

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: 04-17-97
 49th Day: 06-05-97
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 Staff: RMR-LB
 Staff Report: 04-21-97
 Hearing Date: May 13-16, 1997
 Commission Action:

STAFF REPORT: REGULAR CALENDARAPPLICATION NO: 5-97-087APPLICANT: City of San Clemente Agent: Lynn HughesPROJECT LOCATION: San Clemente Pier, 611 Avenida Victoria

PROJECT DESCRIPTION: Construction of a 570 square foot oyster bar on the south building and a 765 square foot fish market on the north building. The oyster bar will displace 135 square feet of existing unenclosed deck with seating for 16 and will require 6 new pier pilings. The fish market will displace 675 square feet of unenclosed deck with seating for 36. There are no new pilings required for the fish market. The deck seating is currently utilized by the Fisherman's Restaurant on the south building and a bar associated with the restaurant on the north building.

Lot Area:	NA
Building coverage:	NA
Pavement coverage:	NA
Landscape coverage:	NA
Parking spaces:	
Zoning:	
Plan designation:	
Project density:	
Ht. abv fin grade:	NA

LOCAL APPROVALS RECEIVED: Approval in concept from the City of San Clemente

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan, Coastal Development Permits 5-92-012A (City of San Clemente), 5-92-012 (City of San Clemente), 5-92-470, 5-90-1120, 1-90-777, 5-86-793, 5-84-534, 5-83-739, 5-83-249, 5-82-773, 5-82-205A and 5-82-205 all City of San Clemente permits

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. Parking Requirement

Prior to the issuance of the coastal development permit the applicant shall submit revised plans showing the number of seats which shall be installed for patrons in the 570 sq. ft. oyster bar.

The maximum number of seats approved in this permit is 36.

2. State Lands Commission

Prior to the issuance of the coastal development permit the applicant shall submit for the review and approval of the Executive Director a written determination from the State Lands Commission that:

- (a) No State lands and/or lands subject to the public trust are involved in the development, or
- (b) State lands and/or lands subject to the public trust are involved in the development and all permits that are required by the State Lands Commission have been obtained, or
- (c) State lands and/or lands subject to the public trust may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

IV. Findings and Declarations:

A. Project Description:

The San Clemente Pier has a central boardwalk with a north building complex and a south building complex. There is an existing bar, associated with the Fisherman's

resolution allowing city employees to park in the Marine Safety parking area, thus freeing up parking spaces employees would normally have taken in the Pier Bowl. The permit was extended once and then allowed to expire. The City of San Clemente in April 1997 submitted two applications for coastal development permits (5-97-086 and 5-97-087) for essentially the same development that was proposed in permit 5-92-012 and 5-92-012A.

Coastal Development Permit 5-90-777 was approved by the Commission for a 1,710 square foot addition of exterior deck and interior kitchen to the existing 7,951 square foot pier and restaurant facility. This project was approved with a parking condition requiring the provision of 14 spaces within 300 feet of the development. The applicants arrived at the hearing after the project had been approved by the Commission. Therefore, because the applicants wanted to contest the parking condition, the Commission agreed to reschedule the project at the next available hearing. The project was heard and approved as CDP 5-90-1120, without the parking condition. The applicants had requested that they be able to add approximately 14 parking spaces in the Pier Bowl, Linda Lane and North Beach parking lots with minor curb, gutter and restriping work. Staff concurred with this request and the special condition requiring parking was deleted from the staff report because the project description was modified to include the provision of parking to support the development. This permit has been extended several times but the development has not occurred.

The development proposed in CDP 5-90-1120 would have expanded the deck areas ten feet on three sides and resulted in a 20% increase in seating capacity. Under past permit action the Commission determined that the ratio of parking spaces to seating was one space for each four seats. This was the ratio that was applied to coastal development permit 5-90-1120. The permit was approved by the Commission in January of 1990. A Coastal Development Permit has been issued and continues to be extended for 5-90-1120.

In 1986, the Commission approved Permit no. 5-86-793 for a 40% increase in seats from 305 to 419 and the addition of approximately 680 square feet of storage/refrigeration/food preparation area, windscreens along new outside decks and pilings to support the extended deck and kitchen areas. This permit had a special condition that the City must provide 28 parking spaces. Although the City later came in for an amendment to the permit, reducing the number of seats and thus reducing the number of required parking spaces, the special condition still could not be satisfied within the two year time limit, and the permit expired.

In January 1983, the Commission approved a permit for the removal and replacement of approximately 15 pier pilings and a portion of the decking on the pier because of dry rot (5-82-773). In June 1983, the Commission approved a

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 non-automobile 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.
(emphasis added)

The provision of adequate parking as a condition of new development is an essential component of the Coastal Act. The Commission has, in the past, found this to be especially important when new development is located in a public beach area. The aim in requiring that sufficient parking is included in new development is to ensure that parking for beach access will not be hindered or otherwise adversely impacted by the new development. The access and recreation policies of the Coastal Act call for the protection of public access to the beach and the preservation of oceanfront lands for recreational uses which support public access.

The provision of adequate parking is important as it relates to the ability of the general public to gain access to the shoreline. When new development occurs near the beach or near beach access roads without the provision of adequate parking, patrons and employees of that development are forced to compete with beach visitors for limited public parking opportunities.

The Fisherman's Restaurant and San Clemente Pier are unique and an attraction to residents and visitors within a 50 mile stretch of coast. The Commission notes that though there are other beaches for beachgoers to use, the demand for the use of those beaches is growing rapidly as Orange County and the neighboring counties rapidly urbanize. The demand for beach use is increasing, but the beaches are limited resources. The Coastal Act requires that development not interfere with the public's right of access to the sea by providing adequate parking to serve that development.

In its 1982 review of the conversion of the boat club to restaurant use, the Commission found it appropriate to use the City's parking standards as the basis for estimating the parking demand generated by the project and has used the City's

seats is less than 36, then no further action is required. However, if the number of proposed seats provided by the City exceeds 36 seats, then the City will find itself with a deficit in parking supply for the project. In that event, the City would have to amend this permit. The permit amendment would have to include additional parking spaces.

The San Clemente Pier is located on the ocean between the sea and the first public road. The San Clemente Municipal Pier is wholly owned by the City of San Clemente. The Fisherman's Restaurant is a lessee of the City of San Clemente. The San Clemente Pier is open to the general public. The proposed development will not have an adverse impact on public access to the San Clemente Pier and hopefully will increase its attractiveness to the general public.

Therefore, the Commission finds that the proposed development as conditioned is in conformance with Sections 30210, 30211, and 30252 of the Coastal Act.

Finally, special condition 2 requires that the applicants submit proof that the City has obtained a determination from the State Lands Commission that the proposed development, specifically the proposed pilings for the oyster bar, does or does not involve public trust lands. If public trust lands are involved the applicant will have to obtain any necessary permits or an agreement from the State Lands Commission prior to transmittal of this permit.

D. Local Coastal Program

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 Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988. Among the policies contained in the certified LUP are those discussed in the preceding sections regarding the proposed development. Previous findings have demonstrated the project's consistency with Chapter 3 of the Coastal Act. It has also been shown that the proposal is consistent with the certified land use plan which includes these Chapter 3 policies. Therefore, the Commission finds that the project approval would not prejudice the ability of the City to prepare a certifiable LCP for the City of San Clemente.

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by

992

SEE 972 MAP

CAPISTRANO BEACH
DANA POINT

SAN CLEMENTE

PACIFIC

OCEAN

SITE

ORANGE CO.

MAP
SEE 1X

- SEE 972
- 1 OCEAN DR
 - 2 PACIFIC DR
 - 3 SANDY DR
 - 4 BREAKER DR
 - 5 BEACH DR
 - 7 EMB TIDE DR
 - 8 SEA BREEZE DR
 - 9 DOLPHIN DR

- 1 CORONADO LN
- 2 ALAMEDA LN
- 3 SANTA ANA LN
- 4 CAPISTRANO LN
- 5 CORONA LN

EXHIBIT NO. 1

APPLICATION NO. 5-97-057

VICINITY

California Coastal Commission

NEW BASE OF PIER CONCESSION

South Alt.

N. BLDG. DOCK EXTENSION
TO ALIGN W/ EXIST. S.
DECK EDGE.

RECEIVED

CALIFORNIA
COASTAL COMMISSION

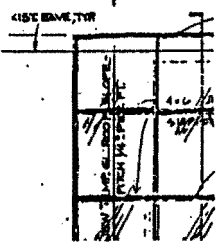
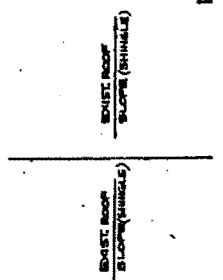
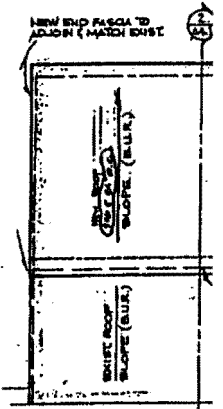
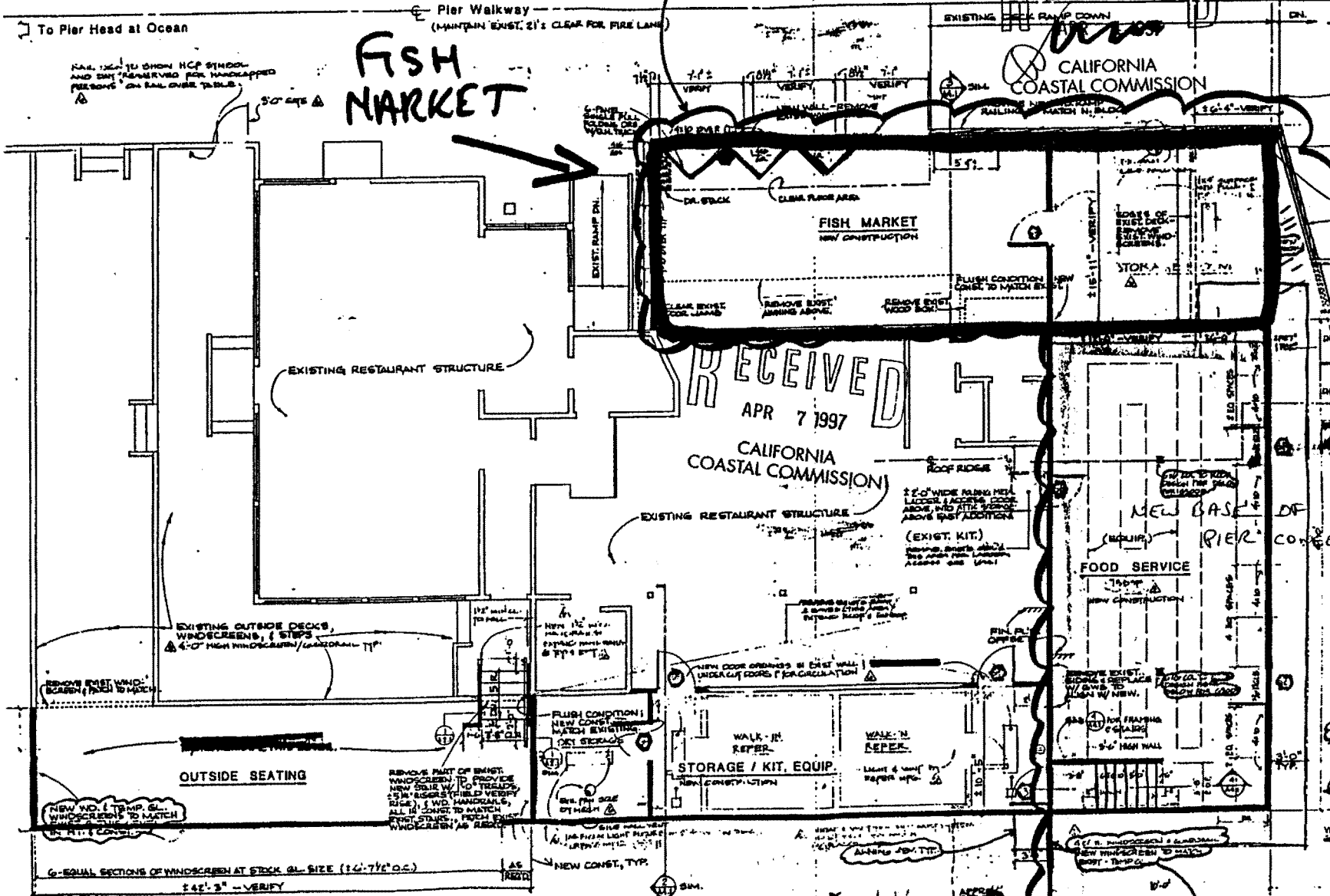


EXHIBIT NO. 3

APPLICATION NO. 5-97-087

SOUTH BLDG.

California Coastal Commission

SOUTH BUILDING FLOOR PLAN

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

SHADY WALLS IS NEW CONSTRUCTION

5-57-087



SEE NOTE ABOVE (V)