

## CALIFORNIA COASTAL COMMISSION

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## RECORD PACKET COPY

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Staff:	SLB-SF
Staff Report:	April 20, 2001
Hearing Date:	May 10, 2001

## STAFF REPORT: REGULAR CALENDAR

**APPLICATION FILE NO:** 2-00-023

**APPLICANTS:** BOLINAS ROD & BOAT CLUB

**PROJECT DESCRIPTION:** Removal of 12 unpermitted concrete pilings and footings on the northwest, northeast and southeast sides of the Bolinas Rod & Boat Club in Bolinas Lagoon.

**PROJECT LOCATION:** 83 Warf Road, Bolinas, Marin County  
 APN: 193-082-17

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A.

## 1.0 EXECUTIVE SUMMARY

The staff recommends that the Commission **approve** with conditions the requested coastal development permit. The Bolinas Rod and Boat Club seeks after-the-fact authorization for the removal of seven unpermitted pilings and footings in the mudflats of Bolinas Lagoon on APN: 193-082-17 (83 Wharf Road, Bolinas). In addition, the applicant seeks approval to remove five remaining unpermitted pilings and footings from the same parcel.

The proposed development would result in the complete removal of 12 unpermitted concrete pilings and footings from the property owned by the Bolinas Rod and Boat Club on the southwest side of Bolinas Lagoon, and would enhance the habitat values of the lagoon by removing unpermitted fill. However, if concrete dust and debris from the pilings and footings are introduced into the water, the removal process may significantly adversely impact sensitive habitat on and adjacent to the project site. Therefore, Commission staff recommends that the Commission impose special conditions requiring the applicant to (1) complete all construction work when the tidal stage is below the elevation of the project site; and (2) remove all materials, debris and equipment on a daily basis from the project site throughout the construction period.

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.

#### **4.0 SPECIAL CONDITIONS**

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

1. Timing of Removal. Removal of the five pilings and footings shall only be carried out when water is not present on the project site. No development shall occur any time the tidal stage is such that water is at or above the elevation of any portion of the construction site.
2. Disposal of Removed Debris. All materials, debris and equipment shall be removed from the site throughout the construction period on a daily basis. All materials and debris shall be disposed of outside of the Coastal Zone or in accordance with an approved coastal development permit.

#### **5.0 FINDINGS AND DECLARATIONS**

##### **5.1.1 Project Location**

The project site, located at 83 Warf Road, Bollinas, is on the southwest side of Bollinas Lagoon. The parcel (APN: 193-082-17) is bounded by Wharf Road to the southwest and extends northeast into the lagoon (Exhibit 5). This is a privately-owned tidelands parcel that was originally conveyed from the state to a private party in 1869. The Bollinas Rod and Boat Club purchased the property in 1953. A bulkhead separates the road from the lagoon. At high tide, the waterline abuts the bulkhead, inundating the entire parcel with water (Exhibit 1). During low tide, the tide line is just within the northeastern boundary of the parcel (Exhibit 2). Parcel 18, the adjacent property to the west, contains a residence, and parcel 24 on the southeast side of the club is a vacant lot.

##### **5.1.2 Project Background**

The existing club building is an old houseboat on pilings. The structure was in place when the Bollinas Rod and Boat Club purchased the property in 1953, before the passage of the Coastal Initiative in 1972. Existing decks on the northeast and southeast sides, a dock extending from the northeast deck, and a deck extending from the clubhouse to Wharf Road, also predate any coastal development permitting requirements (Exhibit 3).

On May 5 and 6, 2000, without the benefit of an approved coastal development permit, Bollinas Rod & Boat Club installed 12 pilings and shallow footings to support a failing deck and to extend existing decks in the mudflats of Bollinas Lagoon. To install the pilings, the club dug footings by hand, placed durable cardboard tubes on the footings, and poured concrete into the tubes using a hose from a pumper truck. The club carried out all construction when the tide was below the project site.

On May 19, 2000, Commission enforcement staff notified the club in writing that this unpermitted development constituted a violation of the Coastal Act. On May 20 and May 21, 2000, the applicant removed seven of the 12 pilings and footings, without first obtaining a

*conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland areas used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*

- (2) *In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

Coastal Act Section 30240(a) 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.*

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.*

Coastal Act Section 30108.2 states:

*"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.*

The proposed development is located in the mudflats of Bollinas Lagoon. Bollinas Lagoon is within the Gulf of the Farallones National Marine Sanctuary, one of four national marine sanctuaries in California and one of thirteen in the nation. The Sanctuary was designated in 1981 to protect and manage the 1,255 square miles encompassing the Gulf of the Farallones, Bodega Bay, Tomales Bay, Drakes Bay, Bollinas Bay, Estero San Antonio, Estero de Americano, Duxbury Reef, and Bollinas Lagoon. The approximately 2.2-square-mile (1,400-acre) lagoon contains environmentally sensitive habitat, including wetland and mudflats. The lagoon provides an important haul-out and birthing site for harbor seals. In addition, benthic invertebrates and fish in the lagoon support a great diversity and abundance of wintering and migratory shorebirds, waterfowl, gulls, and other water-associated birds (Marin County LCP 1981). The lagoon is the only designated "Wetland of International Significance" on the Pacific Flyway as determined by the Convention on Wetlands of International Importance in 1998, and was recognized particularly for its waterfowl habitat. Approximately 245 species of birds have been identified at the Lagoon and its surrounding watershed. Twenty-three of these species are considered rare, threatened, or endangered. Shorebirds and waterbirds such as the brown pelican, snowy plover, dunlin, great blue heron, black crowned night heron, willet, sandpiper, and greater sand plover have been observed on the lagoon. Heron and egret are known to nest in the lagoon. Of the fifty or so estuaries that have formed along the Pacific Coast, Bollinas Lagoon is one of only 13 that sustains large numbers of migratory shorebirds. Furthermore, the Bollinas Lagoon Management Plan prepared by Marin County in 1996 also identified three species each of amphibians and mammals that frequent Bollinas Lagoon as rare, threatened or endangered (Bollinas Lagoon Ecosystem Restoration 2001). Marin County designates Bollinas Lagoon as a County Nature

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

Coastal Act Section 30211 states:

*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.*

Coastal Act Section 30212 states:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

- (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) Adequate access exists nearby, or,*
- (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

*(b) For purposes of this section, "new development" does not include:*

- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*
- (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*
- (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*
- (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*
- (5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

The expansion of private uses of the project site through the construction of a deck would potentially conflict with any public rights that may exist to access the shoreline and the sea. However, the proposed removal of the unpermitted pilings and footings will prevent such potential conflict and will protect any public access rights that may exist on the club property. Furthermore, the activities involved with the proposed removal of this unpermitted development will not significantly interfere with any public access rights that may exist over the site. Therefore, the Commission finds that the proposed project is consistent with Sections 30210, 30211, 30212, and 3014 of the Coastal Act.

#### **5.4 Alleged Violation**

Development consisting of the placement of 12 pilings and footings, and the removal of seven pilings and footings, has taken place without benefit of a coastal development permit. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies of the policies of Chapter 3 of the Coastal Act. Approval of the permit 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.

#### **5.5 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.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. The proposed project has been conditioned to be found consistent with the policies of the Coastal Act and to minimize all adverse environmental effects. Mitigation measures have been imposed to prevent the introduction of concrete dust and debris into the water of Bollinas Lagoon. 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. Parcel map with high tide line
2. Parcel map with low tide line
3. Diagram of Bollinas Rod and Boat Club building with existing decks, the location of the unpermitted pilings already removed, and the existing unpermitted pilings to be removed
4. Cross-section of the 30-foot by two-foot by two-foot concrete footing and four six-foot pilings to be to be removed
5. Location Map

BOLINAS HARBOR GRANT

Tax Area Code

193-08

56-00f

56-003

56-014

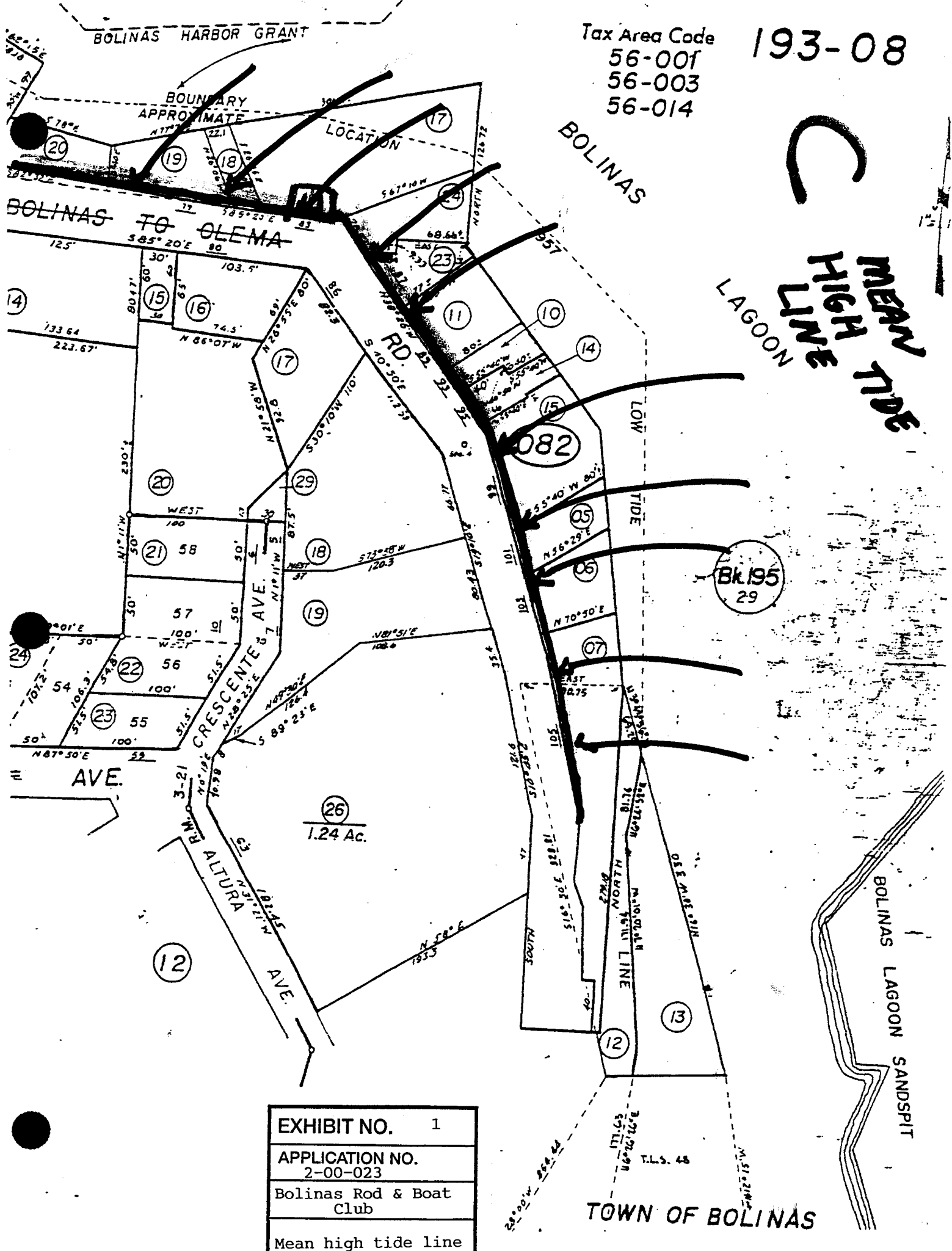
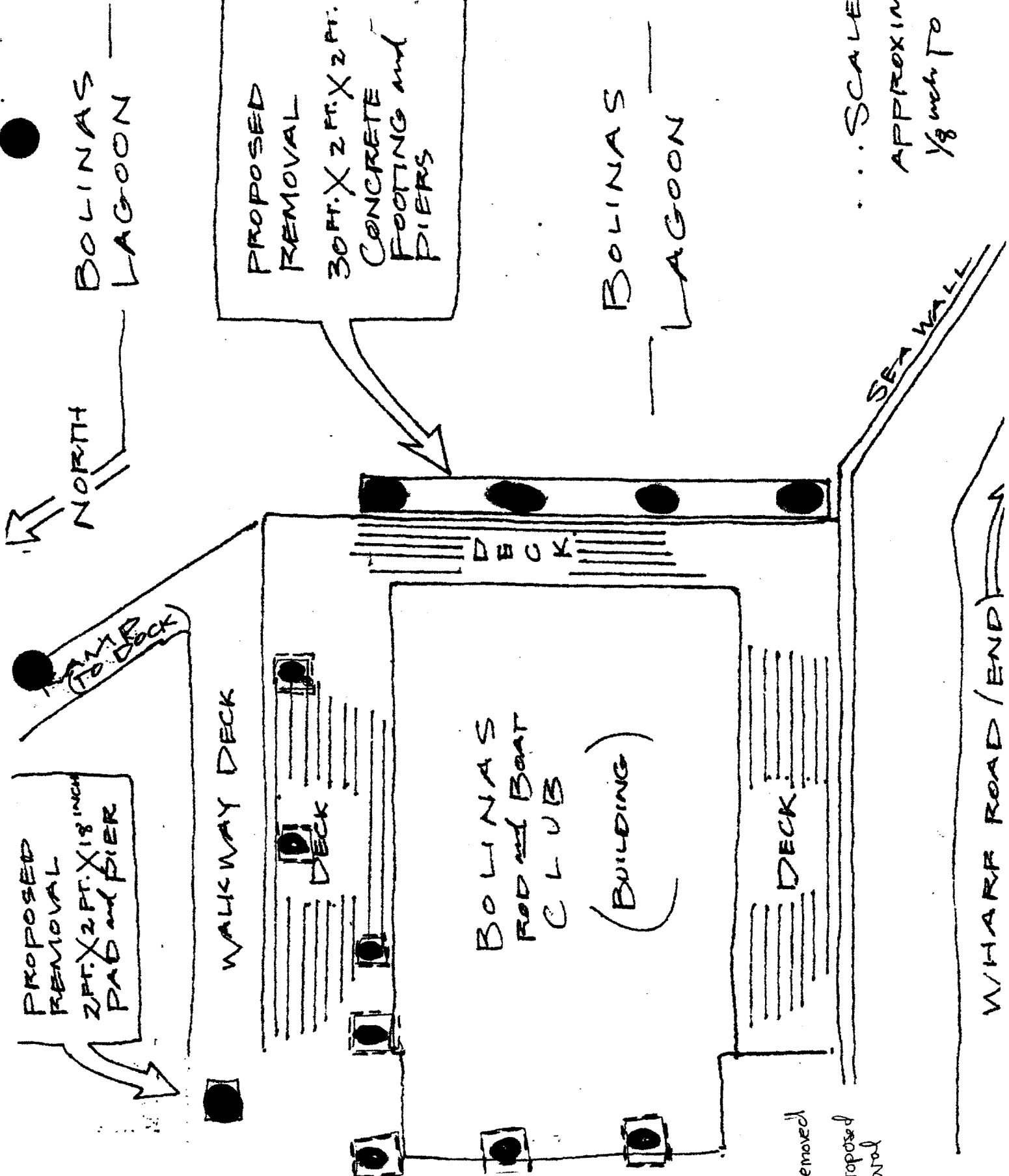


EXHIBIT NO.	1
APPLICATION NO.	2-00-023
Bolinas Rod & Boat Club	
Mean high tide line	



NORTH

BOLINAS LAGOON

PROPOSED REMOVAL  
30 FT. X 2 FT. X 2 FT.  
CONCRETE FOOTING and PIERS

BOLINAS LAGOON

... SCALE  
APPROXIMATE  
1/8 inch TO F

SEA WALL

WHARF ROAD (END)

PROPOSED REMOVAL  
2 FT. X 2 FT. X 18 INCH  
PAD and PIER

WALKWAY DECK

BOLINAS  
ROD and BOAT  
CLUB  
(BUILDING)

DECK

DECK

EXHIBIT NO.	3
APPLICATION NO.	2-00-023
Bolinas Rod & Boat Club	

- ☐ pilings removed
- piling proposed for removal

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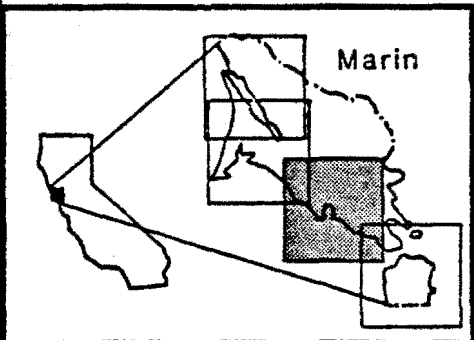
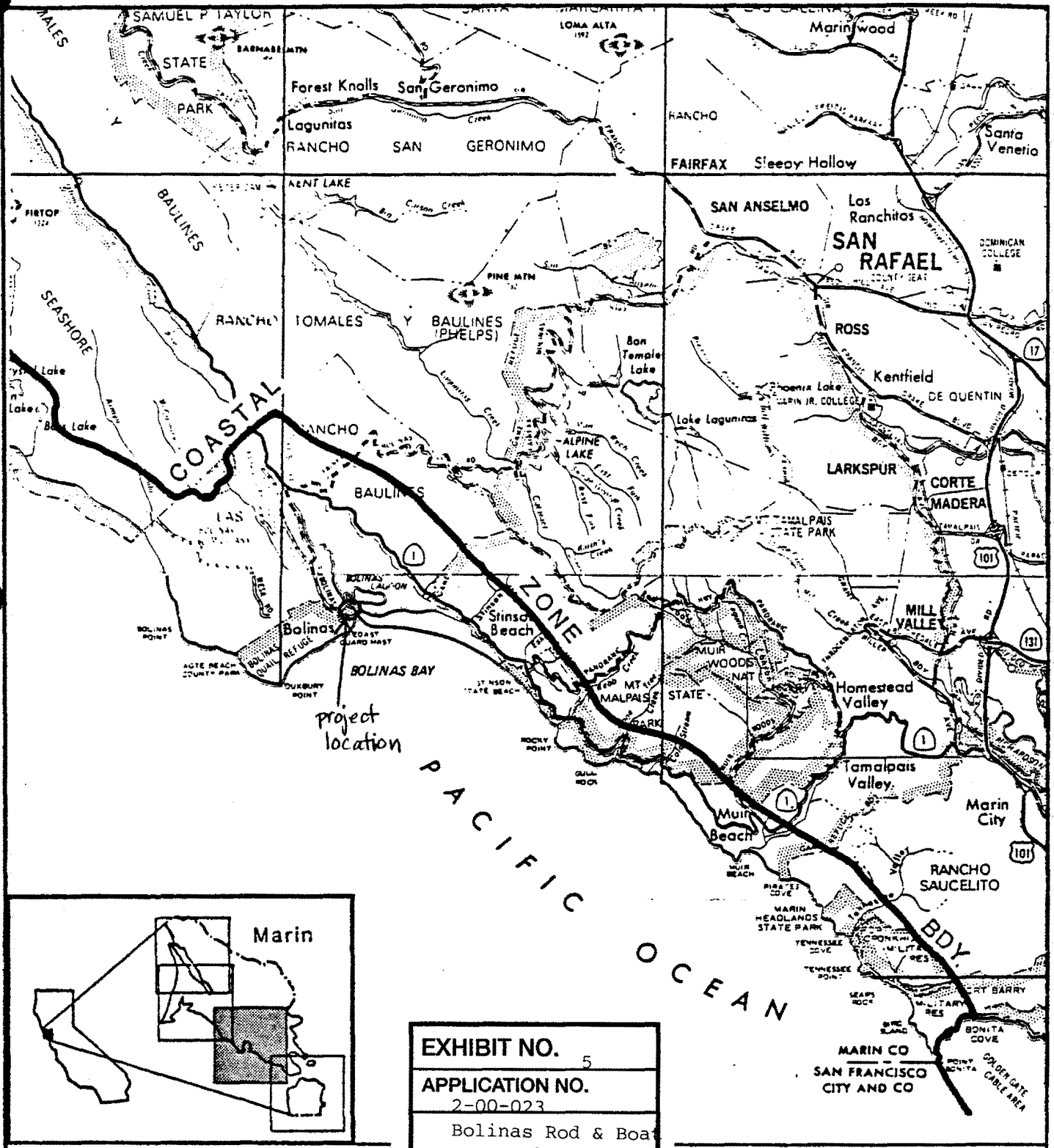
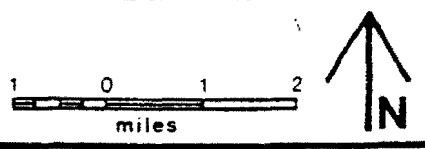


EXHIBIT NO.	5
APPLICATION NO.	2-00-023
Bolinas Rod & Boat Club	
Location Map	



California Coastal Commission

# LOCATION MAP