CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 2/26/96
49th Day: 4/15/96
180th Day: 8/24/96
Staff: CAREY
Staff Report: 2/27/96
Hearing Date: 3/12-15/96
Commission Action:

STAFF REPORT: REGULAR CALENDAR

W21c

APPLICATION NO.: 4-96-009

APPLICANT: Theodore Polos AGENT: Jon Staley, SLA, Inc.

PROJECT LOCATION: 21150 Pacific Coast Highway, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Remodel of existing restaurant, including: modification of exterior elevations; removal of interior floor space to provide for exterior patio dining area; modify interior floor plan such that total service area will be reduced 2,700 sq. ft.; and upgrade septic system. The proposed project will not extend development seaward.

Lot area:	1.78 acres
Building coverage:	17,625 sq. ft.
Pavement coverage:	58,746 sq. ft.
Landscape coverage:	1,405 sq. ft.
Parking spaces:	175
Ht abv ext grade:	24 ft.

LOCAL APPROVALS RECEIVED: City of Malibu, Approval in Concept and Environmental Health In-Concept Approval

SUBSTANTIVE FILE DOCUMENTS: 4-96-012 (Family Restaurants), 4-95-180 (Polos), 5-84-298 (Polos)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with Special Conditions regarding assumption of risk, debris removal, and wildfire waiver of liability. The applicant has previously recorded an offer to dedicate a lateral access easement across the site. Further, the proposed project will not extend development any further seaward than what is currently existing on the site. The proposed project will also provide adequate off-street parking. As such, it will have no adverse impacts on public access or visual resources. However, the Commission cannot absolutely acknowledge that the structure, as proposed to be remodelled, will be safe during all future storm events or that it will be constructed in a structurally sound manner and be properly maintained to eliminate any risk to the beach going public. As such, staff recommends that the applicant be required to assume the risk of developing the

SUMMARY OF STAFF RECOMMENDATION (Continued):

proposed project. Further, to ensure that any materials used in the proposed construction are not introduced into the ocean, staff recommends that the applicant be required not to store materials or waste where it is subject to wave action and that all materials be removed at the end of construction. Finally, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire. Staff recommends that the applicant be required to acknowledge and assume the liability from this risk. If the project is so conditioned, the staff recommends that the Commission find the proposed project consistent with the applicable policies of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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. State Lands Commission.

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of a final lease or agreement between the applicant and the State Lands Commission for any state lands occupied by development on the project site, or evidence that such a lease or agreement is not required.

2. Applicant's Assumption of Risk.

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from waves during storms or flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

3. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

4. Construction Responsibilities and Debris Removal

The applicant agrees not to store any construction materials or waste where it is subject to wave erosion and dispersion. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach any and all debris that result from the construction period.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background.

The applicant proposes to remodel an existing restaurant, including: modification of exterior elevations; removal of interior floor space to provide for exterior patio dining area; modify interior floor plan such that total service area will be reduced 2,700 sq. ft.; and upgrade septic system. The proposed project will not extend development seaward.

Existing development on the site consists of a two-story restaurant, a two-story, 4,048 sq. ft. building used for storage, a 177 space parking lot, and rock revetment. A restaurant has been operated at this location since 1928. The original restaurant was closer to the highway but after a fire, the replacement was built at the present location. The proposed project site is a point at the end of Las Flores Creek. The creek has deposited both sand and rock in a fan shaped deposit next to the shore. Some of the rocks deposited were one or two feet in diameter. The owners of the restaurant apparently constructed a grouted rip-rap revetment using rocks from the creek mouth sometime in the forties. In the storms of 1982-83, the restaurant sustained major damage from wave attack and flooding. In early 1984, the owner repaired and made substantial additions to the revetment, extending it some thirty feet further seaward.

In 1984, the Commission considered an after-the-fact permit for the revetment improvements. In Permit 5-84-298 (Polos), the Commission approved the repair, reconstruction, and expansion of the rock revetment by replacement of filter rock, and backfilling 2-7 ton cap rock extending 30 feet seaward, along the full 470-foot length of a previously existing storm damaged wall for the protection of the existing restaurant. This permit was approved with special conditions requiring an offer to dedicate lateral access, an assumption of risk deed restriction, certification by a civil engineer of the adequacy of the design, redesign of fencing, evidence of review of the project by the State Lands Commission and the U.S. Army Corps of Engineers. The special conditions were met and the permit was issued.

More recently, the Commission approved permit 4-95-180 (Polos) for the construction of a 3,707 sq. ft. triplex with 3-car garage and septic system to replace a triplex destroyed by fire. This property is immediately downcoast of the proposed project site. This permit was approved with special conditions relating to assumption of risk, geology review, wildfire waiver, and debris removal.

At the March hearing, the Commission will also consider Permit Application 4-96-012 (Family Restaurants) for the construction of a poured-in-place concrete retaining wall along the west edge of the storage building on the proposed project site. The wall is proposed to protect the foundations of the building from flood flows in Las Flores Creek. The applicant for that permit is the current lease holder who operates the restaurant.

B. Public Access and Seaward Encroachment.

Coastal Act Section 30210 states that:

> 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.

Coastal Act Section 30211 states:

> Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Finally, Section 30251 of the Coastal Act states that:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

All beachfront projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the

Coastal Act. The Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits is the occupation of sand area by a structure, in contradiction of Coastal Act policies 30210, 30211, and 30212. However, a conclusion that access may be mandated does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which substantially impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate these impacts.

The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include among others, encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use and cause adverse impacts on public access such as above.

In approving Permit 5-84-298 (Polos), the Commission found that the proposed revetment would have significant impacts on coastal access. The findings state that:

> This restaurant blocks vertical access along Las Flores Creek to the beach. The revetment as it has now been extended precludes lateral access most of the time. Access over the revetment is slippery and hazardous.

The Commission found that to mitigate the adverse impacts to access, it was necessary to require the applicant to record an offer to dedicate a lateral access easement across the property, even though such access would only be available to the public in ideal circumstances.

In the case of the currently proposed project, the proposed restaurant remodel will not extend development further seaward than the existing structure. Further, the applicant does not at this time propose the construction of any shoreline protective devices which could interfere with coastal processes. As such, the proposed restaurant remodel will minimize potential further physical impacts to public access opportunities, public views and the scenic quality of the shoreline.

In addition to access impacts from the physical placement of structures on beachfront property, the Commission has also considered, through hearing and voting, that commercial projects can impact access through inadequate

provision of off-street parking. If commercial enterprises do not provide adequate off-street parking for their patrons, people will utilize on-street parking for overflow parking. This can negatively impact access by reducing the potential on-street parking available for beach-goers. In most beach communities, on-street parking is usually already limited at best. Therefore, the Commission has found that it is necessary to require applicants for commercial developments to provide adequate off-street parking in order to minimize impacts to coastal access opportunities.

The Commission has found, through hearing and voting on permit applications, that restaurants must provide one off-street parking space for every 50 sq. ft. of service area. There is currently a 177-space parking lot on the proposed project site. The applicant proposes to remove two parking spaces to provide an outside entrance to the proposed patio dining area. The proposed remodel includes a reduction in the total area devoted to dining. There is currently 10,948 sq. ft. of service area. The applicant proposes to reduce this area to 8,248 sq. ft. to accommodate additional kitchen and bar area and the removal of second story banquet area. Based on a requirement of one space for every 50 feet of service area, the applicant needs to provide 165 parking spaces. The proposed project will provide 175 parking spaces. As such, adequate off-street parking will be provided for the proposed remodelled restaurant. Therefore, the project will minimize impacts to coastal access.

In addition to the issue of the proposed project's potential impacts to public access, there is an issue of the relationship of development on the site to state lands. In Permit 5-84-298 (Polos), the Commission found that there was evidence that portions of the proposed development extended onto state tidelands. As a condition, the Commission required the applicant to submit within 180 days, evidence of a determination by the State Lands Commission. To date, no final agreement has been reached between the State Lands Commission and the applicant with regard to state lands. Staff received the attached letter (Exhibit 5) from State Lands regarding the project site. The letter states that:

> As we understand the proposed remodeling project, certain portions of the project will involve lands claimed by this office as filled tide and submerged lands. We also understand that the proposed project will not increase the area of the existing encroachment. Inasmuch as our office, Mr. Polos, and Mr. Polos' attorneys have made a commitment to reach agreement on an interim lease arrangement with the State Lands Commission staff prior to issuance of a Coastal Permit, by copy of this letter we are requesting Coastal Commission staff to accept and process the remodel project application immediately.

To that end, this application was scheduled for consideration by the Commission. However, the Commission finds it necessary to require the applicant to submit evidence that agreement has been reached with the State Lands Commission.

For all of these reasons, the Commission finds that the project would have no individual or cumulative adverse impacts on public access. Therefore, the Commission finds that a condition to require lateral access is not appropriate and that the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212 and 30251.

C. Hazards.

Section 30253 of the Coastal Act states in part that 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, 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 proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. Fires in the Malibu area have also burned all the way to the ocean so even beach front homes are not immune to the risk of wildfire. Further, oceanfront sites are also subject to flooding and erosion from storm waves.

The applicant proposes the remodel of an existing restaurant structure on a beachfront parcel. The existing development on the site includes a rip-rap revetment to protect the structures from wave attack. The Commission's findings approving Permit 5-84-298 (Polos) for the repair and addition to the revetment, state that:

> This particular restaurant sustained severe wave damage in the winter storms of 1982-83. The restaurant itself was flooded and rocks from the riprap [previously existing], sand and waves came in through the window. The purpose of this wall is to prevent recurrence of the incident...

The Commission found that the revetment would be constructed according to accepted design standards and so long as the applicant assumed the risk of developing, the proposed project would be consistent with Section 30253 of the Coastal Act. The proposed remodel of the restaurant will not extend development any further seaward than the existing structures. The applicant proposes no modifications to the existing revetment. As such, the proposed project will have no effect on the relationship between the development on the site and the known potential hazards of wave action and flooding.

The Commission cannot absolutely acknowledge that the remodelled structure will be safe during all future storms or be constructed in a structurally sound manner and be properly maintained to eliminate any potential risk to the beach going public. The Commission acknowledges that many of the oceanfront parcels in Malibu such as the subject property are susceptible to flooding and wave damage from waves and storm conditions. Past occurrences have resulted in public costs (through low interest loans) in the millions of dollars in the Malibu area alone. Storms during the winter of 1982-83 caused over six

million dollars in damage to private property in Los Angeles County and severely damaged existing bulkheads, patios, decks, and windows along the Malibu coastline.

The applicant may decide that the economic benefits of development outweigh the risk of harm which may occur from the identified hazards. Neither the Commission nor any other public agency that permits development should be held liable for the applicant's decision to develop. Therefore, as conditioned to assume risk of failure, the applicant is required to expressly waive any potential claim of liability against the Commission for any damage or economic harm suffered as a result of the decision to develop. This waiver of liability will take the form of an assumption of risk deed restriction recorded against the applicant's property.

Additionally, in order to minimize erosion, the Commission finds it necessary to require the applicant not to utilize construction equipment within the intertidal zone or to store materials or waste where it might be subject to wave action. Finally, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks. Through the waiver of liability the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Only as conditioned is the proposed development consistent with Section 30253 of the Coastal Act.

D. Septic System

Section 30231 of the Coastal Act states that:

> 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 discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The applicant proposes to upgrade the existing septic system as a part of the proposed remodel. The applicant has submitted preliminary approval of the proposed septic system from the City of Malibu Department of Health Services. This approval indicates that the proposed septic system complies with all minimum requirements of the health and plumbing codes. The Commission has found in past permit actions that compliance with the health and plumbing codes will minimize any potential for waste water discharge which could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system upgrade is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

> 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 program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal 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. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. 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 for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act.

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, 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 would have on the environment.

The proposed development would not cause significant, adverse environmental impacts which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

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BJC

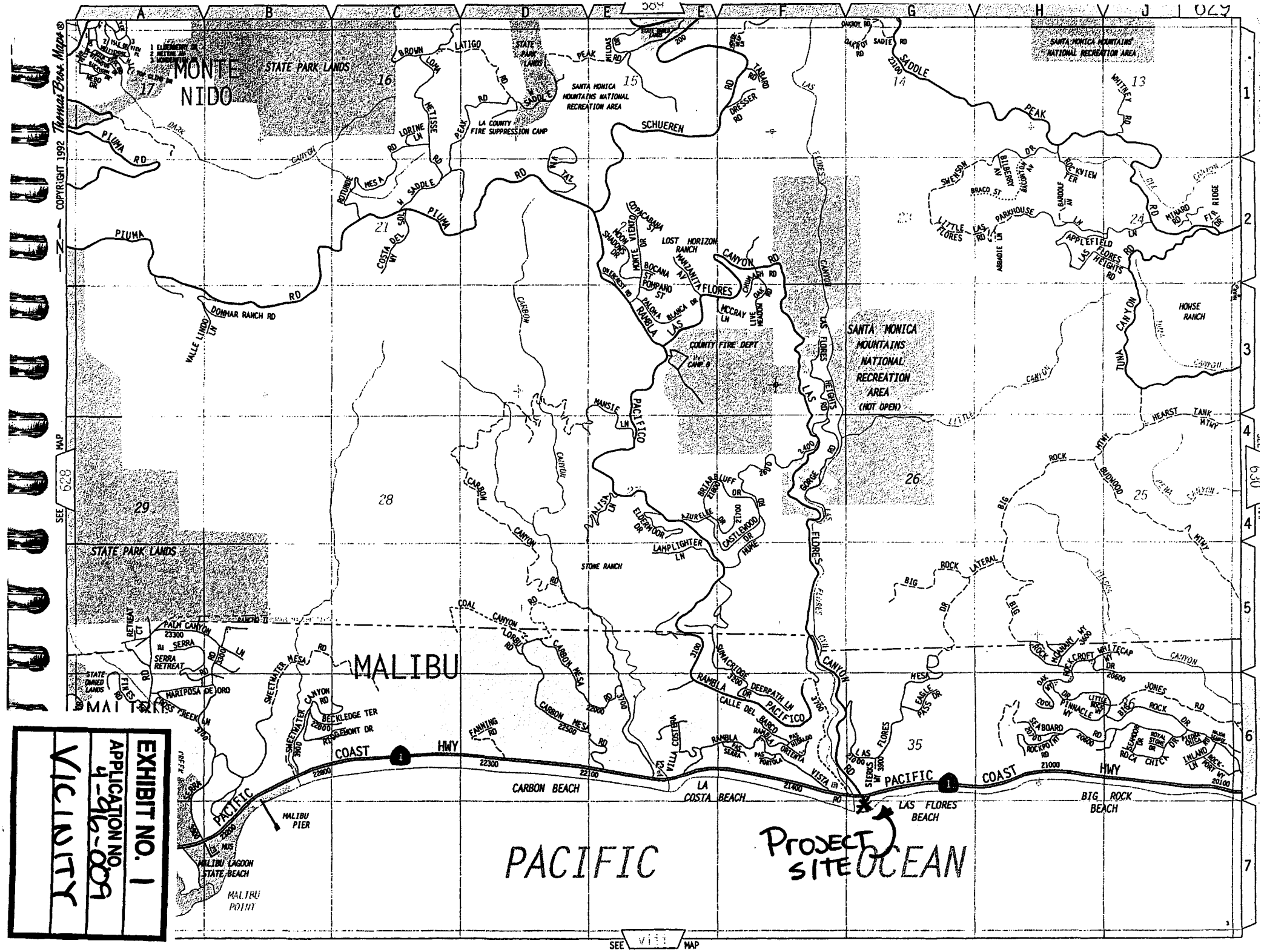
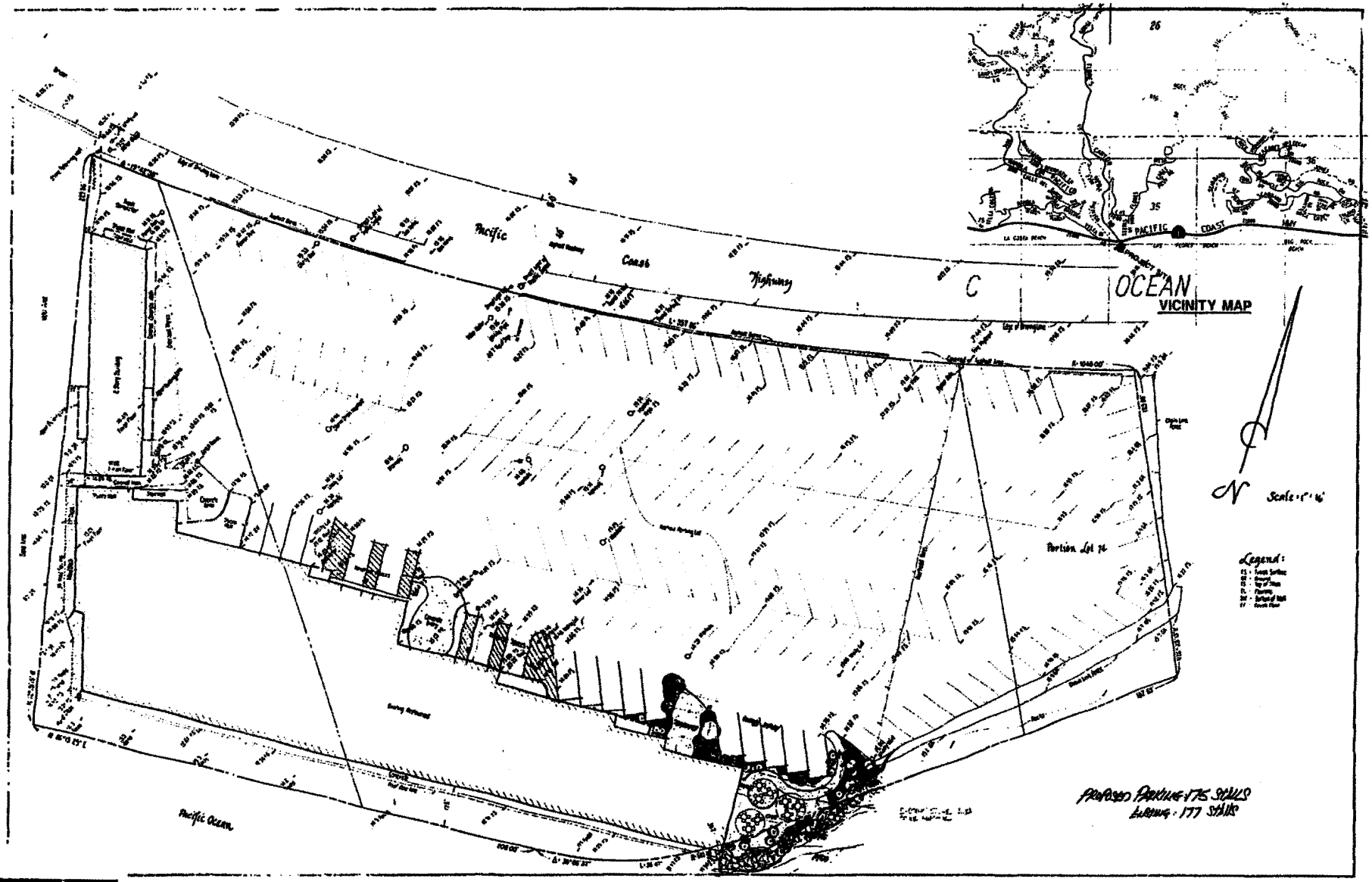


EXHIBIT NO. 1
APPLICATION NO. 4-96-009
VICINITY

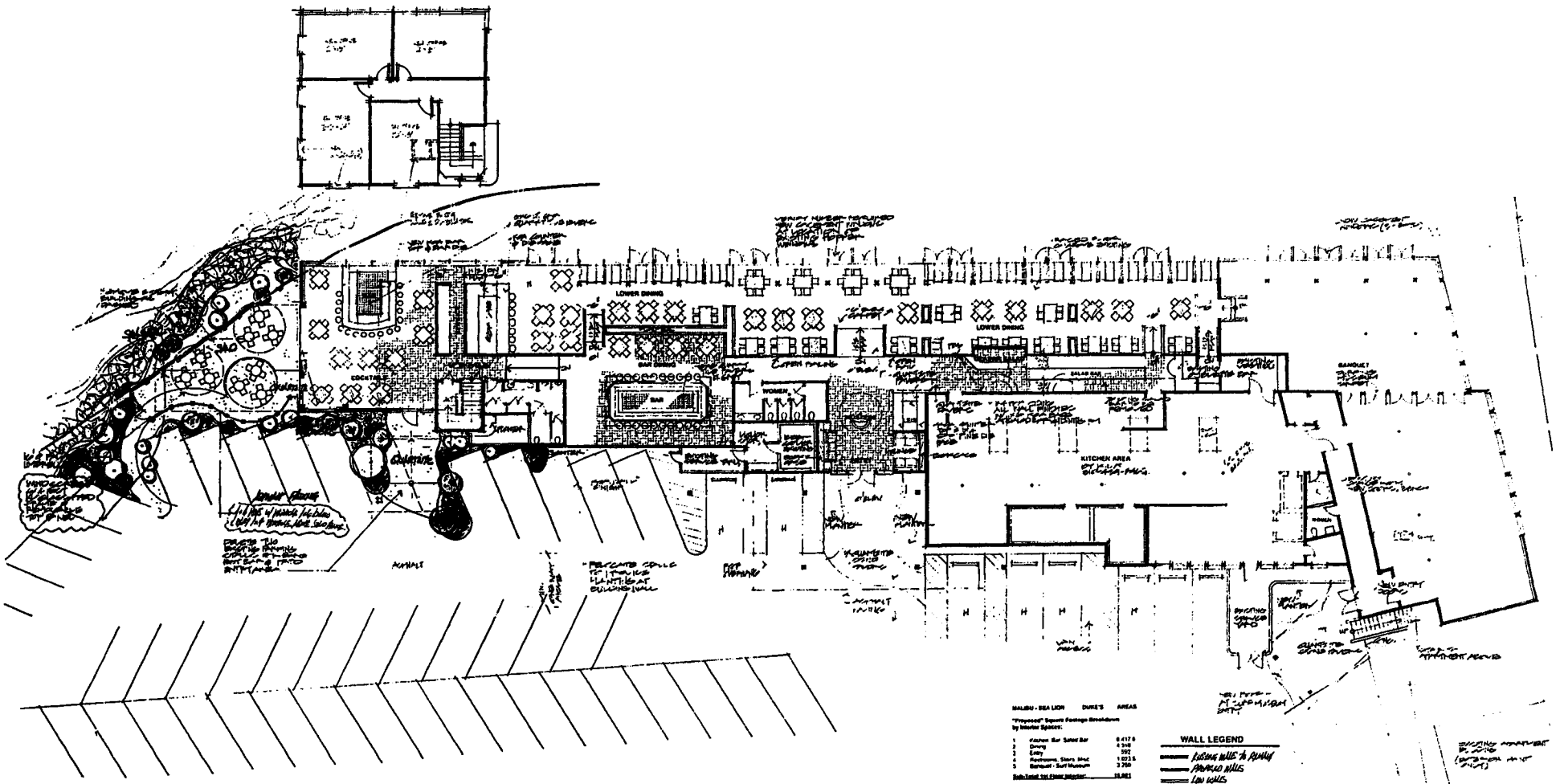


PLOT PLAN

STEVEN LANGFORD ARCHITECTS, INC.
ARCHITECTURE • INTERIOR DESIGN • FOOD SERVICE

2

EXHIBIT NO. 2
APPLICATION NO. 4-99-009
PLOT PLAN



MALIBU - SEA LION	DUKE'S	AREAS
"Proposed" Square Footage Breakdown by Interior Spaces:		
1	Kitchen Bar Salad Bar	6,417.6
2	Dining	4,346
3	Entry	392
4	Restrooms, Stairs Misc	1,823.5
5	Banquet - Surf Museum	3,750
Sub-Total 1st Floor Interior:		16,681
Beach Bar Patio		650
Total - Interior/Exterior Patio:		16,781
2nd Floor Office		1,921
2nd Floor Apartment		2,929
Total 2nd Floor		4,850
Grand Total 1st and 2nd Levels:		20,631
(Total Dining Area		8,346

WALL LEGEND

- EXISTING WALLS TO REMAIN
- PROPOSED WALLS
- LOW WALLS

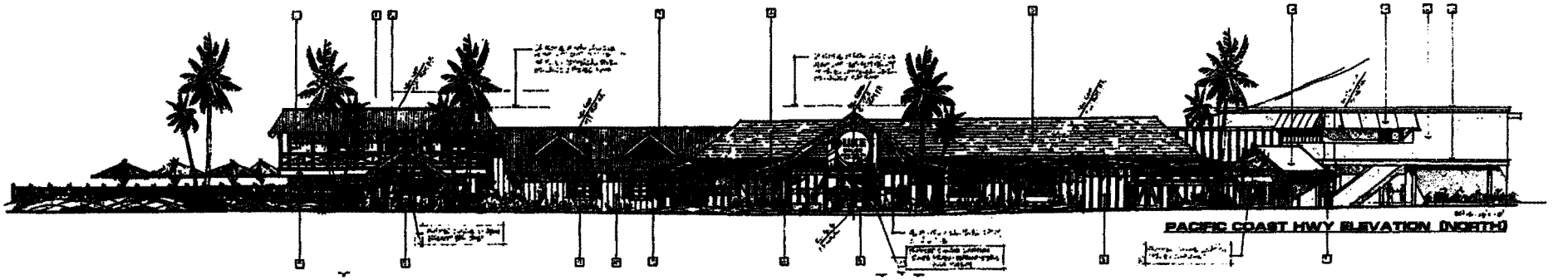
SLA

STEVEN LANGFORD ARCHITECTS, INC.
ARCHITECTURE • INTERIOR DESIGN • FOOD SERVICE

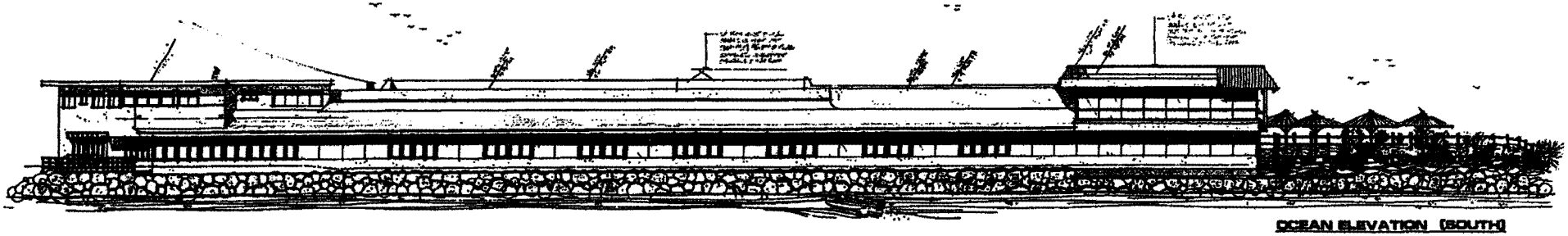
(PROPOSED) **FLOOR PLAN**

4

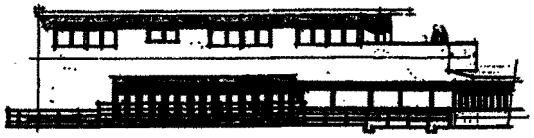
EXHIBIT NO. 3
APPLICATION NO. 4-96-009
PROPOSED FLOOR PLAN



PACIFIC COAST HWY ELEVATION (NORTH)



OCEAN ELEVATION (SOUTH)



WEST ELEVATION

EAST ELEVATION

· DUKE'S RESTAURANT ·

MALIBU, CALIFORNIA

SLA

STEVEN LANSBURY ARCHITECTS, INC.

EXHIBIT NO. 4
APPLICATION NO. 4-96-009
PROPOSED ELEVATIONS

STATE OF CALIFORNIA PETE WILSON, Governor

CALIFORNIA STATE LANDS COMMISSION

GRAY DAVIS, *Lieutenant Governor*
KATHLEEN CONNELL, *Controller*
RUSSELL S. GOULD, *Director of Finance*

EXECUTIVE OFFICE
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

ROBERT C. HIGHT, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service from TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

February 21, 1996
W 23479

Allan E. Tebbetts
Carlsmith Ball Wichman Case & Ichiki
555 South Flower Street, 25th Floor
Los Angeles, CA 90071-2326

Re: Proposed Title Settlement - Sea Lion Restaurant, Malibu, Los Angeles County

Dear Mr. Tebbetts:

You have requested that the staff of the State Lands Commission provide you with a letter so that processing of a Coastal Permit for a restaurant remodeling project may proceed. As I indicated to you by phone, the procedure used by the Coastal Commission to condition issuance of their permits on State Lands Commission review was changed several years ago to require a jurisdictional determination from the State Lands Commission prior to acceptance of an application by the Coastal Commission for beachfront development.

As we understand the proposed remodeling project, certain portions of the project will involve lands claimed by this office as filled tide and submerged lands. We also understand that the proposed project will not increase the area of the existing encroachment. Inasmuch as our office, Mr. Polos, and Mr. Polos' attorneys have made a commitment to reach agreement on an interim lease arrangement with the State Lands Commission staff prior to issuance of a Coastal Permit, by copy of this letter we are requesting Coastal Commission staff to accept and process the remodel project application immediately.

The proposed interim agreement is intended to assure that the state will be compensated for the use of its property, but in a manner that will not prejudice the ultimate resolution of title claims of either party. We look forward to working with you and Mr. Eganoff to expedite resolution of this matter. If you have any further questions, please do not hesitate to contact me at (916) 574-1828.

Sincerely,

Curtis L. Fossum
Senior Staff Counsel
Southern California Region

cc: Rob Eganoff, Esq.
Leon Page, Assemblyman Firestone's Office
Barbara Carey, CCC Ventura
Jack Rump, Chief Counsel
Alan Scott, Public Land Manager

EXHIBIT NO. 5
APPLICATION NO. 4-96-009
STATE LANDS LETTER