

RECORD PACKET COPY

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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071



Filed: 10/6/95
 49th Day: 11/24/95
 180th Day: 4/3/96
 Staff: CP-LB *CP*
 Staff Report: 10/24/95
 Hearing Date: Nov. 14-17, 1995
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-95-105
 APPLICANT: Werner G. Scharff
 AGENT: Tomas Osinski
 PROJECT LOCATION: 1 Washington Street, Venice, City of Los Angeles, Los Angeles County.
 PROJECT DESCRIPTION: Construction of a 25 seat outdoor dining area on the public right-of-way to serve an existing restaurant. The proposed project includes widening of the public sidewalk, a removable canopy, two public benches, a bike rack, a bike lane, landscaping, and relocation of two metered public parking spaces. The restaurant's total seating will not exceed 67 persons.

Lot Area	2,520 sq. ft.
Public Area	1,270 sq. ft.
Building Coverage	2,490 sq. ft.
Pavement Coverage	1,630 sq. ft.
Landscape Coverage	30 sq. ft.
Parking Spaces	0
Zoning	C1-1
Plan Designation	Commercial
Ht abv fin grade	15 feet

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of proposed project with special conditions regarding seating capacity, loading area, public improvements, and future improvements. The applicant agrees with the recommendation.

LOCAL APPROVALS RECEIVED:

1. City of Los Angeles Approval in Concept #95-012, 4/20/95.
2. City of Los Angeles Board of Public Works Provisional Permit to occupy public right-of-way, Communication No. 110053, 3/31/92.
3. Time Extension for Public Works Provisional Permit to occupy public right-of-way, 9/15/95.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. 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 this permit is reported to the Commission. 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. Compliance All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. 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.

III. Special Conditions

1. Seating Capacity

The total seating capacity of the restaurant, including all indoor, outdoor and patio seating, shall not exceed 67 persons at any time.

2. Loading

The restaurant shall not use any public parking spaces for loading or unloading purposes at any time.

3. Public Park Benches

The applicant shall provide and maintain the two public park benches in the public right-of-way as shown on the approved plans. The benches shall remain in the right-of-way and be maintained by the restaurant at least as long as the outdoor dining area remains in the public right-of-way.

4. Future Improvements

Prior to issuance of a Coastal Development Permit, the applicant shall record a deed restriction on the property, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-95-105 is for the approved development only, and that any future additions, improvements, expansions or changes in use to the property will require a new Coastal Development Permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and History

The applicant proposes to construct a 25 seat outdoor dining area attached to the front of an existing restaurant on the corner of Washington Street and Ocean Front Walk in Venice (Exhibit #2). Under an agreement with the City of Los Angeles, the applicant is constructing the outdoor dining area addition in the public right-of-way in exchange for developing a portion of the public right-of-way for public use (Exhibit #5). The proposed development of the right-of-way includes the restaurant addition, a new realigned sidewalk, a bike rack, a bike lane extension, two public park benches, relocation of two metered public parking spaces, and landscaping. The proposed realignment of the sidewalk will align the new sidewalk with the current sidewalk on the opposite side of Speedway (Exhibit #2).

The existing restaurant currently has a seating capacity of 67 persons. There is no parking supply for the restaurant. The restaurant precedes the Coastal Act and therefore is not required to provide parking for the customers. The proposed project will not increase the seating capacity of the restaurant. The proposed 25 new outdoor seats will be offset by the removal of 25 existing indoor seats so that the seating capacity will remain the same at 67 persons (Exhibit #3).

On June 9, 1992, the Commission approved Coastal Development Permit 5-92-137 (Scharff) for an identical project. That permit, however, was never granted or vested and expired on June 9, 1994. The applicant has resubmitted the proposed project for approval by the Commission. The City has already extended its local approval for the proposed project (Exhibit #5).

As previously stated, the existing restaurant is located on the corner of Washington Street and Ocean Front Walk (Exhibit #2). This intersection is a beach oriented commercial and public recreation area. The Venice Pier extends from the terminus of Washington Street which is located immediately seaward of Ocean Front Walk (Exhibit #1). Ocean Front Walk, which is the first public road located seaward of the ocean, is a very popular walk street. Venice public beach is located seaward of Ocean Front Walk. Commercial stores, restaurants and vendors, as well as some residences, line the landward side of Ocean Front Walk.

B. Public Access/Parking

One of the primary goals of the Coastal Act is to protect the public's ability to access the coast. The Coastal Act contains following policies which protect the public's right to access the coast.

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 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

The proposed project involves the addition of a 25 seat outdoor dining area and the improvement of a public right-of-way for both private and public uses. There are two coastal access issues. One issue is the parking supply and the other is public access to the publicly owned right-of-way on which the restaurant expansion is proposed.

The current 67 seat restaurant does not provide any parking because it predates the Coastal Act and was not required to provide any parking. The proposed project is not increasing the seating capacity of the restaurant, and is therefore not increasing the parking demand. Therefore, no additional parking is required from the applicants. However, the project is conditioned to limit the seating capacity of the restaurant to its existing capacity which is 67 persons. This will ensure that the parking demand is not increased over and above its current level.

The project is also conditioned to require the recordation of a deed restriction which requires a new Coastal Development Permit for any improvements, expansions, or change in use to the property. This condition will give the Commission an opportunity to analyze any future improvements for their possible impacts on coastal access.

The existing site has two metered public parking spaces and a loading zone space in front of the restaurant on Washington Street. The proposed project includes the replacement of those two metered public parking spaces as part of the right-of-way development. The public two spaces will be replaced in front of the restaurant on Washington Street near their previous location (Exhibit #2). The loading zone space will not be replaced. The loss of the loading zone space will have little effect on the public's ability to access the coast unless other public parking spaces are used for loading and unloading purposes. Therefore, the project is conditioned to prohibit the restaurant from using public parking spaces for loading or unloading purposes.

The proposed project involves the use of a publicly owned right-of-way for

private business purposes. The non-paying public will be excluded from the portion of the right-of-way which is developed as an outdoor seating area for the restaurant. In exchange for the private use of public land, the applicants are improving part of the right-of-way for public use and providing public amenities. The proposed mitigation improvements include construction of a new sidewalk, a bike lane extension, a bike rack, two public benches, replacement of two public metered parking spaces, and landscaping. The approval of the proposed project is conditioned to require that the applicants maintain the proposed public benches. The public benches will enable the non-paying public to sit and enjoy the public area just as the paying customers have an opportunity to do in the restaurant.

The Commission finds that, as conditioned, the proposed project will not negatively impact coastal access in the area. Only as conditioned to limit seating capacity, prohibit loading in public parking spaces, provide public improvements, and require a future improvements deed restrictions is the project consistent with Sections 30210, 30212.5, and 30252 of the Coastal Act.

C. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The proposed project, only as conditioned, is consistent with the coastal access and other policies of the Coastal Act. The use of public land for private purposes has been adequately mitigated. Therefore, the Commission finds that approval of the proposed development as conditioned will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

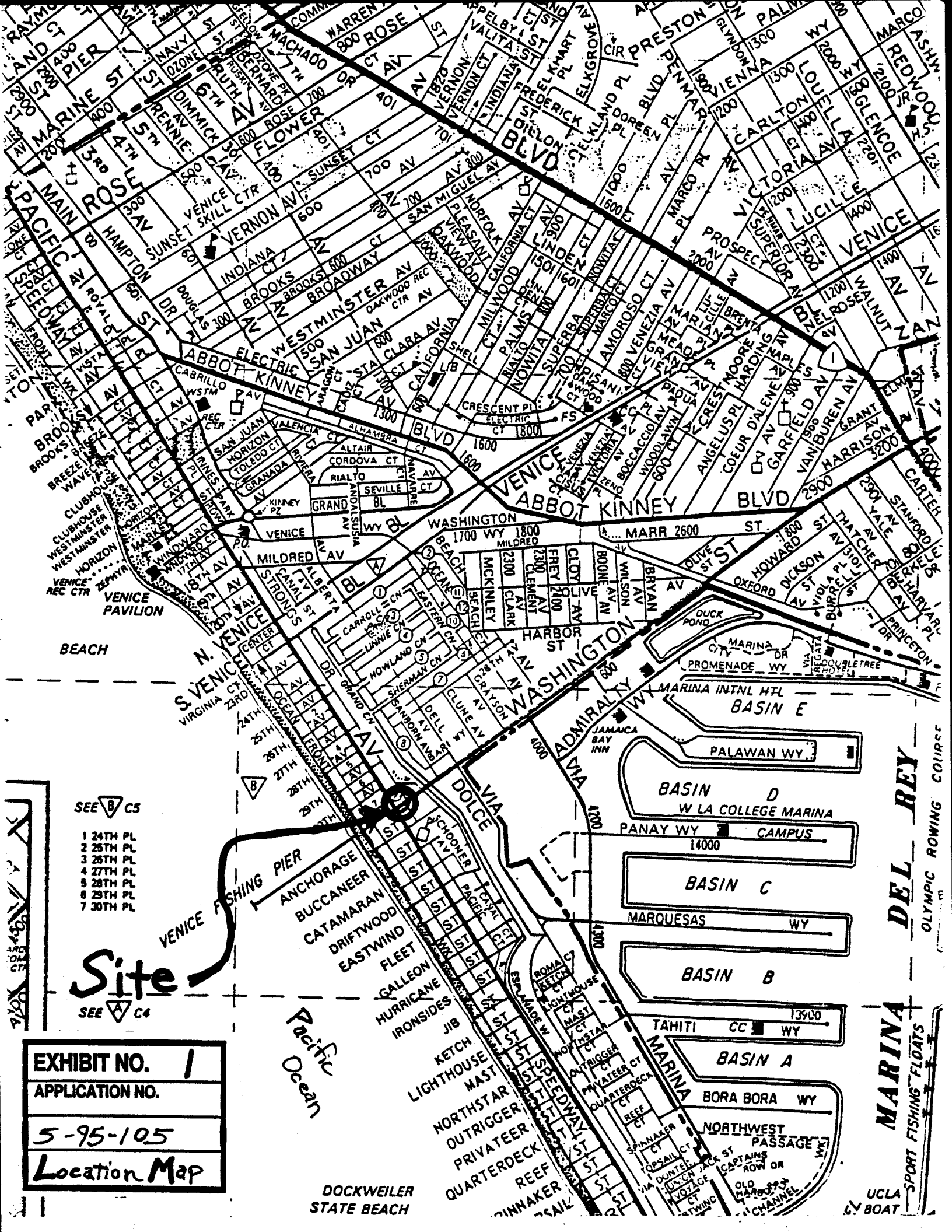
D. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of 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)(i) 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 impact which the activity may have on the environment.

The proposed project, as conditioned, will not increase parking demands or traffic in the area. The proposed project, only as conditioned, is consistent with the coastal access and other policies of the Coastal Act. The use of public land for private purposes has been adequately mitigated. Therefore, the Commission finds that the project is consistent with the requirements of the Coastal Act to conform to CEQA.

5583E:CP



- SEE ∇ C5
- 1 24TH PL
 - 2 25TH PL
 - 3 26TH PL
 - 4 27TH PL
 - 5 28TH PL
 - 6 29TH PL
 - 7 30TH PL

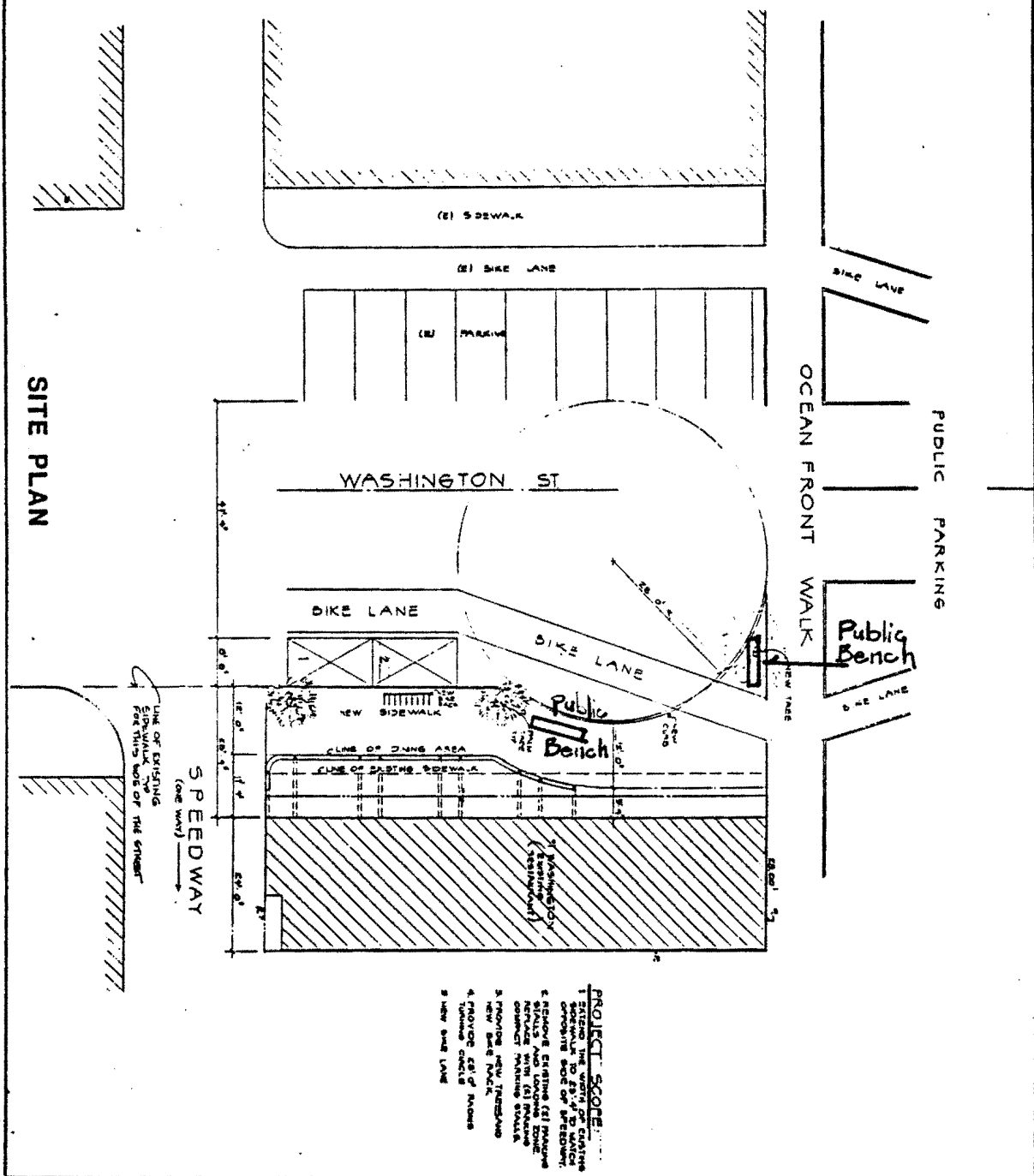
Site
SEE ∇ C4

EXHIBIT NO.	1
APPLICATION NO.	
	5-95-105
	Location Map

DOCKWEILER STATE BEACH

MARINA DEL REY
 OLYMPIC ROWING COURSE
 SPORT FISHING FLOATS
 UCLA BOAT

SITE PLAN

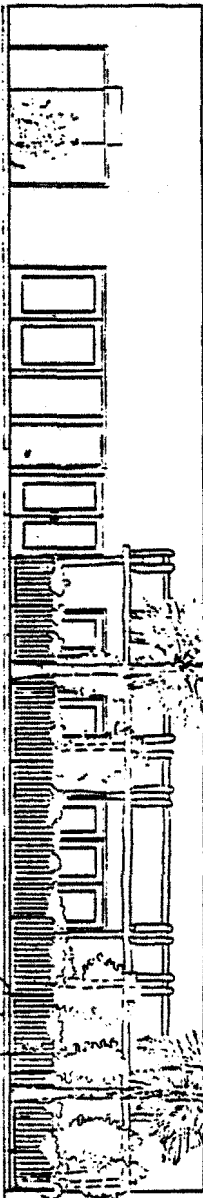


- PROJECT SCOPE**
1. EXTEND THE WIDTH OF EXISTING SIDEWALK TO THE PROPOSED SIDE OF STREET.
 2. REMOVE EXISTING (2) PARKING SPACES AND LANDSCAPE ZONE REPLACE WITH (2) PUBLIC BENCHES (SEE PLAN).
 3. PROVIDE NEW TRIMMING NEW SIDE WALK.
 4. PROVIDE (2) OF NEW TRIMMING CIRCLE.
 5. NEW BIKE LANE.

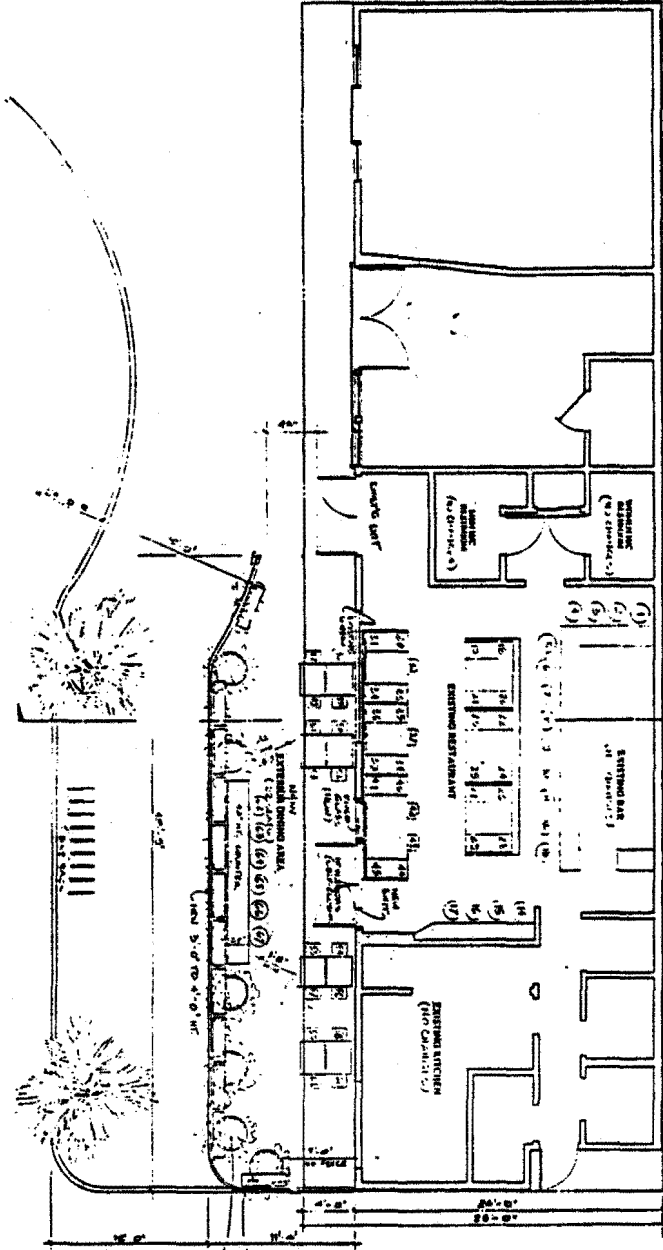
Pier

DATE	12-13-11
BY	W. J. CO.
SCALE	AS SHOWN
PROJECT	5
SHEET	5

1 WASHINGTON ST.



SOUTH ELEVATION



(1) 3' x 3' x 4' 6" SLOPED PLUMBING TO 3' OF THE FLOOR
(2) 3' x 4' x 6" PLUMBING TO 3' OF THE FLOOR
(3) 3' x 4' x 6" PLUMBING TO 3' OF THE FLOOR

FLOOR PLAN

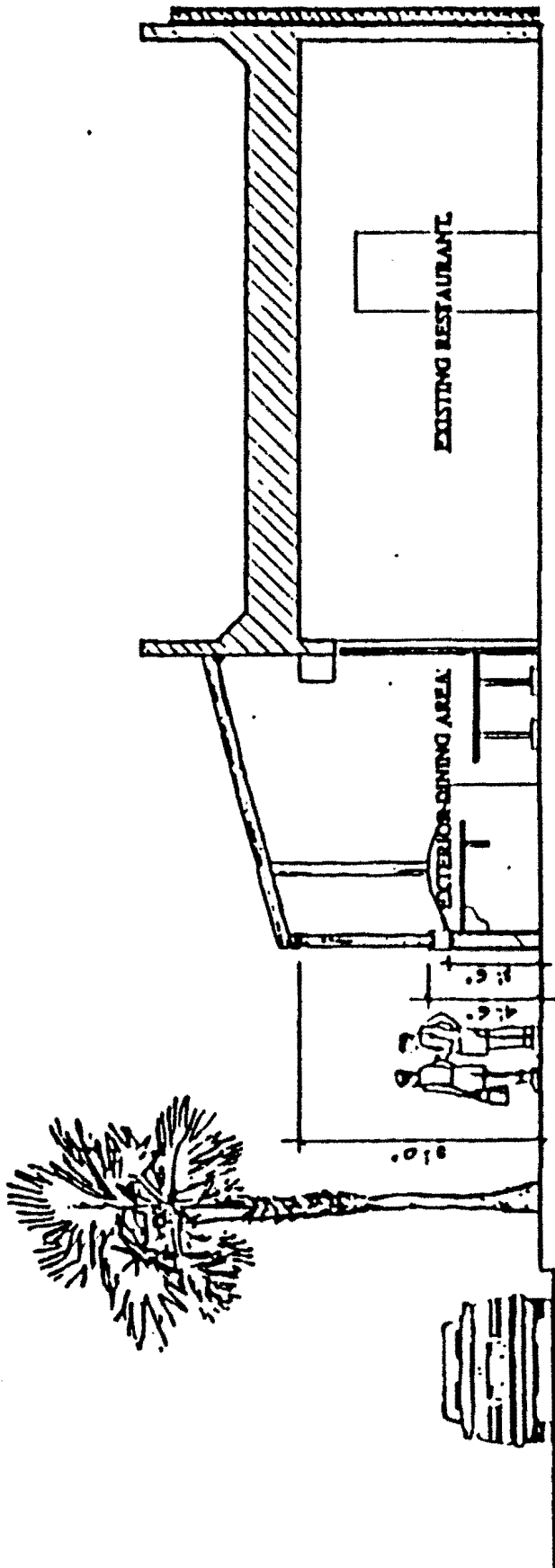
NOTE:
 REVISIONS NUMBER OF DRAWING 67
 DATE: 5/18/88
 DESIGNER: [unreadable]
 DRAWING AREA: 452 S.F.
 NEW OUTDOOR DINING AREA: 505 S.F.
 TOTAL OUTDOOR AREA: 556 S.F.

- △ 5' x 4' x 6" PLUMBING TO 3' OF THE FLOOR
- △ 3' x 4' x 6" PLUMBING TO 3' OF THE FLOOR
- △ 3' x 4' x 6" PLUMBING TO 3' OF THE FLOOR
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- △ 3' x 4' x 6" PLUMBING TO 3' OF THE FLOOR

#1 WASHINGTON BLVD.

1-A
 5/18/88
 [unreadable]

COASTAL COMMISSION
 5-95-105
 EXHIBIT # 3
 PAGE 1 OF 1



SECTION A

SCALE: 1/4" = 1'-0"

COASTAL COMMISSION

5-95-105

EXHIBIT # 4

PAGE 1 OF 1

BOARD OF PUBLIC WORKS
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CITY OF LOS ANGELES
CALIFORNIA



RICHARD J. RIORDAN
MAYOR

September 15, 1995

DEPARTMENT OF
PUBLIC WORKS
BUREAU OF
ENGINEERING
ROBERT S. HORII
CITY ENGINEER

650 SOUTH SPRING ST. SUITE 200
LOS ANGELES, CA 90014-1911

RECEIVED

OCT 6 1995

CALIFORNIA
COASTAL COMMISSION
WITH COAST DISTRICT

Tomas Osinski Design
4240 Glenmuir Avenue
Los Angeles, CA 90065
Attention: Chris Salas

TIME EXTENSION FOR REVOCABLE PERMIT AT #1 WASHINGTON BOULEVARD

In response to your re-application for revocable permit dated July 21, 1995, an investigation of this matter has revealed that the conditions which exist today, in the immediate area surrounding #1 Washington, are identical to those that existed at the time this permit was originally approved. The Street improvement plans (P-34385) have been approved by the City Engineer, and the adjoining neighbors are in support of this effort. Based on this information our office is prepared to grant a 180 day extension, from the date of this letter, of conditional approval for revocable permission to occupy a portion of the public right-of-way as granted in the original report adopted by the Board of Public Works on March 31, 1992 (See attached).

In order to obtain the revocable permit the following items must be completed:

1. The property owner shall execute and record the attached Waiver of Damages Agreement and submit one copy to the West Los Angeles (WLA) District Office of the Bureau of Engineering. (Condition No. 2 of attached report)
2. The property owner shall provide liability and property damage insurance satisfactory to the City Attorney. The City Risk Manager recommends coverage of at least \$2,000,000. In order to avoid revocation of the permit, the property owner must report to the Board annually with evidence of insurance in force. (Condition No. 3 of attached report)
3. Show proof that the architectural design of the dining area within the public right-of-way is approved by the City Cultural Affairs Department. (Condition No. 6 of attached report)
4. All outstanding plan check and inspection fees are paid for BC400915 - Washington Boulevard (1) and Ocean Front Walk.

ADDRESS ALL COMMUNICATIONS TO THE CITY ENGINEER

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

COASTAL COMMISSION

5-95-105

EXHIBIT # 5

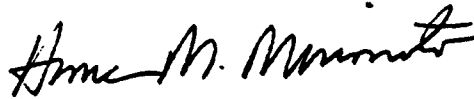
PAGE 1 OF 4

#1 WASHINGTON BOULEVARD

Page 2

If you have any further questions or need more information please contact Kevin Thomas of my staff at (310) 575-8533.

Sincerely,



Homer M. Morimoto, District Engineer
West Los Angeles District
Bureau of Engineering

KT:vd
Attachments

A:137BPRM6.WP

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 4

CITY OF LOS ANGELES

CALIFORNIA

BOARD OF PUBLIC WORKS MEMBERS

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485-3376

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485-3375

JOHN W. MURRAY, JR.
485-3378



TOM BRADLEY
MAYOR

OFFICE OF THE
BOARD OF PUBLIC WORKS
ROOM 353, CITY HALL
LOS ANGELES, CA 90012
JAMES A. GIBSON
SECRETARY
GENERAL INFORMATION
485-3381

March 31, 1992

Werner G. Scharff Trust,
Werner G. and Simone H. Scharff, Trustees
c/o Mark Ryavec of Delphi Associates
453 Rialto Avenue
Venice, CA. 90291

SUBJECT: PROVISIONAL PERMIT

CONDITIONAL APPROVAL: 1 Washington Boulevard
ENCROACHMENT: A low enclosure wall with framework for a retractable awning, and a counter and tables with chairs for the use of dining patrons at this restaurant
COMMUNICATION NUMBER: 110053

In response to your request, we are transmitting a conditional approval of revocable permission to occupy. The Waiver of Damages forms must be completed, recorded, and one copy transmitted to the listed Engineering District Office.

The insurance documents must be completed by the insuring agent and returned to the Board of Public Works, Room 353, City Hall, 200 N. Spring St., Los Angeles, California 90012.

If all of the conditions listed in the provisional approval are not complied with within 180 days following the date of this letter, the provisional approval is revoked.

No work should be done prior to obtaining the Revocable Permit from the appropriate Engineering District Office.

James A. Gibson
Secretary
Board of Public Works

/jjh/lg
pc-prov

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 4

RECEIVED

115964A APR 03 1992

1 WASHINGTON BOULEVARD - REQUEST FOR REVOCABLE PERMISSION TO ENCROACH INTO THE PUBLIC WAY
BUREAU OF ENGINEERING
WEST LOS ANGELES DISTRICT C

RECOMMENDATION

Authorize the City Engineer to issue a Revocable Permit to encroach within the public way, subject to the conditions listed. ENCROACHMENT: A low enclosure wall with framework for a retractable awning, and a counter and tables with chairs for the use of dining patrons at this restaurant.

CONDITIONS

1. The street shall be remodeled satisfactory to the Bureau of Engineering.
2. The property owner shall execute and record the attached Waiver of Damages Agreement and submit one copy to the West Los Angeles District Office of the Bureau of Engineering (WLA).
3. The property owners shall provide liability and property damage insurance satisfactory to the City Attorney. The City Risk Manager recommends coverage of at least \$2,000,000. In order to avoid revocation of the permit, the owners must report to the Board annually with evidence of insurance in force.
4. The width of the sidewalk remaining clear for pedestrian use shall be no less than 12 feet.
5. No merchandising shall occur nor shall any food or beverage preparation or bussing stations be placed within the exterior dining area.
6. The architectural design of the dining area within public right-of-way shall be subject to the approval of the City Cultural Affairs Department, Room 1500, City Hall.
7. A bicycle rack shall be included on the plans for street remodeling, in a location to be determined by the Bureau of Engineering.
8. The indoor seating at this restaurant shall be reduced by the same number of seats as are provided outdoors.
9. Any permit that would ordinarily be required by the Department of Building and Safety if this installation were on private property shall be obtained as though it was entirely on private property.
10. The Conditions above must be met, and the Revocable Permit obtained from WLA, within 180 days of the date of this report.
11. No construction shall take place prior to obtaining the Revocable Permit.

TRANSMITTALS

1. Letter dated February 5, 1992, with plan attached, from Mark Ryavec of Sysak Delphi Associates, 453 Rialto Avenue, Venice, California 90291. Property ownership is listed as the Werner G. Scharff Trust, Werner G. Oberrieder and Simone H. Scharff, Trustees.
2. Letter dated February 26, 1992 from Councilwoman Ruth Galanter. Waiver of Damages Agreement forms for conveyance to the communicant.

DISCUSSION

The required "investigation fee" has been paid. The right-of-way at this location is wide. If the street remodel is approved, the "sidewalk cafe" can be accommodated. Councilwoman Ruth Galanter supports this proposal.

Abbas RR:VS
Vicej WLA

for *Robert S. Horii*
ROBERT S. HORII
CITY ENGINEER

LHB WNEW DAE
Patrick D. Howard
PATRICK D. HOWARD, DIRECTOR
BUREAU OF STREET MAINTENANCE

Wade
Wall
DeWilde
Blinder
Tichman

APPROVED: _____
DENNIS N. NISHIKAWA, COMMISSIONER DATE
BOARD OF PUBLIC WORKS

Basting A:197RDB2.BRD
File

RECEIVED Bur of Eng.
ADMINISTRATION DIV.
Board Unit

BLAK

APR 02 1992

WHA-LAM-FRANCO-MARIBAU-LUNDQUIST

COASTAL COMMISSION

