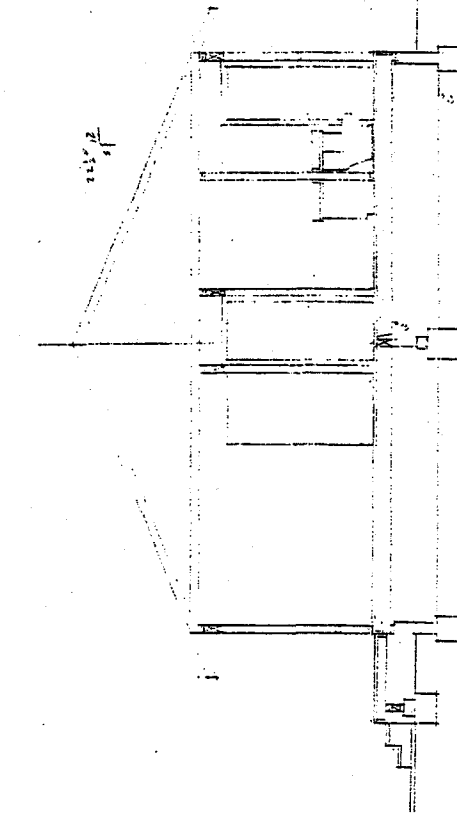
EXHIBIT NO.	5
APPLICATION NO.	1-00-042
BOST	
ELEVATIONS (pg. 1 of 2)	



WEST ELEVATION



EAST ELEVATION



POST

SCALE:	APPROVED BY:	DRAWN BY: JMS
DATE:		REVISED
DRAWING NUMBER		