

**CALIFORNIA COASTAL COMMISSION**

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Staff: Charles Posner - LB

Hearing Date: April 13, 2011

Commission Action:

**W25a****STAFF REPORT: PERMIT AMENDMENT****APPLICATION NUMBER:** 5-95-055-A11**APPLICANTS:** City of Long Beach & Aquarium of the Pacific**AGENT:** Barbara Long, Vice President, Aquarium of the Pacific**PROJECT LOCATION:** 100 Aquarium Way, Downtown Shoreline area, City of Long Beach.**DESCRIPTION OF PERMIT AMENDMENT REQUEST 5-95-055-A11:**

Expand footprint and facilities of the existing aquarium use in Shoreline Park for construction of a 23,330 square foot "Pacific Visions" aquarium expansion project.

[See Page Two for the Commission's prior approvals for aquarium-related projects.]

**LOCAL APPROVALS:**

1. City of Long Beach Site Plan Review & Conditional Use Permit, Case No. 0910-06.
2. City of Long Beach (CEQA) Negative Declaration No. MND 1-10, 6/17/2010.

**SUMMARY OF STAFF RECOMMENDATION**

Although the City of Long Beach has a certified Local Coastal Program (LCP), the Commission has permit jurisdiction over the proposed development because the aquarium is situated on State Tidelands within the Commission's area of original jurisdiction. Pursuant to Section 30519 of the Coastal Act, any development located within the Commission's original jurisdiction requires a coastal development permit from the Commission. The Commission's standard of review for the proposed event is the Chapter 3 policies of the Coastal Act.

Staff is recommending that the Commission **APPROVE** the permit amendment for the proposed development with special conditions relating to the preservation of public open space in the park, mitigation for the use of public park space in the form of free aquarium admission (as proposed by the applicants, at least ten percent of all visits will be free), the protection of water quality, landscaping, and the permittees' assumption of risk. The applicants agree with the recommendation. **See Page Four for the Motion** to carry out the staff recommendation.

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Long Beach Certified Local Coastal Program (LCP), 7/22/80.
2. City of Long Beach Local Coastal Program Amendment Request No. LOB-MAJ-02-10.
3. Amended Coastal Development Permit 5-95-055 (Aquarium of the Pacific).
4. Amended Coastal Development Permit 5-96-124 (Rainbow Harbor/Shoreline Park).
5. Amended Coastal Development Permit 5-96-268 (City of Long Beach Parking Structure).
6. Amended Coastal Development Permit 5-98-156 (The Pike Commercial Development).

**PRIOR COMMISISON APPROVALS:****PROJECT ORIGINALLY APPROVED ON MAY 10, 1995 (5-95-055):**

Construction of the Long Beach Aquarium of the Pacific including: 1) demolition of a 70-space recreation vehicle park; 2) demolition of the Queensway Bay Bridge ramps that connect to Shoreline Drive; 3) construction of new Queensway Bay Bridge ramps that connect to Shoreline Drive; 4) construction of new signalized intersection at Shoreline Drive and Chestnut Place; 5) construction of a new parking lot (approximately 434 spaces); 6) installation of parking meters on all parking spaces for aquarium and Shoreline Park; 7) construction of aquarium access roads and new signalized intersection at Shoreline Drive; 8) construction of new pedestrian and bicycle accessways; 9) construction of the 125,000 square foot aquarium building; 10) construction of a pipeline to convey barged ocean water to the aquarium from an existing dock at Catalina Landing; and 11) associated landscaping.

**5-95-055-A1:** Approve a Waived Tentative Parcel Map establishing two subdivision parcels for the development of the Long Beach Aquarium of the Pacific. [Approved October 11, 1995].

**5-95-055-A2:** Erect a 16-foot bronze dolphin sculpture (three jumping dolphins) in the center of the traffic circle adjacent to the Long Beach Aquarium of the Pacific on Aquarium Way. [Approved April 1998].

**5-95-055-A3:** Establish a United States Weather Bureau data collection station within the grounds of the Long Beach Aquarium of the Pacific. [Approved June 2000].

**5-95-055-A4:** Reconfigure existing outdoor "Kids Cove" area to include 20-foot high walk-through aviary, 6,000 square foot touchpool with 30-foot high shipwreck theme, and 13,800 square foot amphitheater and seating area. [Approved April 10, 2001].

**5-95-055-A5:** Installation of a 24-foot high, two-story, 880 square foot prefabricated structure to be used as a shop (first floor) and staff office (second floor). The structure would be placed within the facility's existing rear utility area (west side). [Approved October 2001].

**5-95-055-A6:** Revised plans for the reconfiguration of the existing outdoor "Kids Cove" area. The plans previously approved by permit amendment 5-95-055-A4 included a 20-foot high walk-through aviary, a 6,000 square foot touchpool with 30-foot high shipwreck theme, and a 13,800 square foot amphitheater and seating area. The revised plans

proposed by this amendment (5-95-055-A6) include the 20-foot high walk-through aviary, a 3,200 square foot touchpool with 25-foot high shade structure, and a 16,800 square foot amphitheater and seating area. The shipwreck structure and theme are being deleted from the plan. The proposed development is situated entirely within the boundaries of the previously approved Aquarium of the Pacific lease parcel. [Approved December 2001].

**5-95-055-A7:** Installation of a 1.35-megawatt cogeneration plant to provide the facility with electric power. The plant would be placed within the facility's existing rear utility area (west side), entirely within the boundaries of the previously approved Aquarium of the Pacific lease parcel. [Approved June 2002].

**5-95-055-A8:** Installation of a fourteen-foot high, 800 square foot (20'x 40') shade structure, with no sides and six vertical steel poles, near the main aquarium entrance. And, placement of two twenty-foot high poles next to the shade structure to hang the aquarium's seasonal promotional banner signs. [Approved June 2003].

**5-95-055-A9:** Expand the footprint and facilities of the existing aquarium use in Shoreline Park, including construction of a new watershed exhibit, classroom, animal care facility, and southern perimeter fence. [Approved November 2007].

**5-95-055-A10:** Enclose 1,800 square feet of the Harbor Terrace area of the main aquarium building in order to create a new gallery to exhibit the "Science-on-a-Sphere" geographic education attraction. The sixteen-foot high roof of the new enclosure will be used as an outdoor dining deck (114 seats) for the aquarium's cafeteria (Café Scuba). [Approved November 2009].

### **PROCEDURAL NOTE:**

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change to the previously approved project. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [4 California Code of Regulations 13166].

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **APPROVE** the permit amendment request with special conditions:

**MOTION:** *"I move that the Commission approve the proposed amendment to Coastal Development Permit 5-95-055 pursuant to the staff recommendation."*

The staff recommends a **YES** vote. Passage of the motion will result in **APPROVAL** of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of Commissioners present.

**I. Resolution to Approve the Permit Amendment**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. Special Conditions of Permit Amendment 5-95-055-A11**

Note: The original special conditions of Coastal Development Permit 5-95-055 and prior permit amendments (Appendix A), are still in effect.

**1. Approved Development - Permit Compliance**

All development must occur in strict compliance with the proposal as set forth in the application for permit amendment, subject to the special conditions of this amended permit. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether another permit amendment is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a permit amendment unless the Executive Director determines that no permit amendment is required.

**2. Shoreline Park – Public Open Space**

An unenclosed open space area for public recreation shall be maintained on the northern portion of the aquarium lease area, between the main aquarium building and Aquarium Way, as shown on **Exhibit #4 of the staff report dated March 24, 2011**. No admission fee or other fee shall be required to access this public open space area.

Permitted development in the public open space area is limited to picnic tables, benches, bicycle racks, and non-invasive landscaping that is primarily native and drought-resistant. **Prior to commencement of any improvements or development in the public open space area**, the permittees shall submit plans for the review and approval of the Executive Director. No improvements or development in the public open space area shall occur without a permit amendment unless the Executive Director determines that no permit amendment is required.

3. Public Access – Mitigation for Use of Public Park Space

The Aquarium of the Pacific shall meet a free annual access rate of at least ten percent (10% of total aquarium visits will be visitors provided with free admission) over a rolling period of two years, for the life of the project. Free aquarium access will include, but not be limited to: free general public access to outdoor exhibits during special limited days and hours (currently “Shark Lagoon Nights” on certain Fridays); veteran appreciation days (typically once a year); teacher appreciation days (typically once a year); free admission to teachers to lectures; and, free “scholarship” admissions to students. The Aquarium of the Pacific shall provide the Executive Director with an annual written report, during March of every year, which demonstrates the permittees’ compliance with this condition.

4. Demolition and Construction Responsibilities and Debris Removal

By acceptance of this permit amendment, the permittees agree that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- A. No demolition debris, construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion or dispersion.
- B. Any and all demolition and construction material shall be removed from the site as soon as possible (within ten days of completion of demolition/construction) and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- C. All trash generated by demolition/construction activities within the project area shall be disposed of at the end of each day, or as soon as possible.
- D. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.
- E. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.
- F. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction.

BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.

- G. All construction equipment and materials shall be stored and managed in a manner to minimize the potential for discharge of pollutants. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- H. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any bay, harbor, street or drainage unless specifically authorized by the California Regional Water Quality Control Board.
- I. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

The permittees shall undertake the approved development in accordance with this condition.

5. Landscaping – No Invasive Plants

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.

6. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this permit amendment, the applicant acknowledges and agrees (i) that the site may be subject to hazards from hazards from waves, storm waves, flooding and erosion; (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.

### III. Findings and Declarations

The Commission hereby finds and declares:

#### A. Amendment Description

On May 10, 1995, the Commission approved Coastal Development Permit 5-95-055 for the construction of the Long Beach Aquarium of the Pacific on a 5.89 acre site in Shoreline Park (Exhibit #3). The aquarium was completed on schedule and opened to the public on June 19, 1998. Since then the aquarium (and its lease area) has expanded beyond its former footprint, as approved by prior amendments to the coastal development permit (See Page Two).

The aquarium is located on the western edge of Rainbow Harbor, which was completed in the summer of 1998 (Coastal Development Permit 5-96-124). Parking for the aquarium and Rainbow Harbor is provided within the City's 1,471-stall public parking structure situated in the northwest corner of Shoreline Park (Exhibit #2).



Rainbow Harbor and Aquarium of the Pacific, Long Beach (2009) Copyright © 2011 Microsoft Corp.

The co-applicants (City of Long Beach and Aquarium of the Pacific) now propose to expand the aquarium footprint in Shoreline Park and add new facilities to the existing aquarium use. The proposed expansion involves the construction of a 23,330 square foot "Pacific Visions" aquarium expansion project into the public open space on the northern portion of the aquarium's leasehold (Exhibit #4). The proposed two-story, 56-foot high addition consists of a new changing exhibit gallery and media-based chamber (20,290 square feet), an enlarged entrance/lobby (1,340 square feet added), and enlarged retail gift shop (1,700 square feet added). The proposed addition also includes new public restrooms (800 square feet) that will be accessible from the outside of the aquarium structure. The exterior façade of the new addition will become an 11,520 square foot (288' x 40') digital display sign. The existing 1,550 square foot ticket building near the aquarium entrance will be demolished (Exhibit #5, p.2).

**B. Public Access and Recreation**

The Aquarium of the Pacific is situated on a 6.34-acre waterfront site within Shoreline Park. Shoreline Park and all land located south of the Chapter 138 Line is comprised of State Tidelands (Exhibit #2). These waterfront areas, which the City holds in trust for the people of California, provide the general public with public shoreline access and numerous recreational opportunities. The existing public access and recreational opportunities shall be protected.

The Coastal Act contains several policies which address the issues of public access and recreation along the coast. The proposed amendment must conform to the following Coastal Act policies:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational 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 resource areas from overuse.

Section 30211 of the Coastal Act 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.

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223 of the Coastal Act states:

Oceanfront Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.



The protection of public access and recreational opportunities on State Tidelands is an issue of primary importance to the Commission. Public access issues were particularly important in the Commission's approval of the underlying permit (Coastal Development Permit 5-95-055) because the aquarium is situated in a public park located on State Tidelands.

In approving the aquarium, the Commission found that aquarium is a water-oriented recreational and educational facility which complies with Sections 30220 and 30221 of the Coastal Act which encourage the use of waterfront land for water-oriented recreational activities. The aquarium's exhibits educate the public about the Pacific Ocean environment. The currently proposed improvements are intended to enhance the educational and recreational activities provided by the aquarium. The proposed new facilities and exhibits will be open for public outreach and educational activities.

In approving Coastal Development Permit 5-95-055 and subsequent permit amendments, the Commission attached several special conditions of approval in order to ensure that the Aquarium of the Pacific would be constructed and operated in a manner consistent with the public access and recreation policies of the Coastal Act. The Commission's previous conditions of approval are not affected by this amendment request and are still in effect.

Although the currently proposed project will result in an expansion of the aquarium's footprint into a public open space area in Shoreline Park, the applicants have demonstrated that there is sufficient space in the park for both the proposed aquarium expansion project and a significantly-sized public open space area for lower cost public recreation (Exhibit #4). The proposed plan to expand the aquarium into the open park area has been designed to protect a portion of the park's open space for lower cost public recreation and to preserve public views across the site. About 12,000 square feet of the 36,000 square foot public open space area would be covered by the proposed aquarium addition. The size of the proposed addition was limited in order to preserve 24,000 square feet of public open space on the northern portion of the aquarium lease area, between the main aquarium building and Aquarium Way.

The preservation of a public open space area on the northern portion of the aquarium lease area, between the main aquarium building and Aquarium Way, is important for several reasons. First, this landscaped open space area is one of the most heavily used areas of the park as it is the location for school and youth groups to congregate outdoors before and after their visits to the aquarium. The area is also used for picnicking and for special events. Also, since the area is the only remaining lawn area in the 23-acre Shoreline Park outside of the lighthouse peninsula portion of the park, it provides an area for children to play. Finally, the public views across the open space provide a visual connection from the roads (Aquarium Way and the aquarium access road) to the water's edge (Rainbow Harbor). Therefore, the proposed project is conditioned to protect the remaining public open space area.

Special Condition Two of this permit preserves a public open space area on the northern portion of the aquarium lease area (24,000 square feet), between the main aquarium building and Aquarium Way. Permitted development in the public open space area is limited to picnic tables, benches, bicycle racks, and non-invasive landscaping that is primarily native and drought-resistant. The applicants propose to install these improvements in the public open space area when the aquarium addition is being finished. The condition requires that the permittees submit plans for the review and approval of the Executive Director prior to commencement of any improvements or development in the public open space area. The

plans will be reviewed in order to ensure that the development will not interfere with public access and recreation. Only as conditioned is the proposed project and amendment request consistent with the public access and recreation policies of the Coastal Act.

Even with the preservation of part of the public open space area, there will still be a loss of about 12,000 square feet of open park space. Alternatives were considered as ways to mitigate the loss of part of the park's open space area. Commission staff asked whether the public open space could be replaced on the roof of the new two-story addition, but the applicants responded that providing public access to the roof of the structure was not feasible because of economic, design and security issues.

Instead, the applicants have proposed to mitigate the loss of public open space by providing free admission to the aquarium at a rate of at least ten percent (10% of total aquarium visits will be visitors provided with free admission) over a rolling period of two years. Free aquarium access will include, but not be limited to: free general public access to outdoor exhibits during special limited days and hours (currently "Shark Lagoon Nights" on certain Fridays); veteran appreciation days (typically once a year); teacher appreciation days (typically once a year); free admission to teachers to lectures; and, free "scholarship" admissions to students. The applicants' proposal is incorporated into the permit (as Special Condition Three) in order to mitigate the loss of the public open space. The public, in exchange for the use of about 12,000 square feet of open park space, will be given the opportunity to use the same space within the aquarium, even if they cannot afford the price of admission. The aquarium will provide Commission staff (the Executive Director) with an annual written report, during March of every year, which demonstrates the permittees' compliance with this condition. As conditioned, the proposed project and the permit amendment are consistent with the public access and recreation policies of the Coastal Act.

Sections 30220 and 30221 of the Coastal Act encourage the use of waterfront land for water-oriented recreational activities. The aquarium's proposed new exhibits will educate the public about the Pacific Ocean environment and will enhance the educational and recreational activities provided by the aquarium. Therefore, as conditioned, the proposed project and amendment request will not adversely impact public access to the water, will not significantly adversely impact public recreational use of a public park or beach, and will be consistent with the public access and recreation policies of the Coastal Act.

### **C. Visual Resources**

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Development of some of Shoreline Park's open space areas as part of an aquarium expansion or other project could adversely affect existing public views of Rainbow Harbor from Aquarium Way and the aquarium access road. As required by Section 30251 of the Coastal Act, the

scenic and visual qualities of the park's remaining open space should be considered and protected.

The proposed project will partially obstruct affect existing public views of Rainbow Harbor from Aquarium Way and the aquarium access road. The public views across the open space area on the northern side of the aquarium provide a visual connection from the roads to the water's edge (Rainbow Harbor). The preservation of the 24,000 square feet of public open space, however, will preserve the public's ability to see the harbor from the roads, even though the width of the current viewing area will be reduced by the proposed project. Therefore, only as conditioned to protect the public open space and public views to the water is the proposed project consistent with Section 30251 of the Coastal Act.

The large size of the 56-foot high front wall of the proposed building addition could also adversely affect scenic resources. The applicants have proposed to reduce the adverse visual impact that would be created by a large blank wall by attaching to the exterior façade of the new addition an 11,520 square foot (288' x 40') digital display sign. The proposed digital display sign will project full color images of whales and other sea creatures consistent with the institution's mission to "instill a sense of wonder, respect, and stewardship for the Pacific Ocean". As described by the applicants, the low-energy electronic sign uses ambient light as the light source to illuminate and is passive, not emissive, and will not create light pollution or adversely affect the surrounding environment. As disguised by the proposed digital display sign, the 56-foot high front wall of the proposed building addition will not adversely affect scenic resources.

#### **D. Parking**

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and the availability of public access to the coast. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by: 1) facilitating the provision or extension of transit service, 2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, 3) providing nonautomobile circulation within the development, 4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, 5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by 6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Parking for the aquarium and Rainbow Harbor is provided within the City's 1,471-stall public parking structure situated in the northwest corner of Shoreline Park (Exhibit #2). The City's 1,471-stall public parking structure, along with the Pike parking structure located on the other side of Shoreline Drive, provides an adequate parking supply for area visitors, and will continue

to do so even with the proposed expansion. A parking study by Linscott, Law and Greenspan, Engineers (Parking Analysis for the Pike at Rainbow Harbor, November 20, 2009) shows that adequate parking will be available for all visitors during peak demand times (the weekend afternoons and evenings). Many visitors to Shoreline Park and the aquarium do not come in private vehicles because the Downtown Shoreline area is well-served by the City's public transportation system, which includes free bus service between downtown (the Metro Rail Blue Line train station) and Shoreline Park. Therefore, the proposed development and amendment comply with Section 30252 of the Coastal Act.

#### **E. Water Quality**

The proposed project will be occurring near coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

#### **F. Local Coastal Program**

A coastal development permit (amendment) must be obtained from the Commission for the proposed development because it is located on tidelands within the Commission's area of original jurisdiction pursuant to Section 30519 of the Coastal Act. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act.

The City of Long Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Long Beach LCP on July 22, 1980. On October 21, 2010, the City of Long Beach submitted LCP Amendment Request No. LOB-MAJ-2-10 (2-10) for Commission certification in order to remove from the LCP the 150,000 gross square foot limit on the size of the aquarium allowed in Shoreline Park. Commission action on the LCP amendment request is scheduled for April 13, 2011, the same day that this permit amendment is scheduled for action. As conditioned, the proposed development will be consistent with the certified LCP only if LCP Amendment Request No. 2-10 is approved by the Commission. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act.

#### **G. California Environmental Quality Act**

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

The City of Long Beach is the lead agency for the purposes of California Environmental Quality Act review of the proposed aquarium expansion project. On June 17, 2010, the City of Long

Beach Planning Commission certified Mitigated Negative Declaration No. 01-10 for the 23,330 square foot "Pacific Visions" aquarium expansion project. The certified Mitigated Negative Declaration concludes that the project would not create any new significant impacts or increase the severity of any impacts identified in previous CEQA documents (e.g., the Queensway Bay Master Plan EIR).

The proposed project and amendment, only as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. All significant environmental effects have been mitigated by conditions of approval. As conditioned, there are no feasible mitigation measures or alternatives available that would lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the project is consistent with the requirements of the Coastal Act to conform to CEQA.

## APPENDIX A

### **SPECIAL CONDITIONS OF COASTAL DEVELOPMENT PERMIT 5-95-055**

#### 1. Parking

Prior to issuance of the Coastal Development Permit, the applicant shall agree in writing to provide and maintain a minimum of 625 public parking spaces to meet the increased parking demand generated by the proposed project. The 625 public parking spaces shall be provided in the proposed parking lot located immediately north of the aquarium and in the existing parking lot located on the north side of Shoreline Drive adjacent the aquarium. All parking shall be available for use prior to the opening of the aquarium. The required 625 parking spaces are public parking spaces and shall be reserved for the exclusive use of the general public. All parking shall be available for use on a first-come, first-served basis by aquarium visitors and the general public.

#### 2. Parking Meters

Any parking meters installed on public parking spaces in Shoreline Park shall allow ninety minutes of parking when the maximum amount of coins are deposited. In addition, the users of such public parking spaces shall be permitted to use the metered parking spaces for at least four hours (if the required amount of coins are added) before being required to vacate the parking space.

#### 3. Shoreline Park Access

Public access to Shoreline Park peninsula and Shoreline Lagoon shall not be restricted by the proposed project. Pursuant to this requirement, a minimum five-foot wide unrestricted public pedestrian walkway shall be provided and maintained between Shoreline Lagoon and the proposed aquarium, and direct pedestrian access shall be provided and maintained from Ocean Boulevard to Shoreline Park peninsula. Bicycle and pedestrian access shall be provided and maintained through Shoreline Park during the entire construction phase. In addition, prior to the closure and demolition of the existing Shoreline Park peninsula access road, the new Shoreline Park peninsula access road from the Catalina Landing area must be open and available for public vehicular use.

#### 4. Recreational Vehicle Park

Prior to the closure and demolition of the existing seventy-space recreational vehicle park, construction of a new Commission-approved recreational vehicle park in the downtown shoreline area must commence.

#### 5. Public Outreach Program

Prior to issuance of the coastal development permit, the applicant shall submit a public outreach program for the review and approval of the Executive Director. The public outreach program shall include an active program to promote the educational aspects of the aquarium and reach out to all economic segments of the community. The public outreach program shall contain provisions which ensure that economically disadvantaged persons are not denied the opportunity to visit the proposed aquarium. The outreach program shall be implemented as approved by the Executive Director. The applicant shall provide an annual report to the Coastal Commission each July which documents the how the public outreach program is being conducted at the aquarium.

6. Marine Resources

Approval of Coastal Development Permit 5-95-055 does not permit any dredging, filling, or other activity in Shoreline Lagoon or other coastal waters. Pursuant to this limitation, no construction or heavy machinery is permitted below the 6 foot above MLLW contour line.

7. Siltation Control

Prior to commencement of development, the applicant shall submit an erosion control and siltation prevention plan, for the review and approval of the Executive Director, which reduces erosion and prevents siltation of Shoreline Lagoon during the construction of the proposed project. The approved plan shall be implemented during construction of the proposed project.

8. Consistency with State Tidelands Grant

Prior to issuance of the Coastal Development Permit, the applicant shall provide written documentation to the Executive Director, including specific citation of the relevant sections of the applicable State Tidelands Grant, specifically demonstrating that the proposed use is consistent with the terms and conditions of the Legislature's grant of this portion of the downtown shoreline to the City of Long Beach.

9. Aquarium Foundation Design

Prior to the commencement of development, the applicant shall submit, for review and approval by the Executive Director, final plans for the proposed aquarium which have been reviewed and approved for structural soundness and safety by a qualified engineer. The submitted plans must be in substantial conformance with the plans approved by the Commission and must contain the foundation design recommendations contained in the Geotechnical Investigation Report for the Long Beach Aquarium of the Pacific prepared by EARTH TECH. Any changes in the aquarium design approved by the Commission which may be required by the engineer shall be submitted to the Executive Director to determine whether an amendment to the permit is required. The proposed aquarium shall be constructed in a manner consistent with the final approved plans.

10. Lease to Private Operators

The lease of any development approved by Coastal Development Permit 5-95-055 to private operators shall explicitly incorporate provisions for use, public access and public recreation consistent with all conditions contained herein.

**SPECIAL CONDITIONS OF PERMIT AMENDMENT 5-95-055-A1**

1. Permitted Uses

The use of the two parcels is limited to the uses expressly permitted by Coastal Development Permit 5-95-055 (City of Long Beach), specifically public access, public recreation, public parking, and the Long Beach Aquarium of the Pacific.

2. Public Access

The ability of the public to access and use the areas within the two parcels shall not be restricted, except that fees may be charged for admission into the aquarium structure and for use of the public parking facilities. Public access to the esplanade and plaza areas in front of and adjacent to the aquarium structure shall be free and unrestricted.

3. Parcels

The two parcels are created for leasehold interests only and may not be sold or otherwise alienated from the state tidelands.

4. Parking

All parking spaces on the two parcels are public parking spaces and shall be reserved for the exclusive use of the general public. All parking shall be available for use on a first-come, first-served basis by aquarium visitors and the general public.

**SPECIAL CONDITION OF PERMIT AMENDMENT 5-95-055-A4**

1. Aquarium Lease Parcel Boundaries

A) This permit amendment does not authorize any development to occur outside of the boundaries of the Aquarium of the Pacific lease parcel approved by the Commission on October 11, 1995 [See Waived Parcel Map No. 9509-02/Coastal Development Permit Amendment 5-95-055-A1 (City of Long Beach)].

B) Prior to authorization of the permit amendment, the applicants shall submit a survey and final project plans, for the review and approval of the Executive Director, that demonstrate that all of the proposed development is situated entirely within the boundaries of the Aquarium of the Pacific lease parcel approved by the Commission on October 11, 1995 [See Waived Parcel Map No. 9509-02/Coastal Development Permit Amendment 5-95-055-A1 (City of Long Beach)].

**SPECIAL CONDITIONS OF PERMIT AMENDMENT 5-95-055-A9**

1. Aquarium Leasehold Parcels – Approval of Waived Parcel Map No. 69637

Permit Amendment 5-95-055-A9 approves a new parcel for aquarium leasehold interests only, as shown on Waived Parcel Map No. 69637. The use of the aquarium's leasehold parcels, as shown on Waived Parcel Map No. 69637 and Waived Parcel Map No. 9509-02 (approved by the Commission on October 11, 1995 pursuant to Coastal Development Permit Amendment 5-95-055-A1) is limited to the uses expressly permitted by Coastal Development Permit 5-95-055, as amended; specifically public access, public recreation, public parking, and the Long Beach Aquarium of the Pacific. This permit amendment does not authorize any development to occur outside of the boundaries of the Aquarium of the Pacific leasehold parcels as shown on Waived Parcel Map Nos. 9509-02 and 69637. The ability of the public to access and use the areas within the aquarium's leasehold parcels shall not be restricted, except that fees may be charged for admission into the aquarium structure and for use of the public parking facilities. Public access to the esplanade and plaza areas in front of and adjacent to the aquarium structure shall be free and unrestricted. The parcels, as shown on Waived Parcel Map Nos. 9509-02 and 69637, are created for leasehold interests only and may not be sold or otherwise alienated from the state tidelands.

2. Perimeter Wall/Fence Treatment

A minimum fifteen-foot (15') wide buffer shall be provided and maintained between the southern perimeter fence/wall of the aquarium and the curb of the Shoreline Park public parking lot, as described on Pages 33 through 39 of **Exhibit #9 of the 10/25/07 staff report**. The required buffer shall be maintained as an open public accessway, with appropriate landscaping (consistent with Special Condition Three below) that does not interfere with public access along the buffer. The southern perimeter fence/wall of the aquarium shall be visually screened with



trees and other landscaping as described on Pages 33 through 39 of **Exhibit #9 of the 10/25/07 staff report**.

3. Landscaping – No Invasive Plants

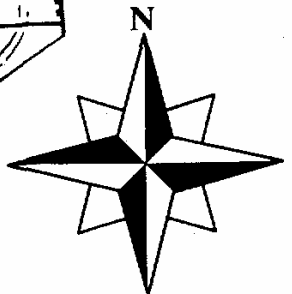
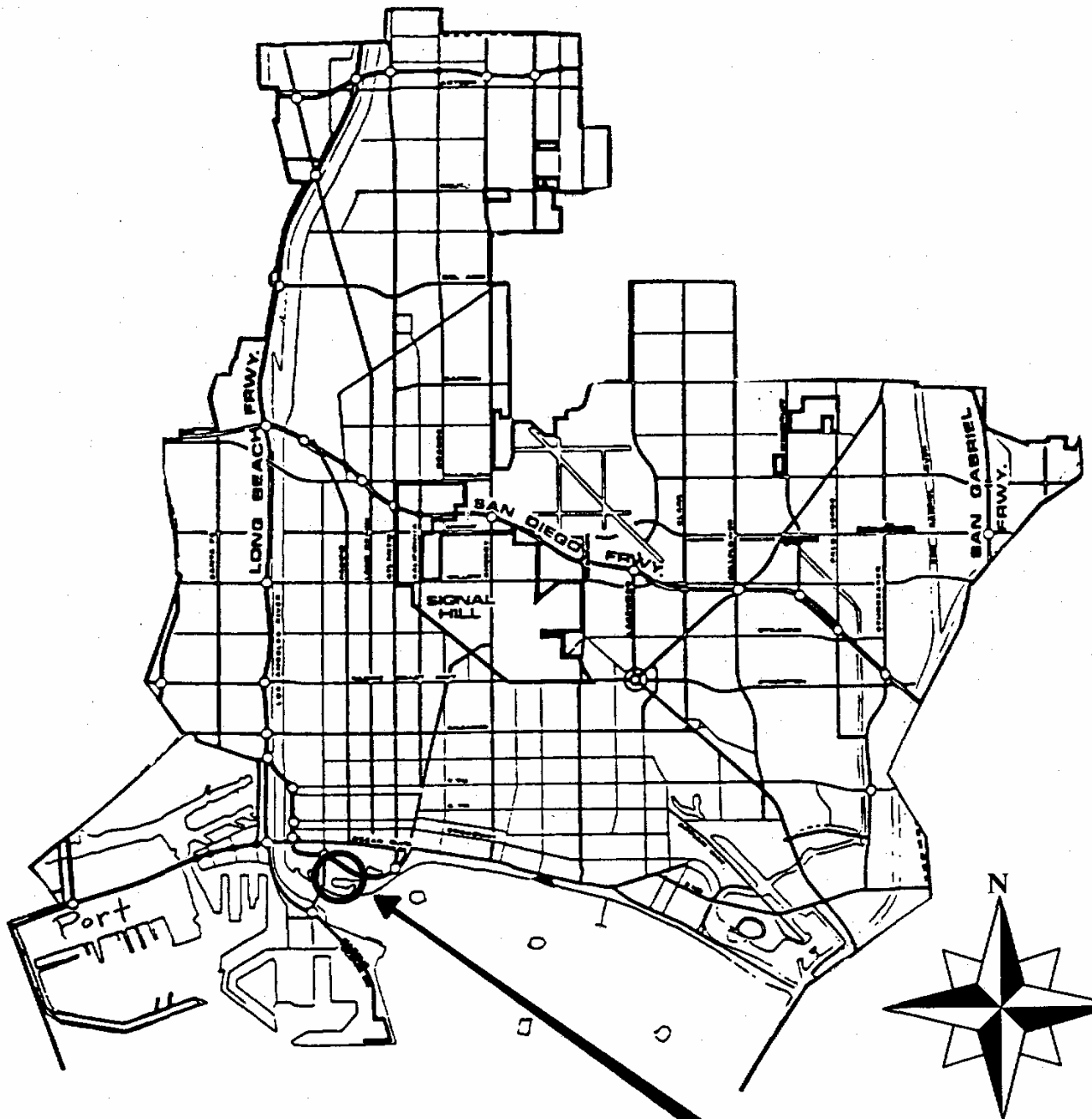
Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.

4. Construction Responsibilities and Debris Removal

By acceptance of this coastal development permit, the applicants agree that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- a) No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wind or rain erosion and dispersion.
- b) Any and all demolition/construction material shall be removed from the site within ten days of completion of demolition/construction and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- c) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.
- d) Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- e) Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all stormdrains, open ditches and surface waters.
- f) All trash generated by construction activities within the project area shall be disposed of at the end of each day, or as soon as possible.
- g) All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.

# City of Long Beach



Project Site

COASTAL COMMISSION  
595-055-All

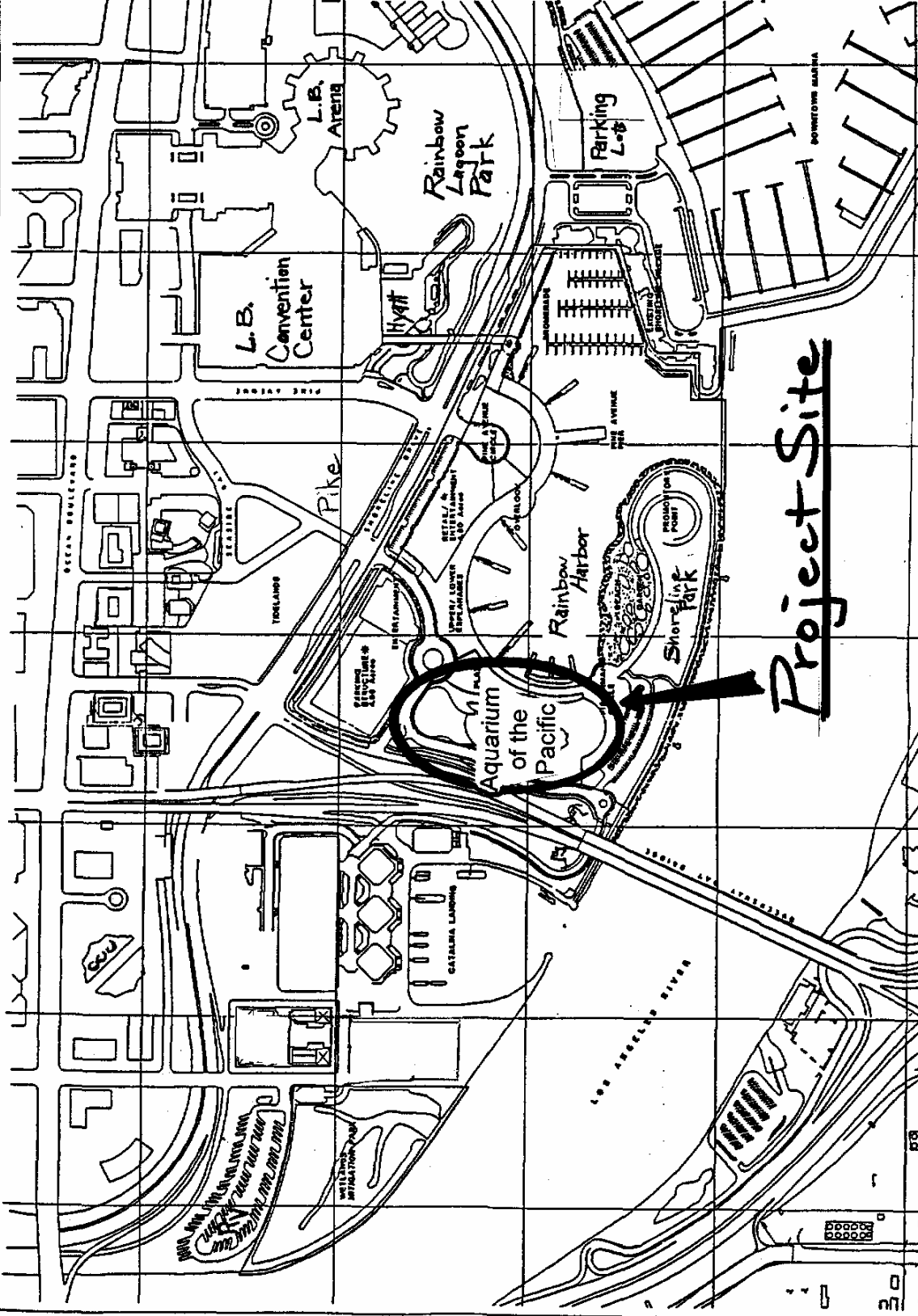
EXHIBIT # 1

PAGE 1 OF 1



QUESTWAY BAY	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	REVISIONS	
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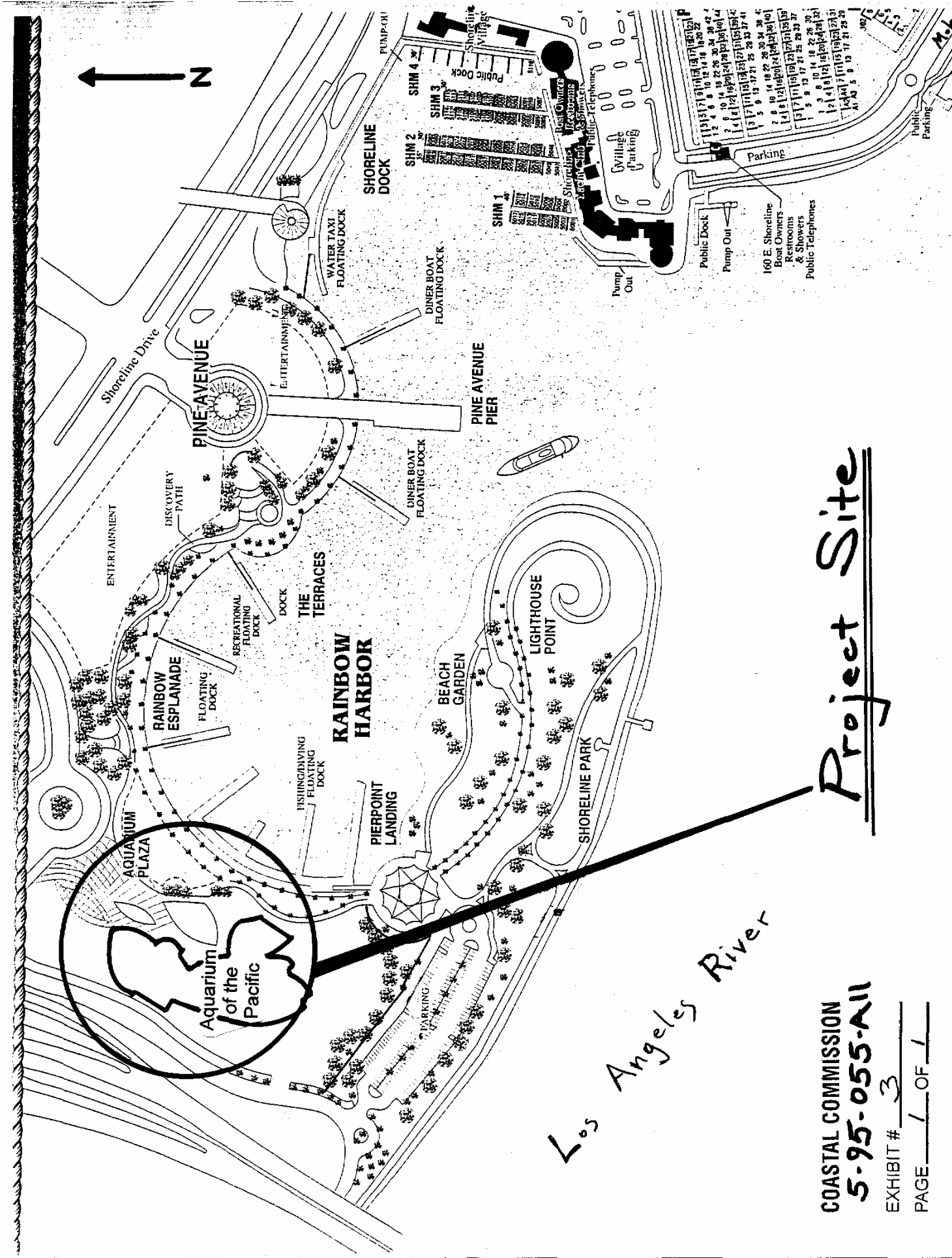
MASTER SITE PLAN



Project Site

COASTAL COMMISSION  
5-95-055-A-11

EXHIBIT # 2  
PAGE 1 OF 1

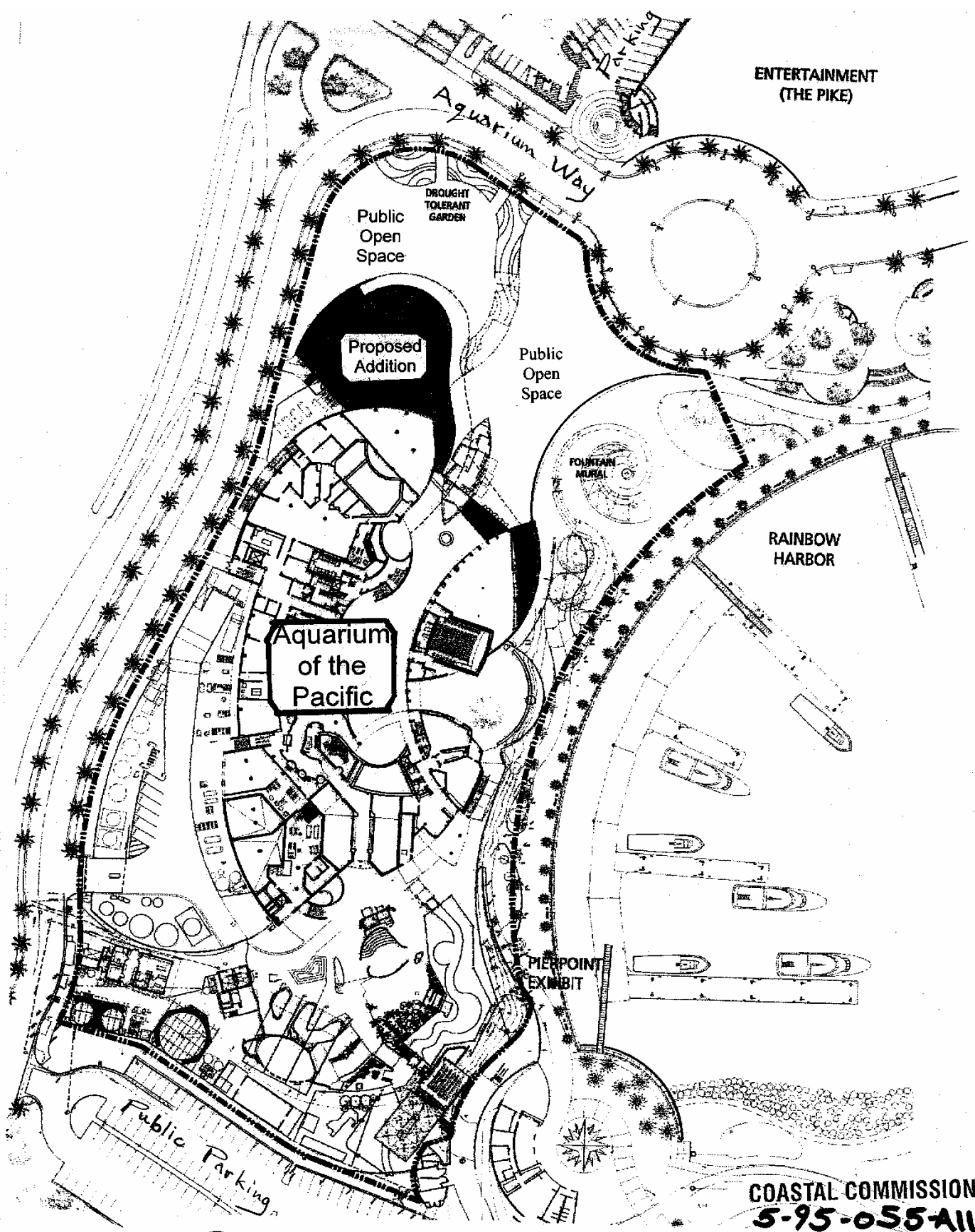


**Project Site**

*Los Angeles River*

COASTAL COMMISSION  
 5-95-055-A11

EXHIBIT # 3  
 PAGE 1 OF 1



Site Plan



COASTAL COMMISSION  
5-95-055-11

EXHIBIT # 4  
PAGE 1 OF 1

# FRONT EXPANSION PLANS

**5-95-055-A11**

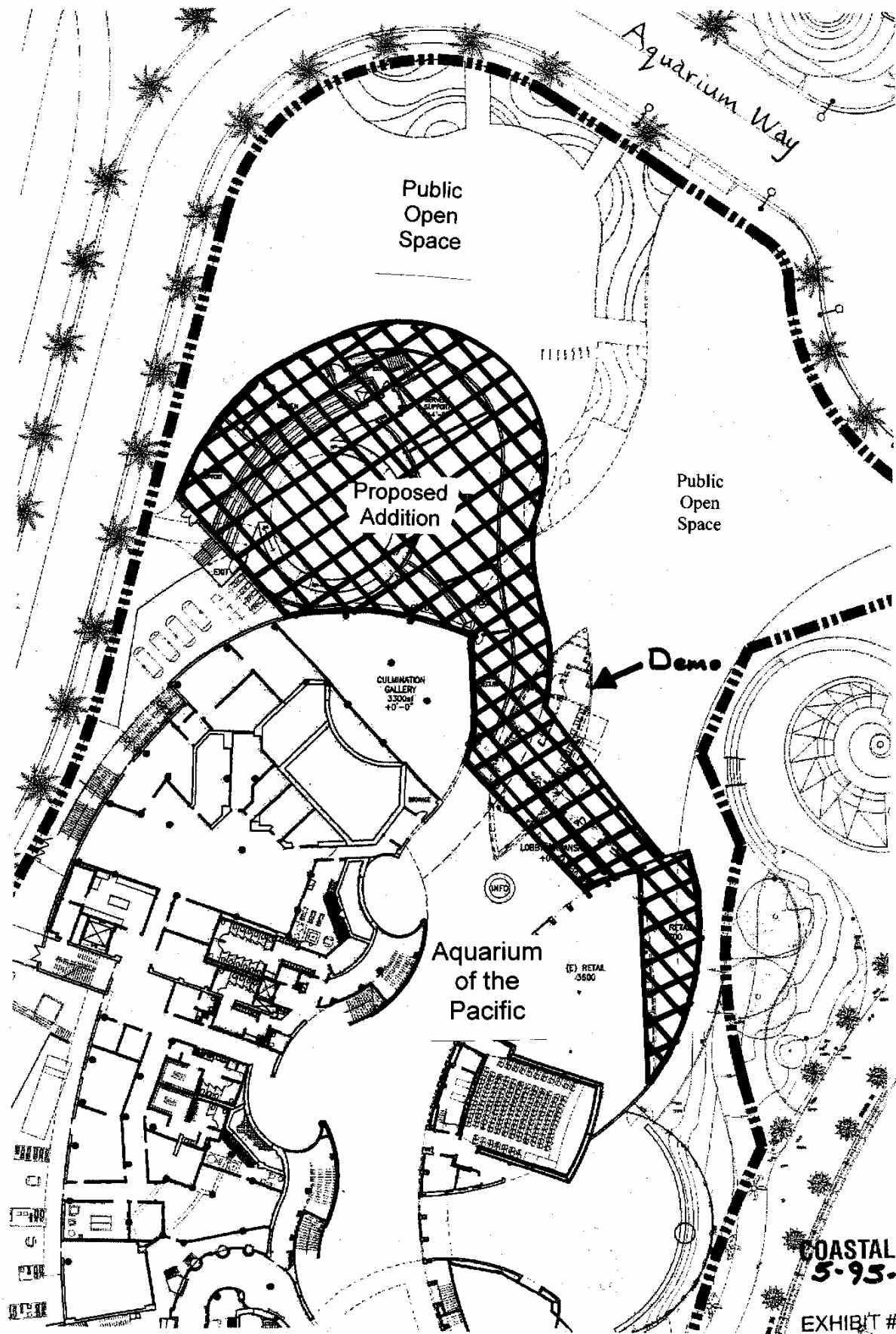
## Project Components:

- Pacific Visions Wing
  - o Pacific Visions theater & classroom
  - o Changing exhibit gallery
  - o Culmination gallery
- Expanded retail
- Expanded front lobby

TYPE OF AREA	Area (square feet)		
	New (1st fl)	New (2nd fl)	Total
Pacific Visions Wing	10,900	9,390	20,290
Retail	1,700		1,700
Lobby	1,340	-	1,340
	13,940	9,390	23,330
Ticketing area converted to plaza	(1,550)		(1,550)
<b>Net additional building space</b>			<b>21,780</b>

Total new project space	23,330
Existing gallery space	3,300
<b>Total area of front addition</b>	<b>26,630</b>

FRONT PUBLIC GARDEN SPACE		
Existing public space		34,500
New remaining public space	70%	24,000



Hatched Area = Expansion

COASTAL COMMISSION  
5-95-055-A11

EXHIBIT # 5

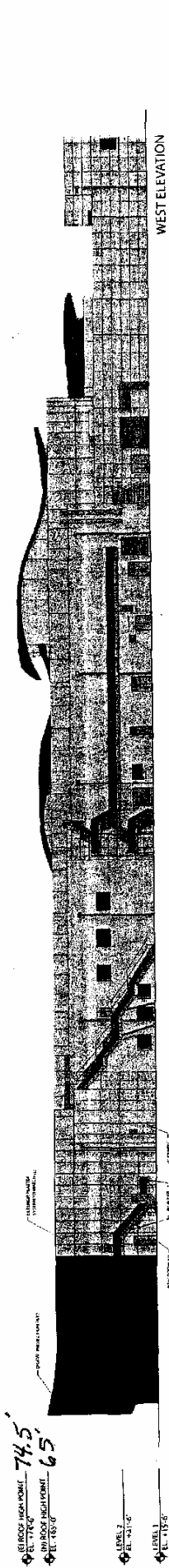
PAGE 2 OF 3

**APPROVAL IN CONCEPT**

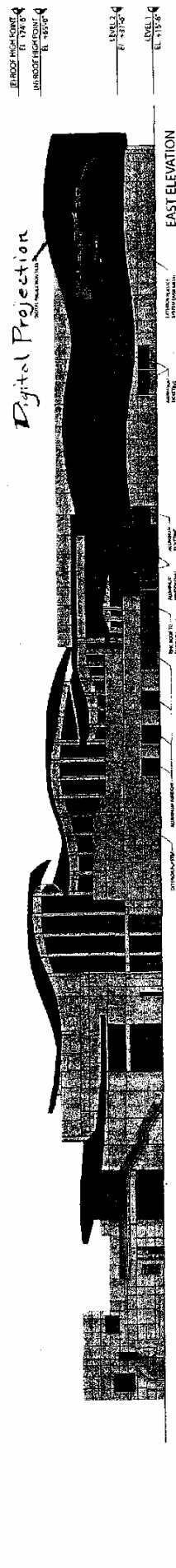
These plans have received approval in concept only by the city of Long Beach as required for application to the South Coast Regional Commission pursuant to Section 13210, Public Resource Code.

Date: 9/20/00 By: Scott Kinsey

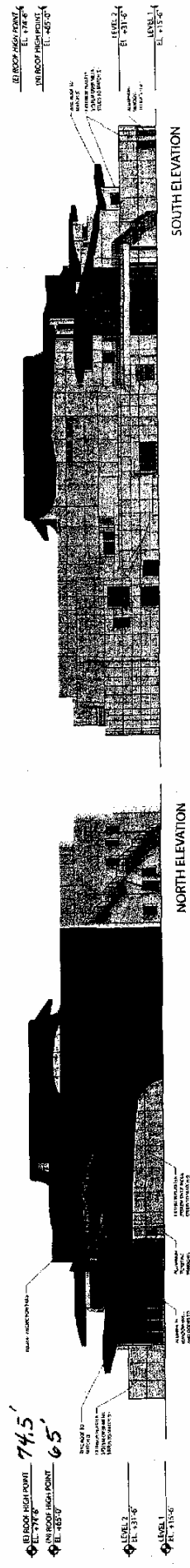
**ELEVATIONS**



Rear of Aquarium

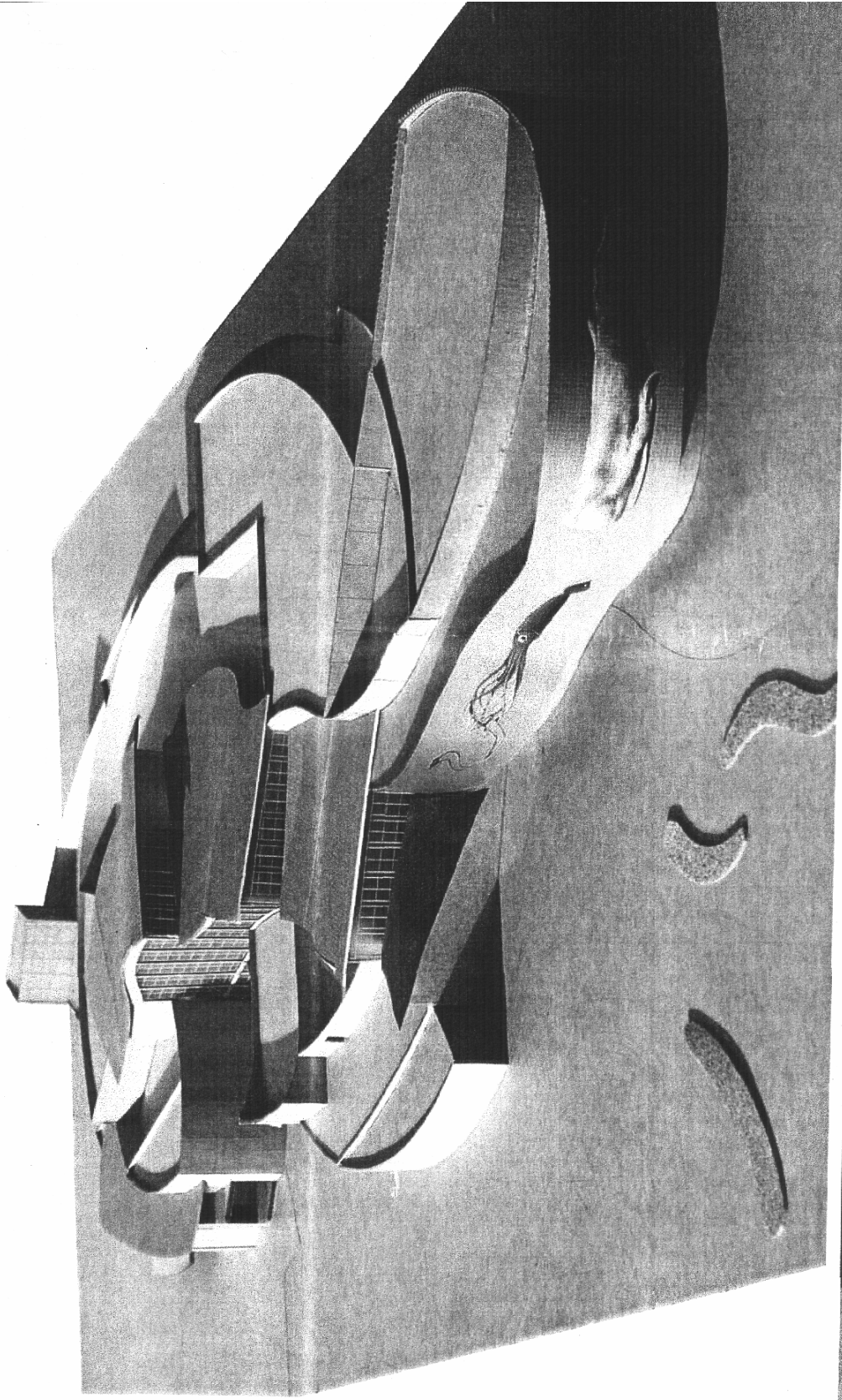


Rainbow Harbor View



Aquarium Way View





**AQUARIUM  
OF THE PACIFIC**<sup>®</sup>  
A non-profit institution

Aquarium of the Pacific

# Front Addition

Pacific Visions | Expanded Changing Exhibit | Expanded Retail |