

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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LONG BEACH, CA 90802-4416

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Tu 4e

Filed: March 7, 1997
49th Day: April 25, 1997
180th Day: September 3, 1997
Staff: John T. Auyong *JTA*
Staff Report: March 20, 1997
Hearing Date: April 8-11, 1997
Commission Action:



RECORD PACKET COPY

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-024

APPLICANT: James F. Parker (dba) Port Calypso

PROJECT LOCATION: 2633 West Coast Highway, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Expand an existing restaurant by converting an existing 1,101 square foot retail use to restaurant use. The expanded restaurant would contain 1,580 square feet of public service area. The proposed expansion area would be open only between 5:30 p.m. and 2:00 a.m. on a daily basis. During the hours of 6:00 a.m. and 5:30 p.m. on a daily basis, only the existing 1,000 square feet of net public area of the restaurant would be open, and 21 of the existing 33 on-site spaces would be for the use of the restaurant during these hours. The proposal does not include additional parking spaces to serve the expanded area.

Lot area:	24,000 square feet
Building coverage:	4,000 square feet
Pavement coverage:	19,000 square feet
Landscape coverage:	1,000 square feet
Parking spaces:	33 on-site, 4 in-lieu
Zoning:	SP-5 (Mariners Mile Specific Plan)
Plan designation:	Recreation and Marine Commercial

LOCAL APPROVALS RECEIVED: City of Newport Beach Use Permit 1816A; City of Newport Beach Approval-in-Concept 190-97

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan

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, located between the first public road and the sea, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, including the public access and recreation policies of Chapter 3, 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.

This coastal development permit 5-97-024 approves only the project as proposed; specifically, (1) the conversion of 1,101 square feet of retail use to 545 square feet of restaurant public service area to be open only between 5:30 p.m. and 2:00 a.m., and (2) with 21 of the on-site spaces for the restaurant use during the hours of 6:00 a.m. and 5:30 p.m. Any future change in intensity of use of the site (such as a change in the hours of operation of the restaurant expansion, changes in square footage, a change from the proposed restaurant use to another type of use, and/or a change in the number of on-site parking spaces) shall require an amendment to this permit from the Coastal Commission or its successor agency, or a new coastal development permit. The applicant shall operate the restaurant as proposed and provide parking as proposed.

IV. Findings and Declarations.

A. Project Description

The applicant is proposing to convert an existing retail space containing 1,101 square feet of gross floor area to 545 square feet of public service area in order to expand an existing restaurant. The remaining 556 square feet of the converted retail area will be used for non-public service area (e.g. storage) for the restaurant. The existing restaurant contains 1,035 square feet of public service area. The City of Newport Beach's approval limits the restaurant to one thousand (1,000) square feet of net public area during the daytime (6:30 a.m. to 5:30 p.m.). Essentially, the City's approval allows the proposed expanded area resulting from the conversion (see hatched area marked "Proposed Extension" on Exhibit B) to be open only during the evening after 5:30 p.m. The applicant is proposing the project consistent with the City's approval (see Exhibit E). With the proposed expanded area, the restaurant would have 1,580 square feet of public service area in the evening after 5:30 p.m. until 2:00 a.m. when the restaurant closes.

The proposed development would be located in an existing two-story, twenty foot high mixed-used structure. The other uses include, besides the subject restaurant and the retail space to be converted, 2,128 square feet of gross floor area of ground level retail space and 977 square feet of gross floor area of second floor office use. The remainder of the second floor is non-public service area for the restaurant and an inaccessible attic area with no doors. No changes are proposed to the other non-restaurant uses on-site. An on-site parking lot containing 33 parking spaces exists. Further, the applicant, who is the master lessee for the entire building, also currently pays for an additional 4 in-lieu spaces. No additional parking spaces nor reductions in existing parking spaces are proposed.

B. Public Access/Parking

Section 30252 of the Coastal Act states, in relevant 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 subject site is a harborfront lot, located between the sea and the first public road which in this case is Coast Highway (State Route One). Coast Highway is the only coastal access route through this part of the coastal zone. Nearby is the Mariner's Mile municipal public parking lot. When a private development does not provide adequate on-site parking, users of that development are forced to occupy public parking that could be used by visitors to the coastal zone. A lack of public parking can deter people from visiting the coastal zone, resulting in adverse public access impacts. In particular, since a majority of visitors to the coastal zone go during daylight hours, the provision of public parking is most critical during daylight hours. All private development must provide adequate on-site parking, especially during daylight hours, to minimize adverse impacts on public access.

The Commission has regularly employed standards to determine the amount of parking required to satisfy the demand of different types of uses. The Commission's regularly used parking standard for restaurants is one parking space per fifty (50) square feet of public service area. Public service area has been regularly defined by the Commission as being those areas of a restaurant where the public can dine or wait to dine, including bar/lounge and lobby areas. The City of Newport Beach's restaurant standard is based on "net public area", which roughly corresponds to the Commission's definition of public service area".

During the daytime hours between 6:00 a.m. and 5:30 p.m., the applicant would limit the public service area of the restaurant to essentially the existing operation. The existing operation, which per staff calculations is 1,035 square feet of public service area, is relatively consistent with the City's calculation of 1,000 square feet of net public area. Based on the Commission's regularly used restaurant parking standard, the 1,035 square feet of public service area would require twenty-one (21) spaces. The applicant currently has 21 on-site parking spaces for the restaurant use. The applicant is not proposing to increase the number of on-site parking spaces. Since the applicant is not proposing to increase the restaurant's public service area during the day, the restaurant will continue to have adequate parking to meet its demand during daylight hours when public access is most critical.

The proposed development is located within a mixed used complex. All the uses within the complex combined should provide adequate parking. Other than the conversion of 1,101 square feet of retail space for the proposed restaurant expansion, the proposed development does not include any changes to the other on-site uses. Per staff calculations, the existing on-site office use has 977 square feet of gross floor area. Based on the Commission's regularly used office parking standard of one parking space per 250 square feet of gross floor area, four (4) spaces would be required for the existing office use. Per staff calculations, the existing on-site retail uses which would not be converted to restaurant use have 2,128 square feet of gross floor area. Based on the Commission's regularly used retail parking standard of one parking space per 225 square feet of gross floor area, ten (10) parking spaces would be required for the non-converted retail uses on-site. Therefore, together the on-site office and retail uses which would not be converted to restaurant use would require fourteen (14) parking spaces.

Thus, during daylight hours, the proposed 1,035 square feet of net public restaurant area and the office and non-converted retail uses on-site together require thirty-five (35) parking spaces, based on the Commission's regularly used parking standards. The on-site parking lot has 33 spaces for the entire mixed-use complex. Further, the applicant as master lessee for the entire complex pays for four (4) in-lieu spaces. The City no longer allows the purchase of new in-lieu spaces, but allows the continued purchase of spaces which were approved before the City discontinued the in-lieu program. The Commission has in the past accepted the use of existing in-lieu spaces to allow development in Newport Beach to fulfill parking requirements. Thus, a total of thirty-seven (37) spaces is provided. The 37 provided parking spaces

are adequate to meet the demand generated by the proposed development and other existing uses on-site during daylight hours.

After 5:30 p.m., the applicant proposes to expand the restaurant to 1,580 square feet of public service area, per staff calculations. The expansion would be a result of the proposed conversion of 1,101 square feet of gross retail floor area to 545 square feet of public service area and 556 square feet of non-public service area. The upstairs portion of the existing retail area to be converted would become storage, or non-public service area, of the restaurant. This non-public service area would not be counted in the calculation of the restaurant's parking demand.

Based on the Commission's regularly used restaurant parking standard, the restaurant with the proposed expansion would require thirty-two (32) parking spaces. The applicant indicates that the other existing on-site retail and office uses would be closed after 5:30 p.m. Thus, there would be no parking demand for the retail and office uses in the evening, and the expanded restaurant could use the entire parking lot in the evening for its customers. The 33 on-site parking spaces are adequate to meet the proposed expansion of the restaurant during evening hours. In addition, after 5:30 p.m., typically the number of visitors to the coastal zone declines as beachgoers begin to head home. Therefore, adverse public access impacts from competition for parking are typically less than in the daytime.

The proposed development provides adequate parking to meet its demand during both daylight and evening hours. However, a change in the amount of public service area of the restaurant would result in a change in the parking demand. Also, a change in the amount of parking spaces would result in a change in the ability of the restaurant to meet its parking demand. Therefore, the Commission finds it necessary to impose a special condition informing the permittee that any future change in intensity of use of the site would require an amendment to this permit or a new permit. This would allow for review of any adverse public access impacts which may result from future changes in intensity of use. Therefore, the Commission finds that the proposed development as conditioned would be consistent with Section 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 ("LCP") which conforms with the Chapter Three policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was originally certified on May 19, 1982. As conditioned, the proposed development is consistent with the public access policies regarding parking of Chapter Three of the Coastal Act. Therefore, the Commission finds that approval of the proposed development as conditioned would not prejudice the City's ability to prepare a local coastal program consistent with the Chapter Three policies of the Coastal Act.

D. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 may have on the environment.

The proposed development is located in an urban area. Development already exists on the subject site. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the development policies regarding parking of Chapter Three of the Coastal Act. Mitigation measures requiring review through the coastal development permit process of future development on-site will minimize all significant adverse impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

8585F:jta

to parking lot & harbor ↑

10M

PATIO

KITCHEN

DINING AREA

RETAIL

COLDROOM

SERVING

BAR

PROPOSED EXTENSION

LOUNGE & DINING

STAGE

Restaurant Detail Plan

COASTAL COMMISSION
5-97-024

EXHIBIT # B

PAGE 1 OF 1

← Coast Highway →

TOTAL

USE

RETAIL
COLDROOM

REAR DIN
REAR PA
KITCHEN
SERVICE
BAR/SET-
BAR (PUB)
MISC.

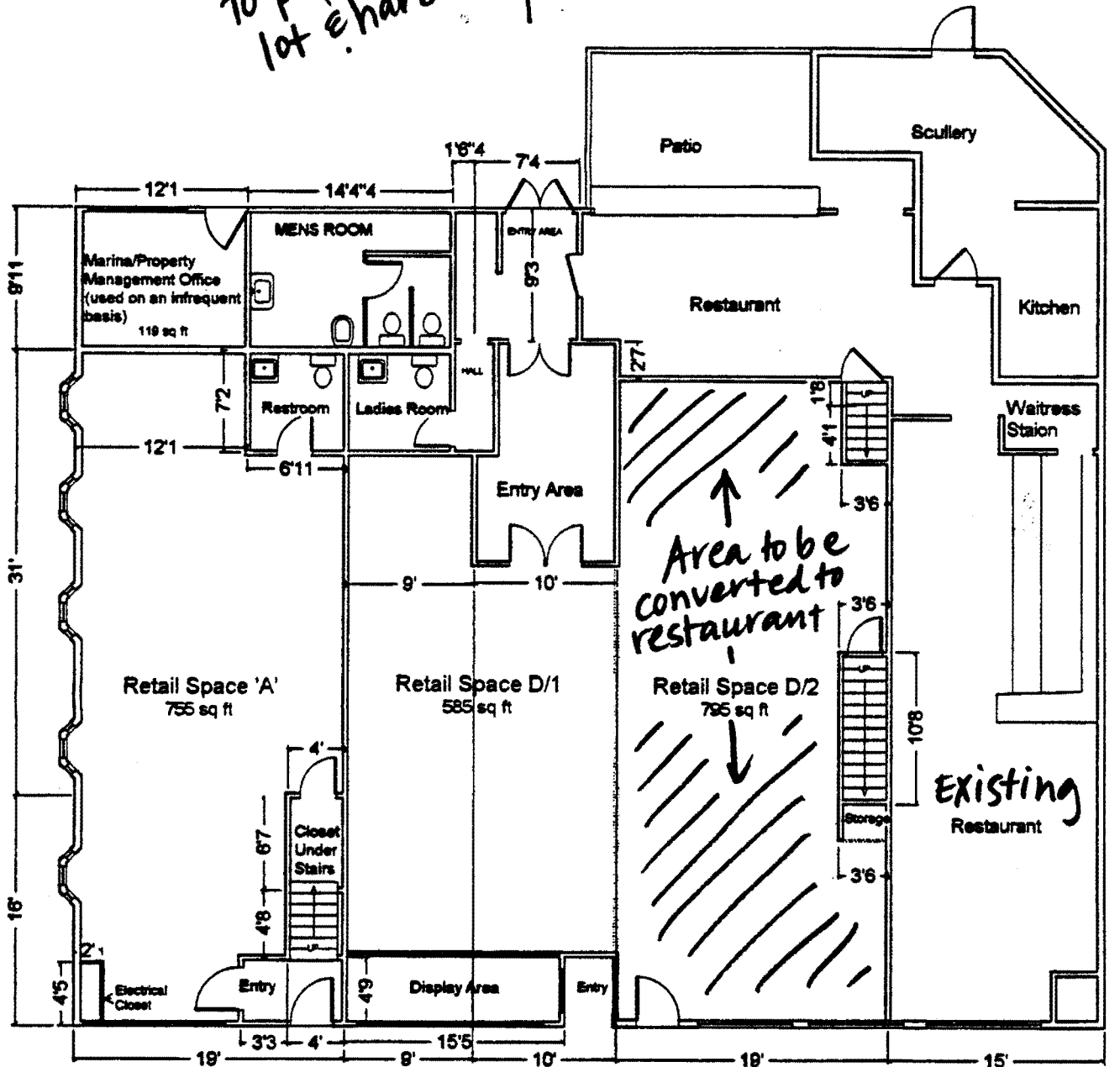
TOTAL

ZONE _____
SETBACKS: _____
FRONT _____
REAR _____
RIGHT _____
LEFT _____
HEIGHT LIMIT _____
DISCRETIONARY _____
USE PERMIT _____

CITY OF NEWPORT
APPROVAL IN COMPLIANCE WITH
This project is approved for use as a restaurant and public building in accordance with the California Coastal Planning Department.
By _____

to parking lot & harbor ↑

NORTH
↓



FIRST LEVEL
2254sf of Retail/Office Space

PORT CALYPSO
2633 West Coast Highway
Newport Beach, Ca. 92663

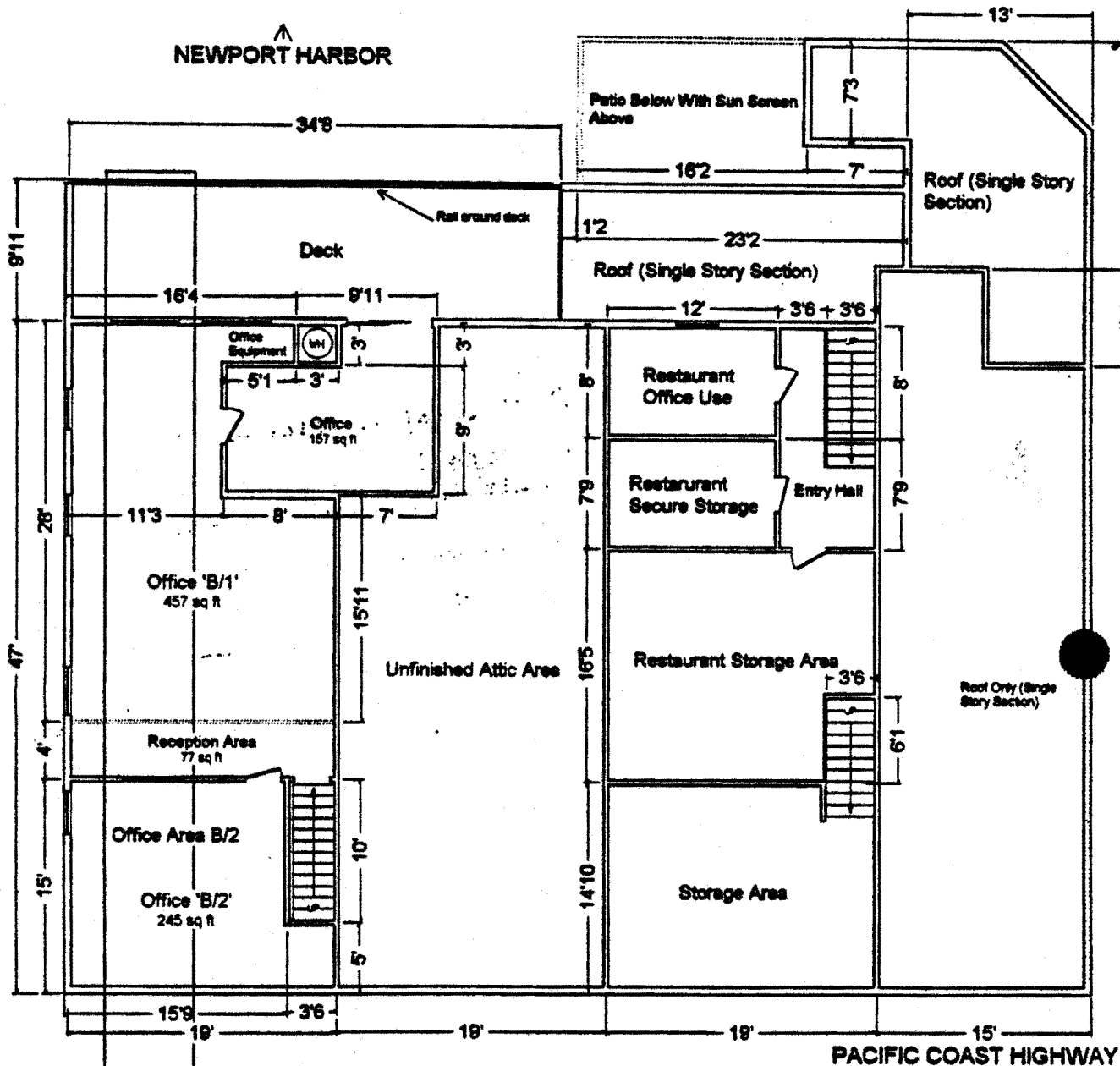
PACIFIC COAST HIGHWAY
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COASTAL COMMISSION
First Floor Plan

5-97-024

EXHIBIT # C
PAGE 1 OF 2

NORTH



SECOND LEVEL
936sf of Office/Reception Space

PORT CALYPSO

2633 West Coast Highway
Newport Beach, Ca. 92663

5-97-024

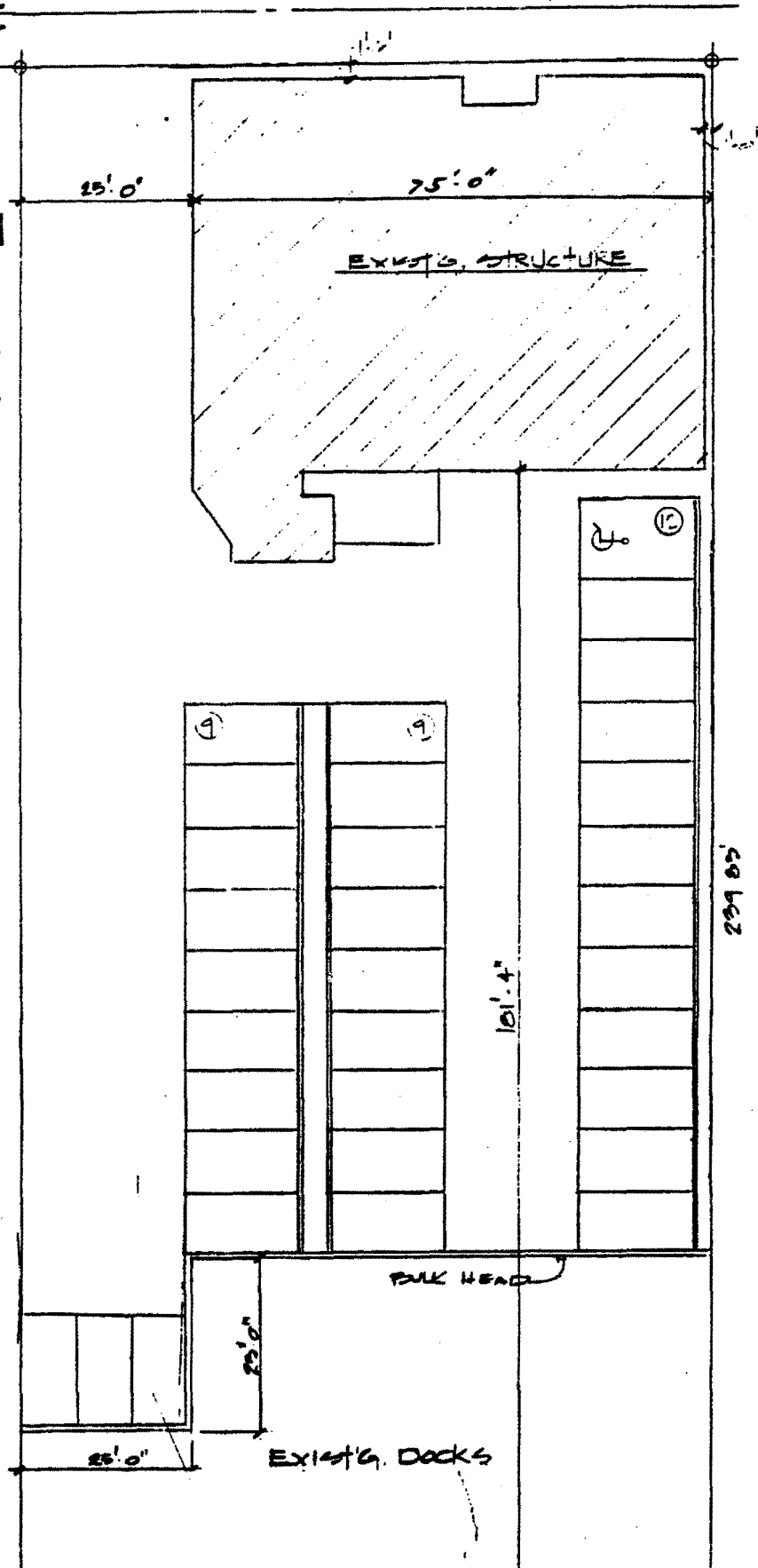
COASTAL COMMISSION
Second floor plan

EXHIBIT # C
PAGE 2 OF 2

2699 PACIFIC COAST HWY.

5-97-024
COASTAL COMMISSION
Site plan

EXHIBIT # D
PAGE 1 OF 1



PORT CALYPSO

March 6, 1997

California Coastal Commission
245 W. Broadway
Suite 380
Long Beach, Ca. 90802

Attn: John T. Auyong

Re: Coastal Development Permit Application 5-97-024

Dear Mr. Auyong:

Pursuant to your request received March 1, 1997 and our subsequent telephone conversation on March 4th, I submit as follows:

1) Plans showing 1000 sf of restricted daytime net public area - As discussed on the phone, subject area is depicted on the 'blueprint' drawing that was submitted with my application (see area with restaurant markings that is adjacent to that which is marked "Proposed Extension"). There will be only two openings for ingress/egress between the existing restaurant space and the proposed new space. The physical barriers required by the City of Newport Beach will be placed at these ingress/egress points in accordance with their specifications.

2) Amend project description to reflect daytime net public area and provision of parking - This confirms that restaurant parking will be provided in accordance with the conditions of approval set forth by the City of Newport Beach (i.e. that only 1000sf of net public area will be open during the hours of 6:00 a.m. and 5:30 p.m. daily, and that a minimum of 21 parking spaces will be provided during those hours for restaurant use).

3) Proof-of-ownership - I've enclosed as follows:

a) A conforming copy of the short-form 'Memorandum of Lease and of Assignment Thereof' that was recorded in September or October of 1980 pursuant to my acquisition of the master lease on the property at 2633 W. Coast Highway, Newport Beach.

5-97-024

COASTAL COMMISSION
Applicant's Letter (portion)

EXHIBIT # F

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