

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
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Staff:	SLB-SF
Staff Report:	May 22, 2003
Hearing Date:	June 12, 2003

STAFF REPORT: REGULAR CALENDAR

APPLICATION FILE NO: 2-03-006

APPLICANTS: BOLINAS ROD & BOAT CLUB

PROJECT DESCRIPTION: Repairs to a pile-supported foundation at the Bolinas Rod & Boat Club, including the removal of 2 x 6 braces, removal and replacement of 4 x 4 girders, removal and replacement of 6 x 12 girders, installation of knee bracing and cross bracing between existing piers, and replacement of rusted structural connections.

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

1.0 STAFF RECOMMENDATION

The staff recommends conditional approval of Coastal Development Permit Application No. 2-03-006.

Motion: *I move that the Commission approve Coastal Development Permit Application No. 2-03-006, subject to the conditions specified below.*

Staff Recommendation of Approval

The 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.

Resolution

The Coastal Commission hereby **grants** permit No. 2-03-006, subject to the conditions below, for the proposed development on the grounds that (1) the development is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and (2) there are no feasible alternatives or feasible mitigation measures other than those specified in this permit that would

substantially lessen any significant adverse impact that the activity may have on the environment.

1.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
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.

1.2 Special Conditions

1. Limitations on Development.
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.
3. Chemical Control
PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide certification from the supplier for any lumber used for the development that is treated with ammoniacal copper zinc arsenate (ACZA) that the wood has been conditioned following treatment to minimize leaching of arsenic in accordance with the *Best Management Practices for the Use of Treated Wood in Aquatic Environments, July 1996*, and any revisions thereto, developed by the Western Wood Preservers Institute.
4. Assumption of Risk, Waiver of Liability and Indemnity
By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from seismic activity and storm and wave conditions; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its

officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

5. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

2.1 Project Location

The project site, located at 83 Wharf Road, Bollnas, is on the southwest side of Bollnas Lagoon (Exhibit 1, Regional Map & Exhibit 2, Vicinity Map). The parcel (APN: 193-082-17) is bounded by Wharf Road to the southwest and extends northeast into the lagoon (Exhibit 3, Assessor Parcel Map). This is a privately-owned tidelands parcel that was originally conveyed from the state to a private party in 1869. The Bollnas Rod and Boat Club purchased the property in 1953. The club building is located on pilings seaward of Wharf Road, and a bulkhead separates the road from the lagoon. At high tide, the waterline abuts the bulkhead, inundating the entire parcel with water. During low tide, the tide line is just within the northeastern boundary of the parcel. Parcel 18, the adjacent property to the west, contains a residence, and Parcel 24 on the southeast side of the club is a undeveloped.

2.2 Project Background

The existing club building is an old houseboat on pilings. The structure was in place when the Bollnas 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.

2.3 Project Description

The applicant proposes to repair the existing pile-supported foundation of the Bolas Rod and Boat Club. The repairs include removing 2 x 6 braces, removing 4 x 4 girders and replacing them with 6 x 8 girders, removing and replacing 6 x 12 girders, installing knee bracing and cross bracing between existing piers, and replacing rusted, failed structural connections with hot dip galvanized connections (Exhibit 4, Site Plan and Details). The applicant proposes to use the section of the boat club property immediately adjacent to Wharf Road and the boat club deck as the staging areas for project-related equipment and materials. All work would be performed during tides ranging from about three feet and lower, using drills, glue guns, and skill saws. During these tides all of the foundation is exposed allowing the complete site cleanup at the end of each day.

2.4 Permit Authority, Extraordinary Methods of Repair and Maintenance, Shoreline Protection Structures

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part:

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

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

Section 13252 of the Commission regulations provides, in relevant part:

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:

(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;

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(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.

[Emphasis added]

The proposed project is a repair and maintenance project because it does not involve an addition to or enlargement of the existing foundation being repaired. Although certain types of repair projects are exempt from CDP requirements, Section 13252 of the regulations requires a coastal development permit for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed development involves repair to an existing boathouse foundation that would involve the placement of construction materials and removal and placement of solid materials within 20 feet of coastal waters. The proposed repair project therefore requires a coastal development permit under Sections 13252(a)(1) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity of the underlying existing development with the Coastal Act.

2.5 Coastal Act Issues

2.5.1 Biological Resources

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 states:

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

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

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.

The proposed development is located in the mudflats of Bolinas Lagoon. Bolinas 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, Bolinas Bay, Estero San Antonio, Estero de Americano, Duxbury Reef, and Bolinas 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, Bolinas Lagoon is one of only 13 that sustains large numbers of migratory shorebirds. Furthermore, the Bolinas Lagoon Management Plan prepared by Marin County in 1996 also identified three species each of amphibians and mammals that frequent Bolinas Lagoon as rare, threatened, or endangered. Marin County designates Bolinas Lagoon as a County Nature Preserve. The U.S. Army Corps of Engineers found that Bolinas Lagoon is part of a larger natural habitat complex that is part of or adjacent to the Sanctuary, encompassing the Pt. Reyes National Seashore, Golden Gate National Recreation Area, Central California Coast Biosphere Preserve, Mt. Tamalpais State Park, and the Audubon Canyon Ranch Bird Sanctuary.

Aspects of the proposed development may affect the water quality and biological resources of Bolinas Lagoon. The construction activities including the removal and replacement of girders, as well as drilling holes into existing piers for bolts, would generate dust and debris. In addition,

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there is a potential for leaching of the preservative from the treated wood to be utilized for the proposed development. Any of these materials could degrade the water quality and habitat in the project area, inconsistent with Sections 30230, 30231 and 30240(a) of the Coastal Act.

Section 30230 states that marine resources, especially those areas and species of special biological significance, shall be maintained and where possible enhanced. Section 30231 protects the biological productivity and the quality of coastal waters, and wetlands. If debris, sediment, or other materials are introduced into Bolas Lagoon during the development process, development may significantly adversely impact sensitive habitat and water quality in the project area, inconsistent with Sections 30230, 30231 and 30340(a).

These significant adverse impacts of the proposed development can be avoided through mitigation measures. Therefore, in order to prevent the introduction of debris into Bolas Lagoon, **Special Condition 1** prohibits development when the tide is at or above the elevation of the construction site. To prevent debris from remaining in the mudflats after low tide and being inundated with water, **Special Condition 2** requires all materials, debris and equipment to be removed from the lagoon mudflats on a daily basis, and requires disposal of all excavated materials outside of the Coastal Zone unless authorized under an approved coastal development permit.

In addition, the project involves the installation of pressure treated wood over Bolas Lagoon. The applicant proposes to use wood treated with ammoniacal copper zinc arsenate (ACZA). ACZA contains arsenic, a known human carcinogen that has been linked to nervous system damage and birth defects. The ACZA treated lumber is not proposed for residential use and humans would not have direct contact with the wood other than during installation; however, some leaching of the preservative from treated wood is expected to occur during the initial period of use. To increase leaching resistance of the active ingredients of various waterborne wood preservatives, including ACZA, proper chemical fixation must take place to render the toxic ingredients insoluble in water. The mechanism and requirements for these fixation reactions differ depending on the type of wood preservative. Some reactions occur very rapidly during pressure treatment while others may take days or even weeks to reach completion, depending on post-treatment storage and processing conditions. If the treated wood is placed in service before these reactions are completed, the initial release of preservative into the environment may be many times greater than for wood that has been adequately conditioned.

In ammoniacal wood preservatives, the metals are solubilized by ammonia and become insoluble as the ammonia evaporates. Some of the metals appear to simply precipitate within the wood, while others react with the wood structure. Volatilization of ammonia appears to be a key factor in fixation with ammoniacal preservatives, and this can be accomplished through either air drying or kiln drying, or a combination of the two. To minimize leaching of the ACZA ingredients, **Special Condition 3** requires the applicant provide certification from the supplier that the wood has been conditioned following treatment to minimize leaching of arsenic in accordance with the *Best Management Practices for the Use of Treated Wood in Aquatic Environments*, July 1996, and any revisions thereto, developed by the Western Wood Preservers Institute.

These measures would ensure that the proposed development would not significantly adversely affect Bolas Lagoon. Thus, the Commission finds that the proposed development, as

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conditioned, would protect and enhance the habitat resources of Bolas Lagoon, consistent with Coastal Act Policies 30230, 20231, and 30240(a).

2.5.2 Hazards

Coastal Act Section 30253 states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The project site is located within the San Andrea Fault Zone west of the 1906 fracture trace and may be subject to significant seismic activity. The club is also located on pilings within Bolas Lagoon and maybe subject to heavy surf and wave conditions during storms. Given the location of the property, the Commission finds that the subject lot is an inherently hazardous piece of property. Failure to design or perform the proposed repairs sufficiently to withstand these conditions could result in failure of either structure and/or injury to persons or damage to property. Since the applicant voluntarily proposes development on a geologically hazardous site, the Commission imposes **Special Condition 4**, which requires the landowner to assume the risks of any losses associated with the proposed development due to seismic or wave hazards of the property, waive any claim of liability on the part of the Commission for such losses, and indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. The Commission finds that **Special Condition 4** is required because the applicant has voluntarily chosen to implement the project despite the risk of hazards.

In addition, **Special Condition 5** requires that a deed restriction be recorded informing future buyers of the property of the special conditions of the permit, including the requirement that the landowner assume the risk and indemnify the Commission from all liability associated with the approved development. Recordation of such a deed restriction will provide notice to future buyers/owners of potential hazards of the property and eliminate false expectations of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future. In addition, the condition ensures that future owners will be informed of the Commission's immunity from liability and the indemnity afforded the Commission. Therefore, as conditioned, the proposed development minimizes risks to life and property in areas of high geologic, flood, and fire hazard and is consistent with Section 30253 of the Coastal Act.

2.6 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

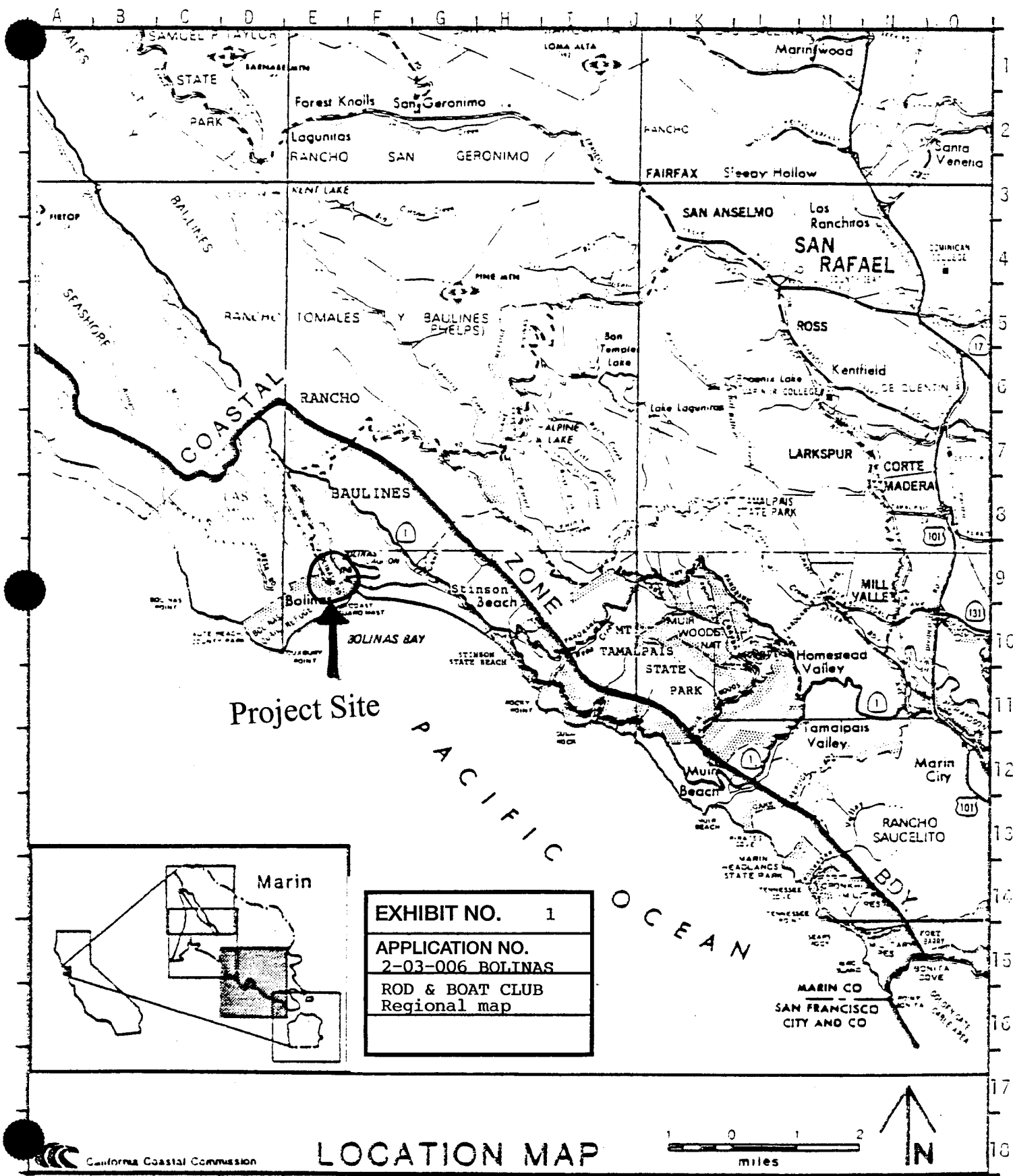
2-03-006 (Bolin's Rod & Boat Club)

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 or eliminate all significant adverse environmental effects. Mitigation measures have been imposed to prevent impacts to water quality and biological resources and protect against seismic or wave hazards. 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 can be found consistent with Coastal Act requirements to conform to CEQA.

EXHIBITS:

1. Regional map
2. Vicinity map
3. Assessors Parcel Map
4. Site plans and Details



Current Map

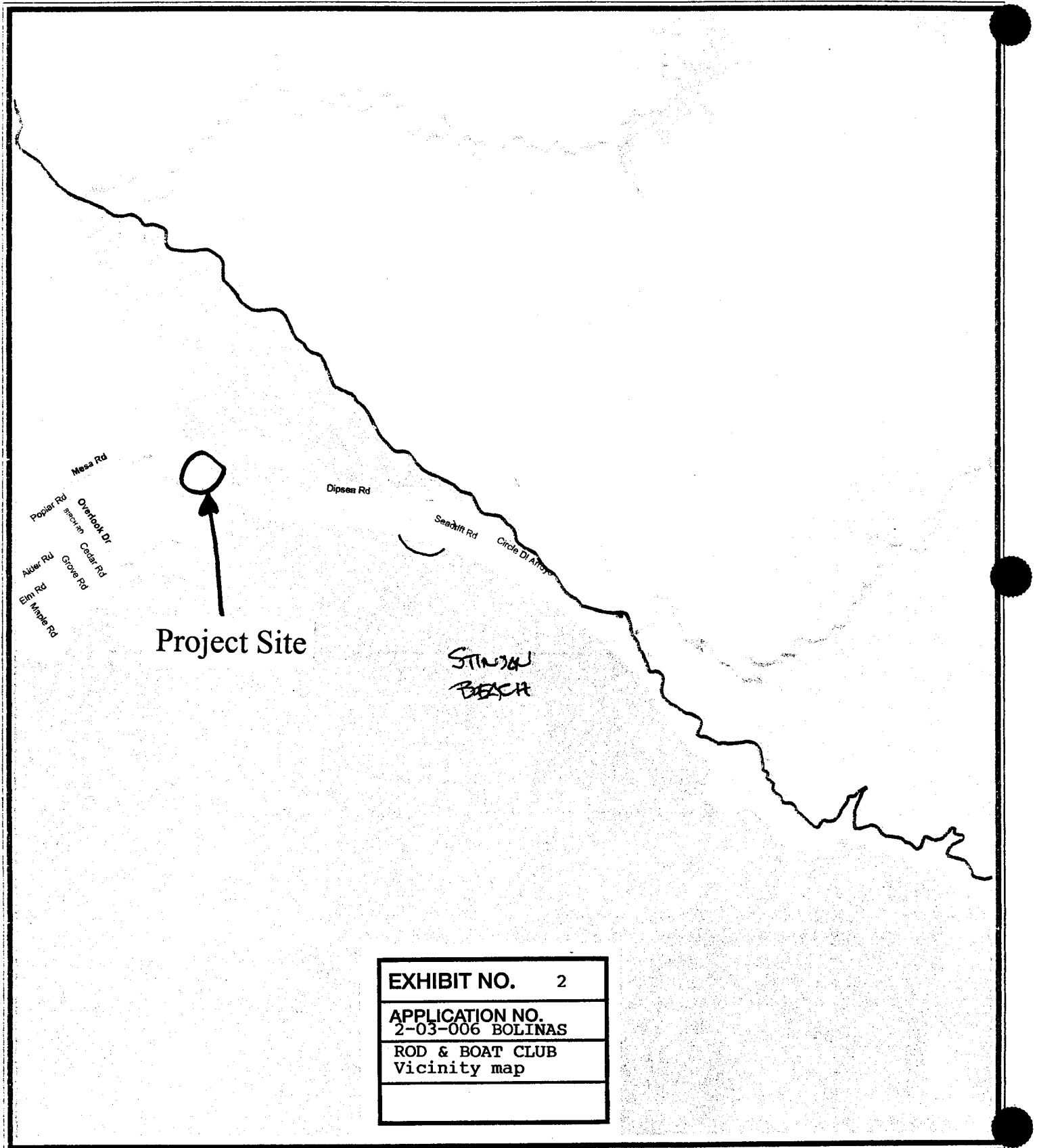


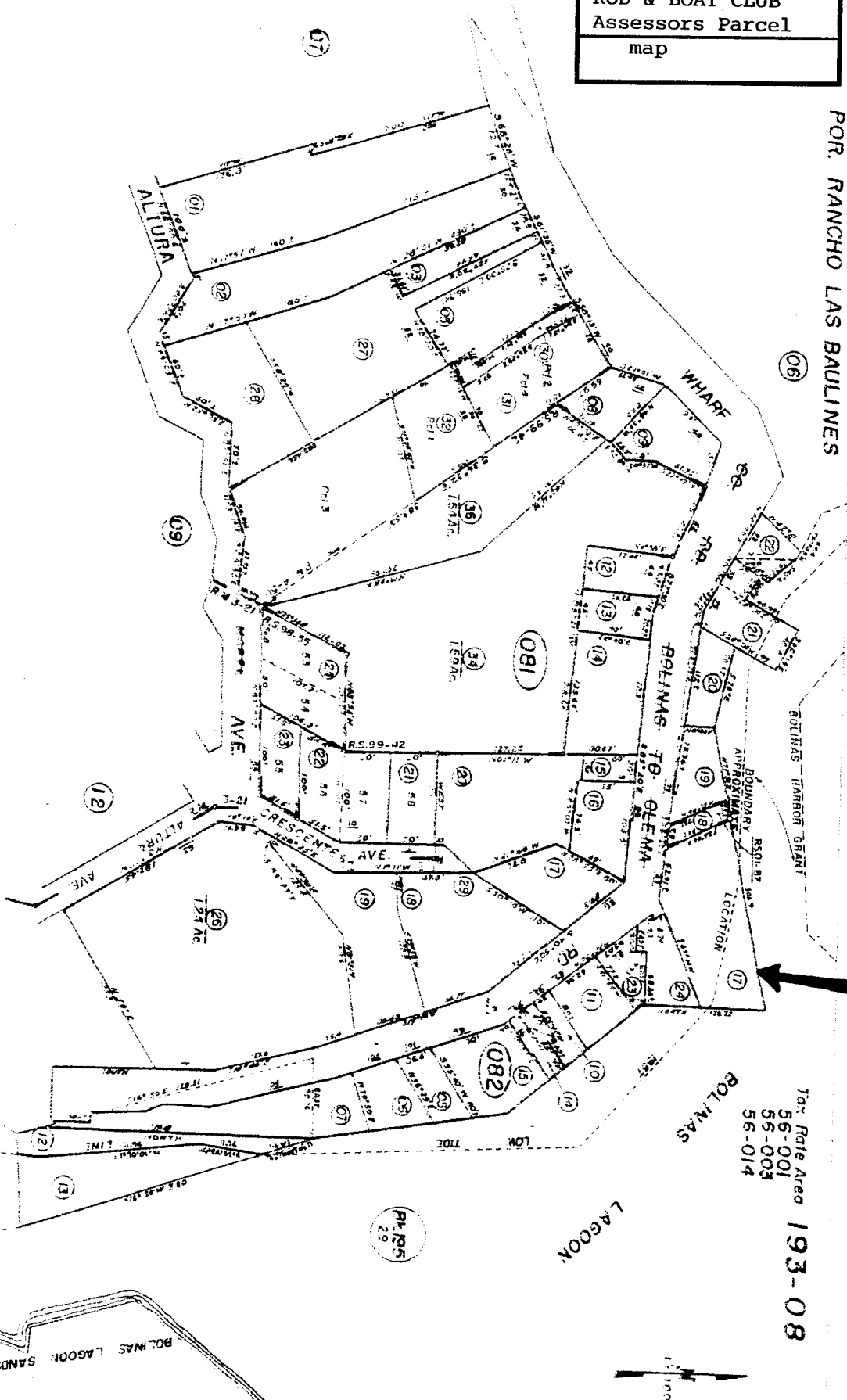
EXHIBIT NO. 3

APPLICATION NO.
2-03-006 BOLINAS

ROD & BOAT CLUB
Assessors Parcel

map

POR. RANCHO LAS BAULINES



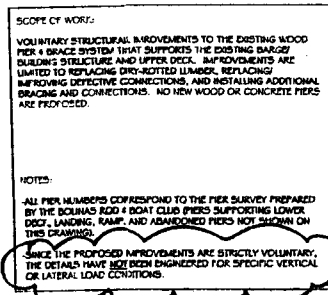
Project Site

Tax Rate Area 193-08
56-001
56-003
56-014

Bolinas Highlands, R.M. Rk. 3, Pg. 21
Grant to Bolinas Harbor District, Can 608

NOTE - Assessor's Block Numbers Shown in Ellipse.
Assessor's Parcel Numbers Shown in Circle.

TOWN OF BOLINAS
Assessor's Map Rk. 193-08
County of Marin



FRAMING PLAN

