

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
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## RECORD PACKET COPY

# Th 6a

Date Filed: February 13, 2002  
49th Day: April 3, 2002  
180<sup>th</sup> Day: August 12, 2002  
Staff: Tiffany S. Tauber  
Staff Report: March 22, 2002  
Hearing Date: April 11, 2002  
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-01-064**

APPLICANT: **SUSAN FOX**

AGENT: Wes Marshall, Ray Wolfe Construction, Inc.

PROJECT LOCATION: 1460 Kane Ridge Road, Big Lagoon area,  
Humboldt County (APN 518-051-23)

PROJECT DESCRIPTION: Construction of a detached, 700-square-foot, 18-foot-high art studio adjacent to an existing single-family residence and expansion of an existing septic system.

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

ZONING DESIGNATION: Rural Residential Agricultural, minimum 20-acre lot size, Special Designation for Manufactured

SUSAN FOX

1-01-064

Page 2

Home Building Type Modification, and Coastal Elk  
Habitat combining zones (RA-20-M/E)

LOCAL APPROVALS RECEIVED: None Required

OTHER APPROVALS: None Required

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program; CDP File  
No. 1-88-73 (Bumble Bee, Inc.); CDP File No. 1-  
97-031 (Harmon)

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SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions of the proposed construction of a detached, 700-square-foot, 18-foot-high art studio adjacent to an existing single-family residence and the expansion of an existing septic system. The site is located off of Kane Ridge Road on the east side of Highway 101 in northern Humboldt County. The site is located within an area of deferred certification, in an inland area of the coastal zone.

The 20-acre property lies adjacent to a 570-acre state park acquisition area intended to protect the native western azalea (*Rhododendron occidentale*) and much of the surrounding area has been known to support habitat for the azalea, 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 in past permit actions. However, the western azalea is not protected under state or federal endangered species laws as a rare, threatened, or endangered species, and it is currently unclear whether the western azalea meets the Coastal Act definition of environmentally sensitive habitat. Nonetheless, the applicant has submitted botanical information indicating that no azaleas are present within the proposed building site adjacent to the existing residence, which is comprised primarily of ruderal grassy vegetation. Additionally, the proposed underground septic improvements would be located in an area currently used as a dirt walkway, and would not require vegetation removal. Staff conducted a site visit and confirmed that no azaleas are present in the development area. Therefore, regardless of whether they meet the Coastal Act definition of environmentally sensitive habitat, no azaleas would be removed or impacted by the proposed development.

The project site is also designated in the Humboldt County LCP 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 project would not interfere with elk moving across the property and would not increase development density in a manner that would displace elk habitat.

Therefore, staff recommends approval of the proposed art studio and septic system improvements, as the proposed development would be consistent with the Chapter 3 policies of the Coastal Act.

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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.

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**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. 1-01-064 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. Permitted Development

This permit is only for the development described in coastal development permit No. 1-01-064. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to, a change in the density or intensity of use of land shall require an amendment to Permit No. 1-01-064 from the California Coastal Commission or shall require an additional coastal development permit unless the Executive Director determines that no amendment or permit is legally required.

### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

#### 1. Site Description & Project Description

The project site is located in the Big Lagoon area of northern Humboldt County on a coastal ridge inland of Highway 101 within a rural residential area. The site sits on the upper slopes of Stagecoach Hill at approximately 600 feet above sea level and overlooks Big Lagoon and the Pacific Ocean. The 20-acre property lies adjacent to a 570-acre state park acquisition area intended to protect the native western azalea (*Rhododendron occidentale*). The project site is located east of Highway 101 and is not visible from public vantage points because the site is located off of a dead-end private road and the surrounding forests and natural landforms screen the site from view. (Exhibit Nos. 1 & 2)

The proposed development involves the construction of a 700-square-foot, one-story art studio adjacent to an existing single-family residence and improvements to an existing septic system including an approximately 19' x 6' expanded leach field and connecting leach line (Exhibit Nos. 3, 4, & 7). The existing residence and septic system was approved by the Commission in 1988 under Coastal Development Permit No. 1-88-73 (Bumble Bee, Inc.). The proposed project does not involve the removal of any trees or major vegetation and would not require any grading.

The permit for the existing single-family residence included a special condition to protect the native western azaleas and azalea habitat at and around the site. Special Condition No. 1 of CDP No. 1-88-73 required the applicant to record a deed restriction wherein the applicant or any future owner of APN 518-051-23 agrees to not disrupt or harm any of the azalea plants outside of the 200 x 225 foot "building locus area" designated under CDP No. 1-88-73 and to not plant any other azalea species on the property. Consistent with this deed restriction, the proposed art studio would be located within the building locus area designated under CDP No. 1-88-73 and would not involve the removal or disruption of any azaleas. The proposed septic system

improvements would be constructed outside the "building locus area," but would not result in the removal or disruption of any azaleas at the site.

## 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. Need for a Permit

Section 30610(a) of the Coastal Act exempts certain improvements to existing single-family residences from coastal development permit requirements. Section 30610 states in applicable part that:

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

*(a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter.*

Section 13250 of the Coastal Act of the Commission's Regulations specifies the types of improvements that are exempt from permit requirements and states in applicable part:

*(a) For purposes of Public Resources Code Section 30610(a) where there is an existing single-family residential building, the following shall be considered a part of that structure:*

- (1) All fixtures and other structures directly attached to a residence;*
- (2) Structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds; but not including guest houses or self-contained residential units...(emphasis added)*

...

The proposed project involves the construction of a detached art studio, which could be considered exempt from permit requirements under section 13250. However, the Commission notes that the art studio could also function as a guest house, which is specifically listed under section 13250(a)(2) as a type of development that is *not* exempt from permit requirements. The subject site is located in a non-certified area of Humboldt County. However, the certified Humboldt County coastal zoning ordinance provides guidance on the definition of a guest house. Section A313-5 (f) of the coastal zoning ordinance generally defines a guest house as a detached accessory building for temporary use by guests of the occupants of the premises in which the living quarters have no kitchen facilities. The proposed detached art studio does include bathroom facilities and as proposed, does not include a kitchen. In addition, as discussed below in Finding No. 4, the proposed studio requires an expansion of the existing septic system to accommodate the new development. Section 13250(b)(3) does *not* exempt the expansion or construction of septic systems from permit requirements because of the risk of adverse environmental effects involved with such development. Therefore, the Commission finds that because the studio could be utilized as a guest house and because the new development requires an expansion to the existing septic system to accommodate it, the proposed project is not exempt from permit requirements under Coastal Act Section 30610(a).

To ensure that the Commission would have the ability to review any proposed change of use of the art studio in the future, such as the conversion of the art studio to a second unit, the Commission attaches Special Condition No. 1. This condition clarifies that the permit is only for the development described in coastal development permit No. 1-01-064 and that any future development as defined in Coastal Act section 30106, including but not limited to, a change in the use of the art studio, requires an amendment to Permit No. 1-01-064 or an additional coastal development permit unless the Executive Director determines that no permit or permit amendment is legally required.

#### **4. 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 residential area where one single-family home per 20-acre parcel is a principally permitted use. The proposed art studio would be constructed directly adjacent to the existing residence and would be served by an existing water well and septic system. The County Division of Environmental Health has determined that the existing septic system requires a minor expansion to accommodate the potential increase in daily sewage flow resulting from the development of the art studio. Accordingly, the applicant has provided evidence that the County Division of Environmental Health has granted preliminary approval for the expansion of the existing sewage disposal system (Exhibit No. 6). Additionally, as discussed

in Finding No. 5 below, the proposed project would not result in adverse impacts to western azalea or elk habitat, or otherwise adversely impact coastal resources.

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.

**5. 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 two types of habitat including (1) azalea habitat, and (2) elk habitat. The site is located 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 two sections:

**a) Western Azalea**

The 20-acre property is located adjacent to a 570-acre state park acquisition area intended to protect the native western azalea (*Rhododendron occidentale*) and the subject property also provides habitat for the azalea. This species of azalea is not protected under state or federal endangered species laws as rare, threatened, or endangered. However, the habitat of the western azalea is recognized as environmentally sensitive in the Humboldt County North Coast Area Land Use Plan, applicable to areas outside the subject area of deferred certification. Additionally, the Commission has also recognized areas where the western azalea is found as

environmentally sensitive in past permit actions and has required both deed restrictions and other special conditions to protect the plant's habitat area.

For example, in the Commission's action on coastal development permit No. 1-97-031 (Harmon), the Commission found that the western azalea has scientific and educational value and is considered environmentally sensitive, in part, because of its limited range along the coast of California and Oregon. The azalea is found on the western, or ocean facing slopes because of a special combination of factors that are necessary for its survival. These factors include, but are not limited to: (a) the presence of mild winters and cool summers; (b) adequate rainfall distribution; (c) good ground moisture; (d) acidic soils and (e) sufficient elevation to avoid the damaging effects of salt spray. However, prior to receiving the current application, the Commission received information presented by a qualified biologist to suggest that the range of the western azalea is not limited to the coastline, but rather, extends from the Penninsular Ranges of southern California up through the outer and inner North Coast Ranges into Oregon and at higher elevations in the Cascade Ranges and Sierra Nevada. Furthermore, the biologist notes that according to the *California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California* (Skinner and Pavlik 1994), this species is not considered a rare or uncommon plant in California. Thus, there is some debate as to whether the western azalea is "environmentally sensitive" as defined by Coastal Act Section 30107.5.

Nonetheless, for purposes of the proposed project, a licensed landscape architect determined, and staff confirmed during a site visit, that no azaleas are present within the proposed building site adjacent to the existing residence, which is comprised primarily of ruderal grassy vegetation (Exhibit No. 5). In addition, the underground septic system improvements would be constructed in an area currently developed with a dirt walkway and no azaleas or vegetation would be removed. The permit for the existing single-family residence included a special condition requiring the protection of the native western azaleas and azalea habitat at and around the site. Special Condition No. 1 of CDP No. 1-88-73 required the applicant to record a deed restriction wherein the applicant or any future owner of APN 518-051-23 agrees to not disrupt or harm any of the azalea plants outside of the 200 x 225 foot "building locus area" designated under CDP No. 1-88-73 and to not plant any other azalea species on the property. Consistent with this deed restriction, the proposed art studio would be located within this designated building locus area and would not involve the removal or disruption to any azaleas. Furthermore, the proposed septic system improvements would not result in the removal or disruption of any azaleas at the site. As the deed restriction requiring protection of the azaleas has already been recorded pursuant to permit requirements for the residence, no additional mitigation measures are required.

b) **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 to 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, as the proposed 700-square-foot studio and underground septic system improvements would not impede elk moving through the property and would not result in a significant increase in development density in a manner that would displace elk habitat.

As proposed, the project would not result in adverse impacts to azalea habitat as no azaleas would be removed or disturbed by the project and a deed restriction has been previously recorded to ensure the protection of the azalea habitat at the site. 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.

## 6. 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 project site is located east of Highway 101 near the top of Stagecoach Hill and is not visible from public vantage points because the site is located off of a dead-end, private road and the surrounding forests and natural landforms screen the site from view. The project would not result in the alteration of natural landforms, as the building site is flat and would not require any grading. Additionally, the proposed project would be compatible with the style and design of the adjacent single-family residence and would be visually compatible with the rural residential character of the surrounding area. The proposed studio would be no taller than the existing residence and would be constructed of the similar siding and building materials and would be of the same color as the existing residence to ensure its visual compatibility with the house.

Therefore, the proposed project is consistent with Section 30251, as the proposed 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.

7. 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. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Mitigation measures that 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.

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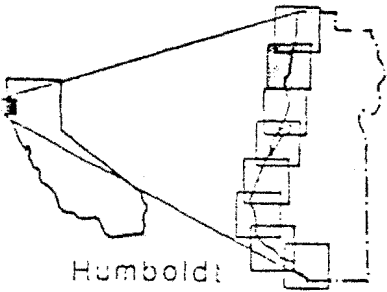
EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Site Plan
4. Elevations
5. Letter from Natzler Cunningham Designs (March 21, 2002)
6. Letter from Humboldt County Division of Environmental Health (February 22, 2002)
7. Septic System Improvements Location

ATTACHMENT A

Standard Conditions:

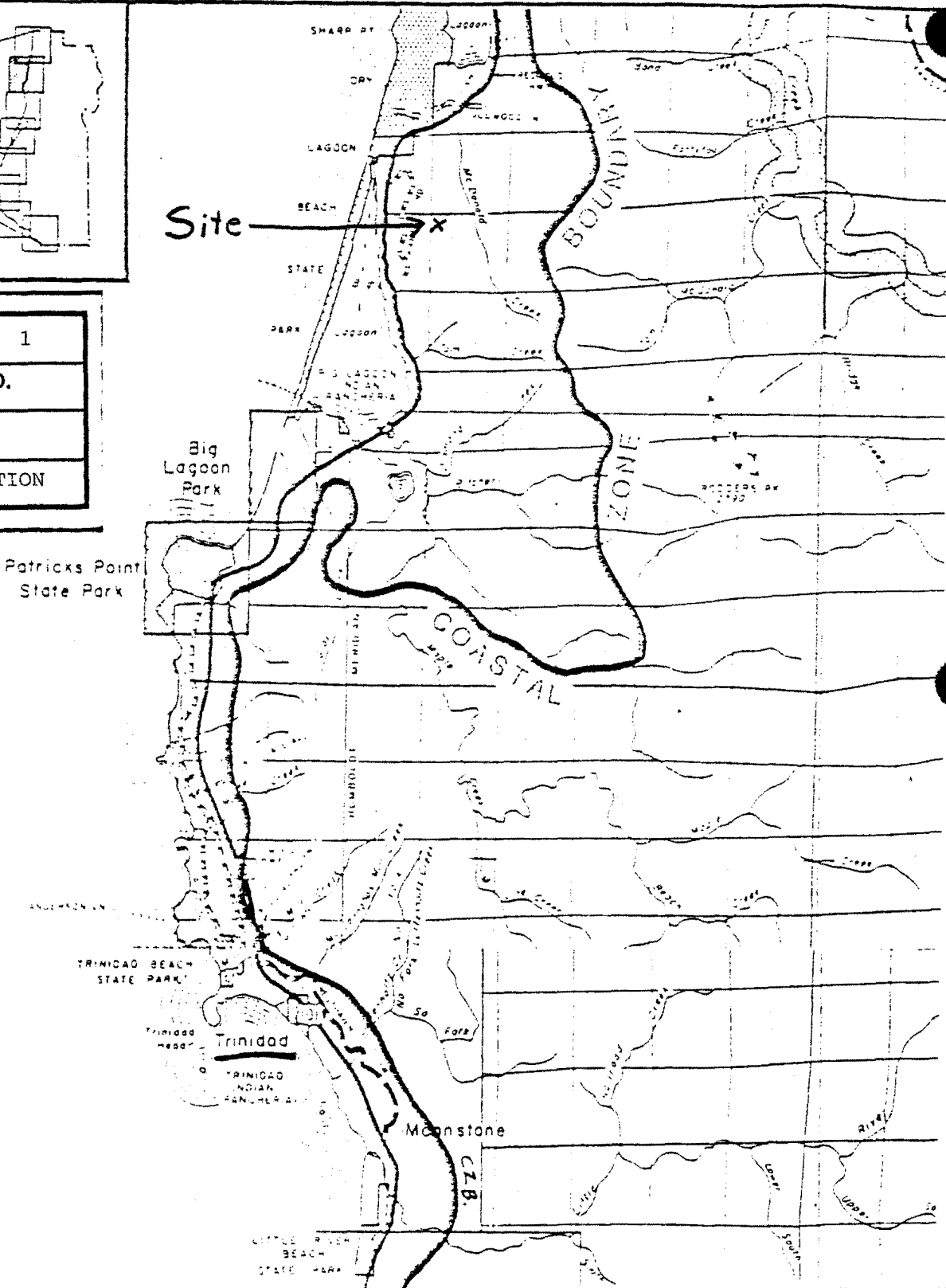
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.



Humboldt

<b>EXHIBIT NO.</b>	1
<b>APPLICATION NO.</b>	1-01-064
<b>FOX</b>	
<b>REGIONAL LOCATION</b>	

Site → X



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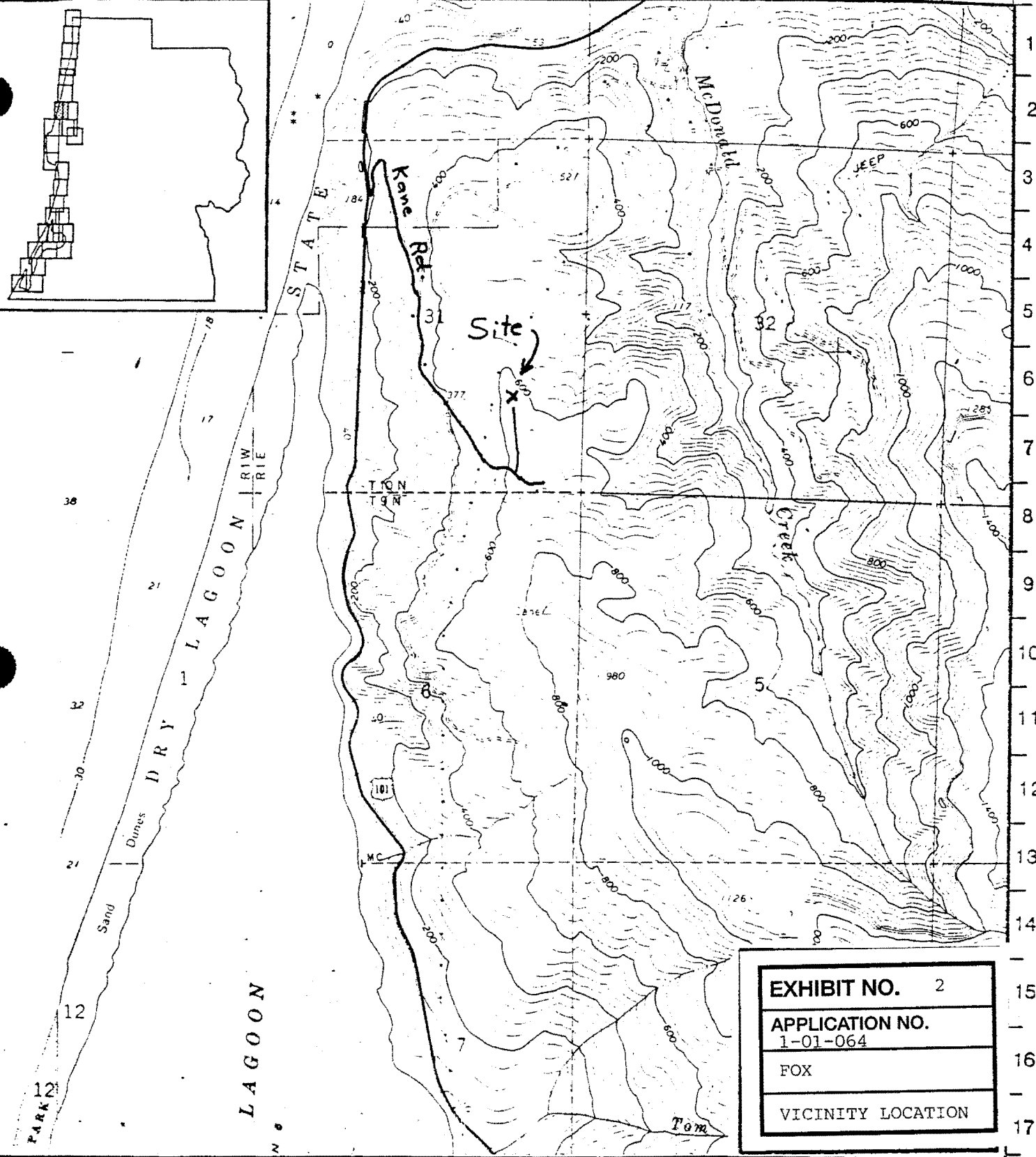
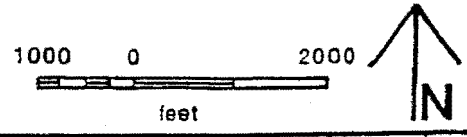


EXHIBIT NO.	2
APPLICATION NO.	1-01-064
FOX	
VICINITY LOCATION	

**BIG**  
California Coastal Commission



# KANE RIDGE ROAL

a non county road

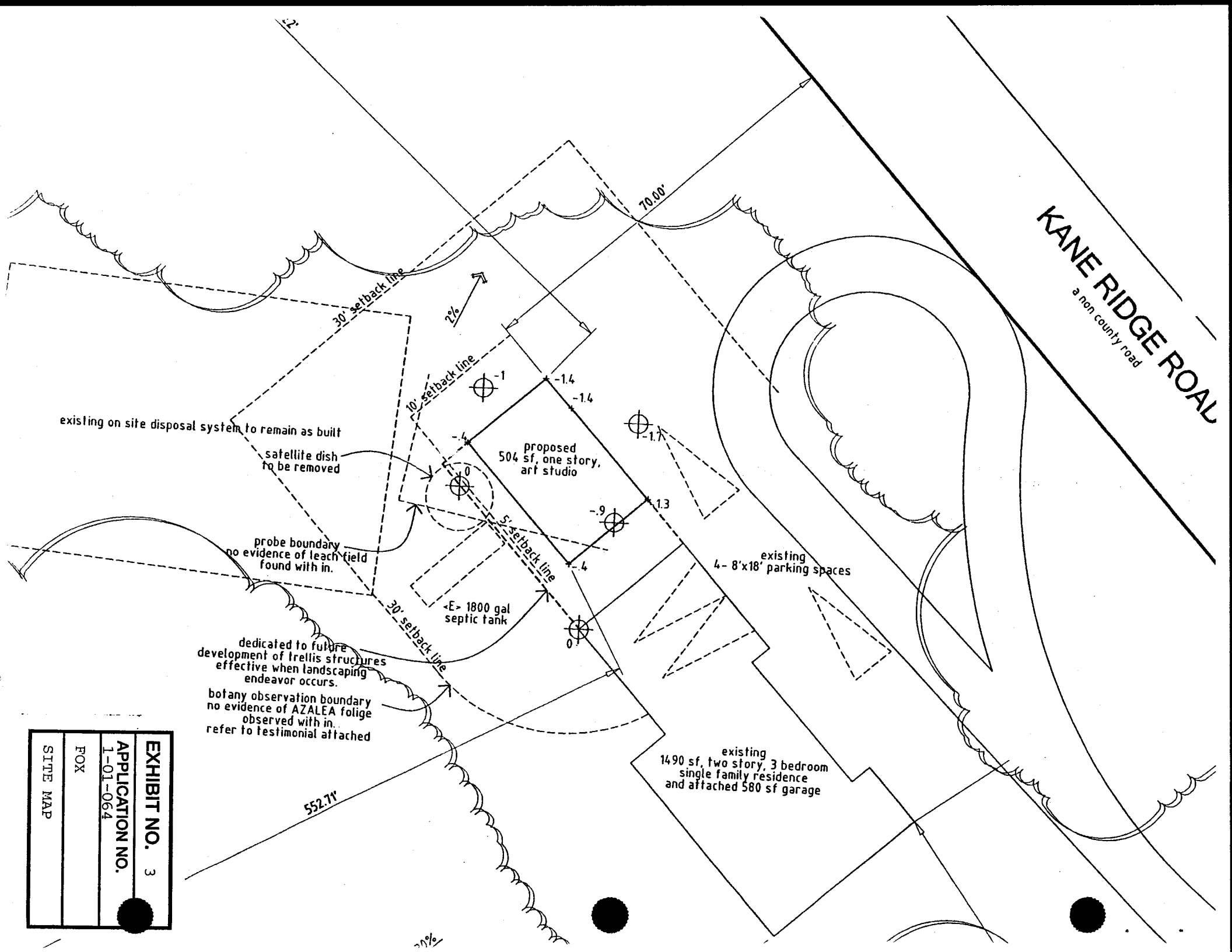


EXHIBIT NO. 3
APPLICATION NO. 1-01-064
FOX
SITE MAP

front side  
EAST

24  
24  
301-PANELS

24E

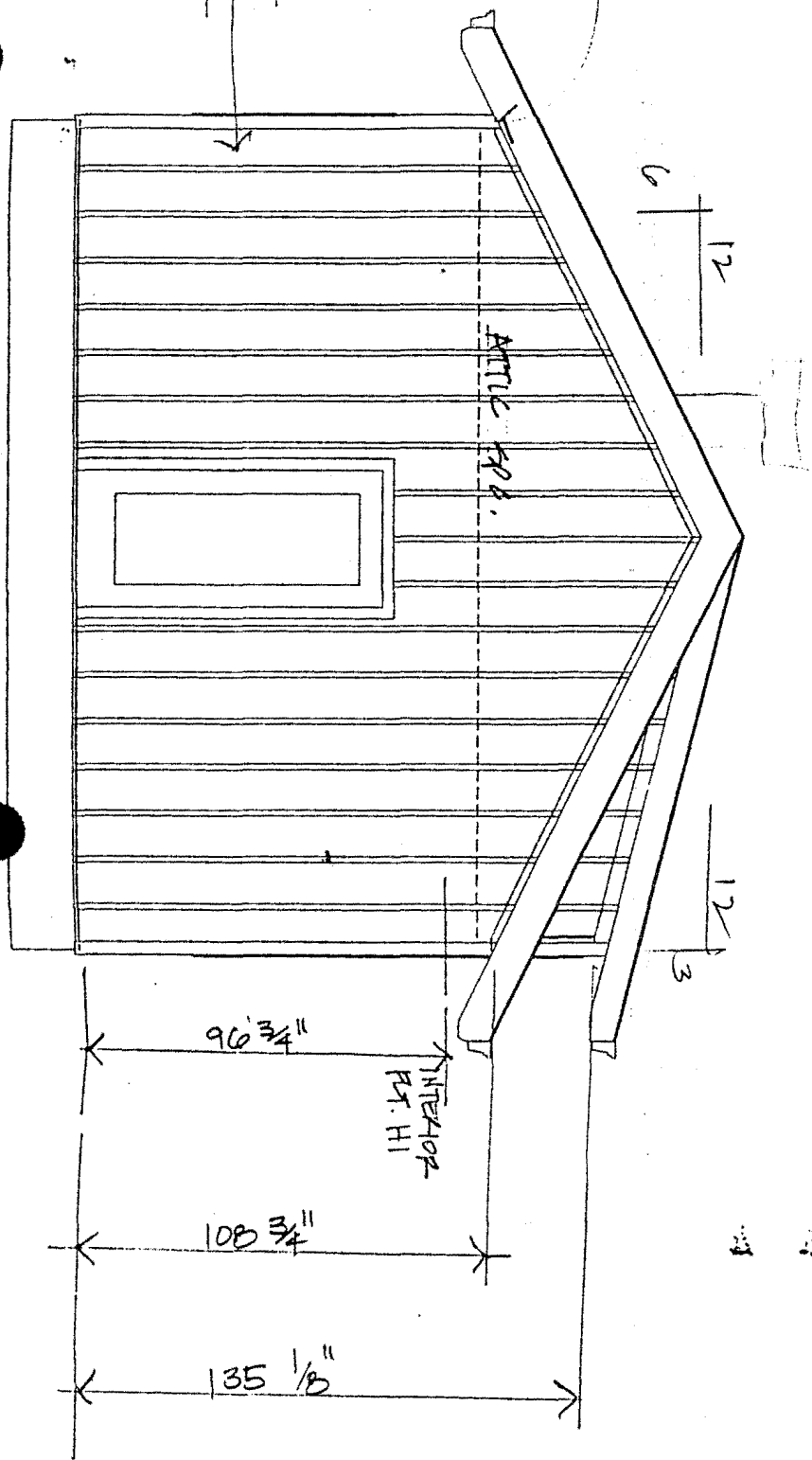
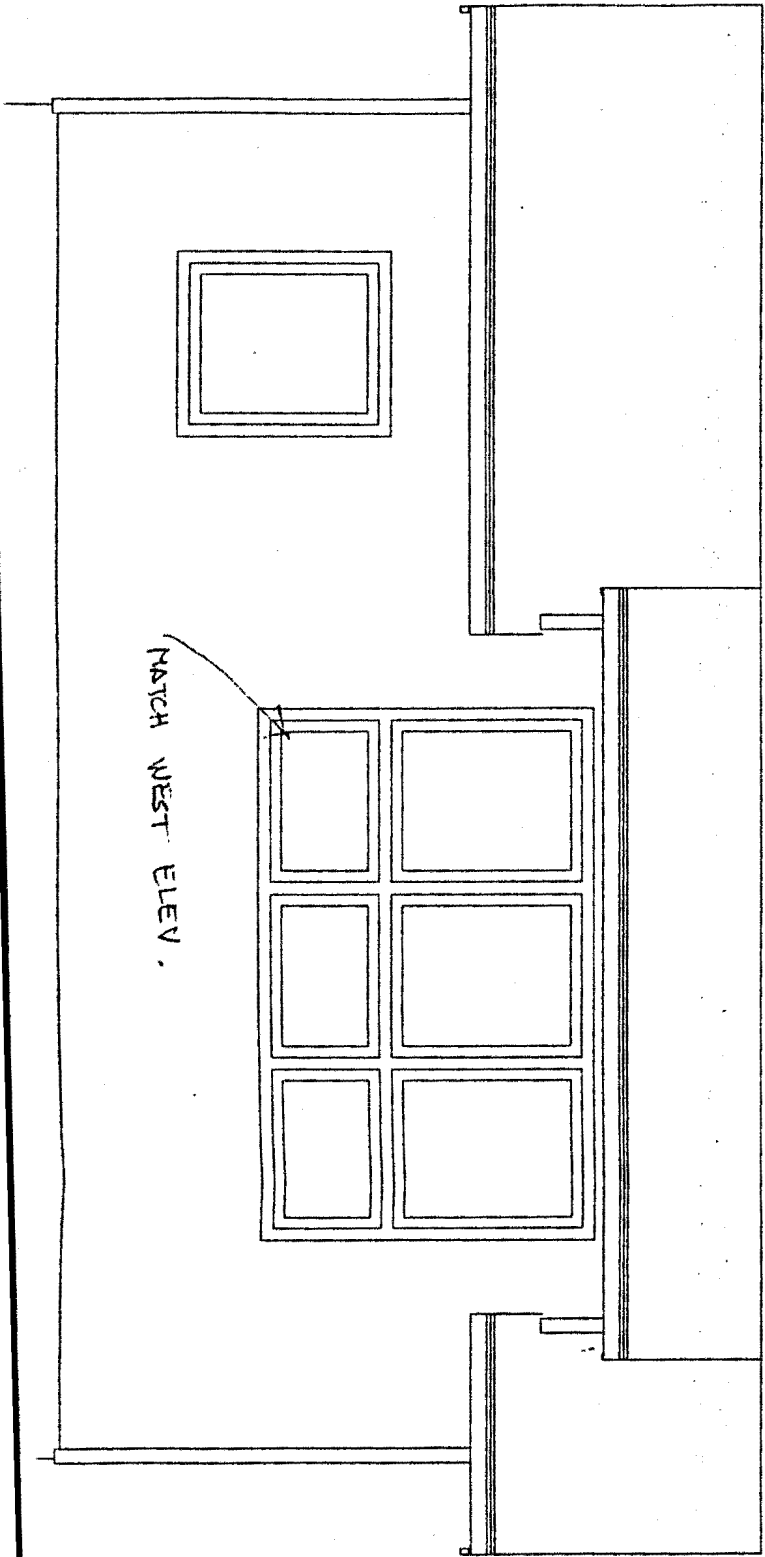


EXHIBIT NO.	4
APPLICATION NO.	1-01-064
FOX	
ELEVATIONS	(1 of 3)



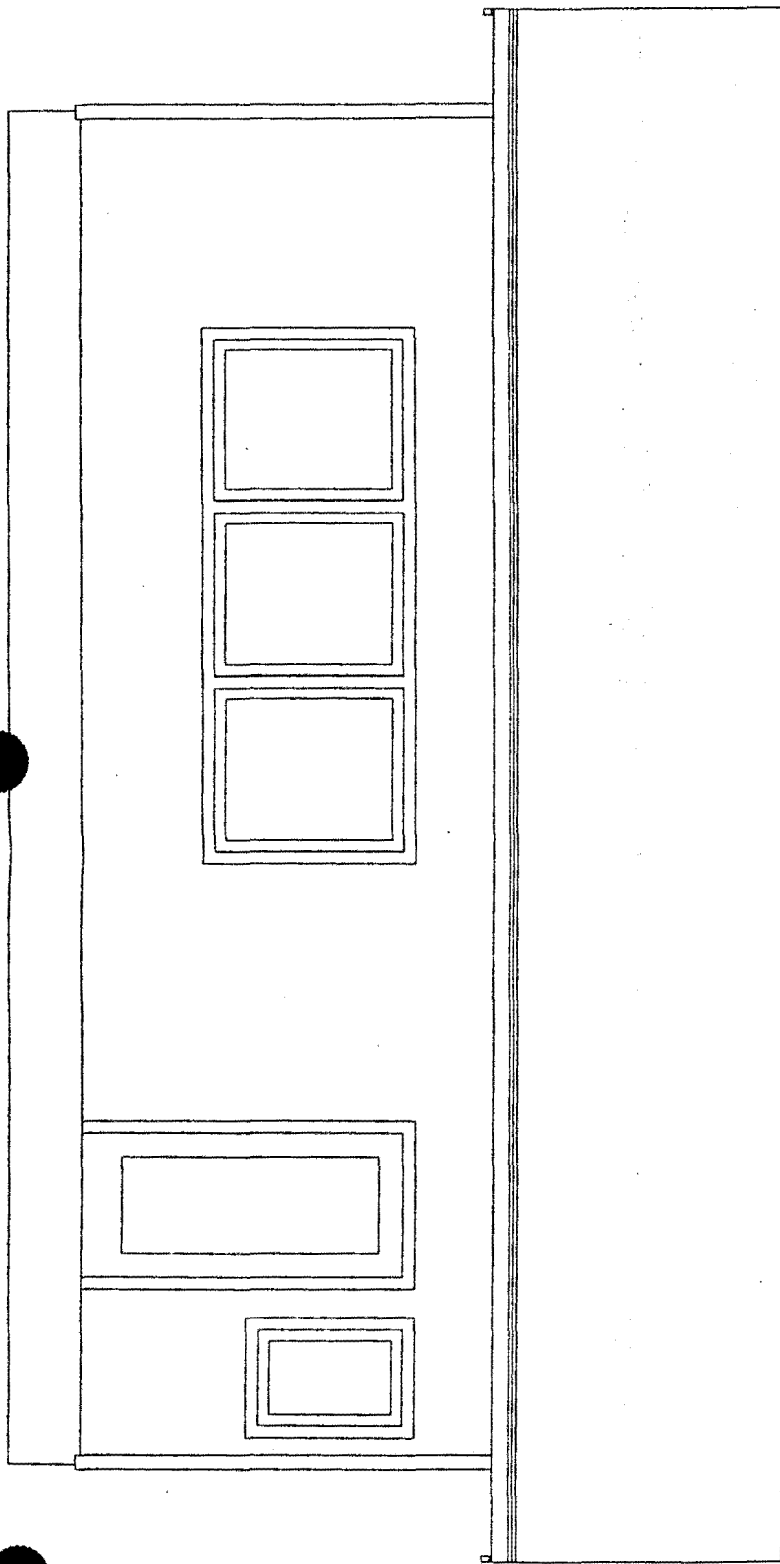
MATCH WEST ELEV.

243





Left side  
front



393

Sue Natzler, CA 491272

Jo Cunningham, CA 2649

NATZLER CUNNINGHAM DESIGNS  
landscape architecture and planning

March 21, 2002

**RECEIVED**

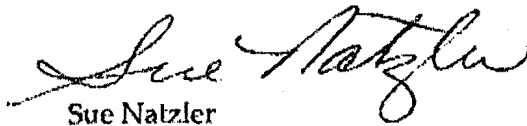
MAR 21 2002

CALIFORNIA  
COASTAL COMMISSIONCalifornia Coastal Commission  
FAX No. (707) 445-7877RE: 1460 Kane Ridge Road  
The Big Lagoon Area  
Parcel No. 518-051-23

I have inspected the above referenced property relative to the proposed addition of a studio building and have found that no existing *Rhododendron occidentale* (Western Azalea) are within the proposed construction area and that none will be affected by the building process.

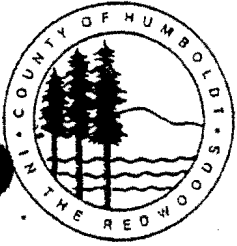
If additional information is required please contact me at (707) 441-1461.

Sincerely,

  
Sue Natzler

620 Second Street Eureka, CA 95501

EXHIBIT NO.	5
APPLICATION NO.	1-01-064
FOX	
AZALEA LETTER	



Humboldt County Department of Health and Human Services

**DIVISION OF ENVIRONMENTAL HEALTH**

100 H Street, Suite 100, Eureka, CA 95501

(707) 445-6215

FAX (707) 441-5699

Toll Free 1-800-963-9241

envhealth@co.humboldt.ca.us

February 22, 2002

California Coastal Commission  
North Coast District Office  
ATTN: Tiffany S. Tauber  
710 E Street, Suite 200  
Eureka, CA 95501-1865

**RECEIVED**

MAR 20 2002

CALIFORNIA  
COASTAL COMMISSION

RE: Coastal Development Permit Application No. 1-01-064  
AP #518-051-23

Dear Ms. Tauber:

The Humboldt County Division of Environmental Health (DEH) has approved a sewage disposal system permit for the expansion of the existing sewage disposal system on the aforementioned parcel to accommodate the potential increase in daily sewage flow resulting from the development of a studio.

If you have any questions regarding this matter please contact me at (707) 268-2209.

Sincerely,

A handwritten signature in black ink, appearing to read "DS", written over a horizontal line.

David Spinosa, R.E.H.S.  
Senior Environmental Health Specialist

DS/se

EXHIBIT NO.	6
APPLICATION NO.	1-01-064
	FOX
	SEPTIC APPROVAL

KANE RIDGE ROAD  
a non county road



Page 1 of 2

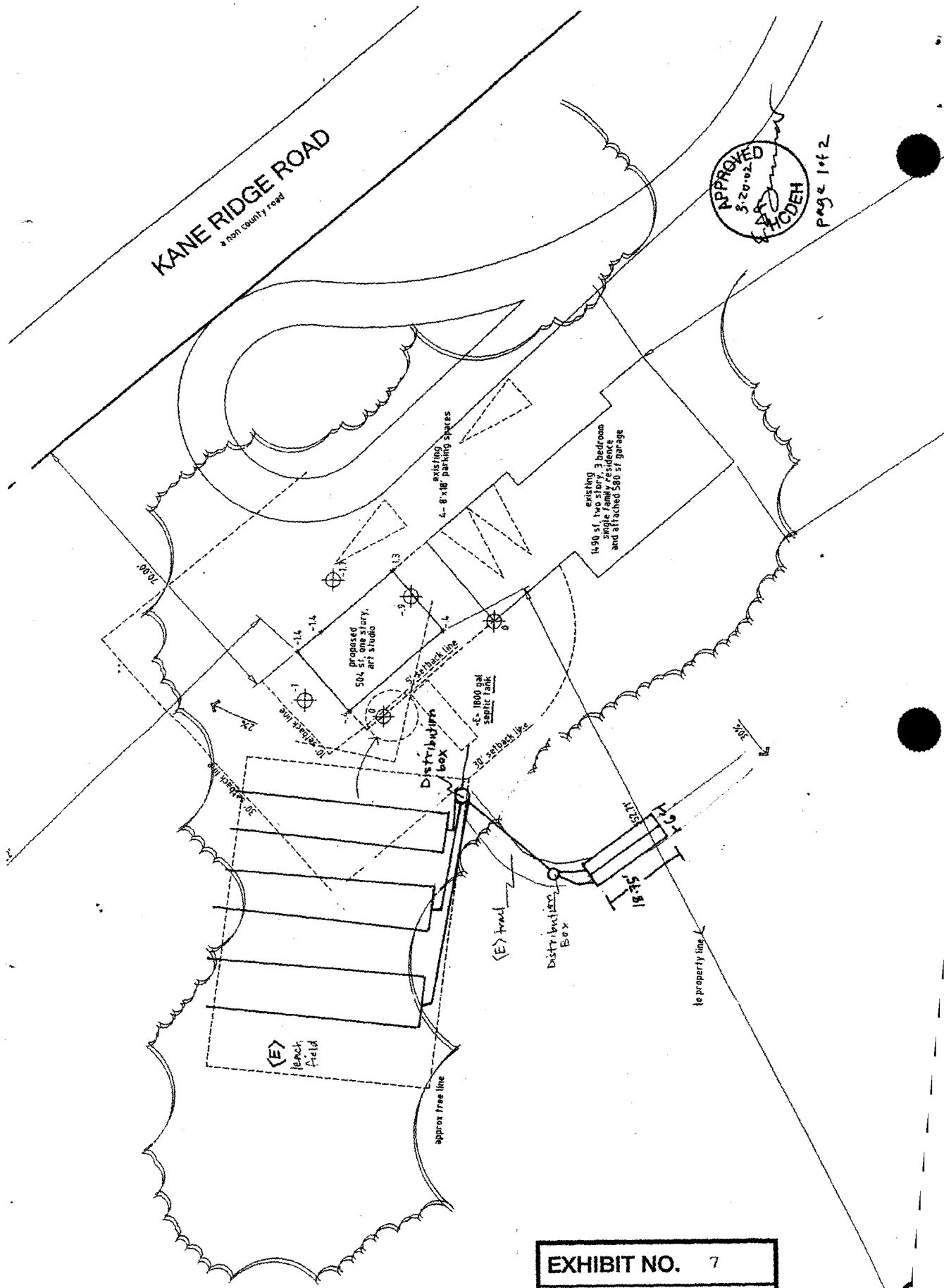


EXHIBIT NO.	7
APPLICATION NO.	1-01-064
FOX	
SEPTIC LOCATION	

1" = 20'