

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
408-27-4863

HEARING IMPAIRED: (415) 904-5200

W56



Page 1 of 4
Permit Application No. 3-97-31
Date 4/23/97

ADMINISTRATIVE PERMIT

APPLICANT: Larry Davis

PROJECT DESCRIPTION: Reconstruction of existing dock

PROJECT LOCATION: Whale's Tail Restaurant, 945 Embarcadero, City of Morro Bay,
San Luis Obispo County. APN 066-352-014/066-352-039

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Wednesday May 14, 1997
RADISSON HOTEL - SANTA BARBARA
1111 E. Cabrillo Blvd.
Santa Barbara, CA 93103
(805) 963-0744

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: 

Title: DIST. CHIEF PLANNER

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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, 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, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

The existing restaurant and dock are located on public trust lands in the City of Morro Bay. The restaurant operates under a lease from the City of Morro Bay, as well as a Conditional Use Permit (CUP 22-93). The Coastal Commission granted a coastal development permit for the restaurant use in 1977 (CDP # 126-26), and waived the coastal development permit requirements for the addition of a 180 square foot outdoor eating area addition to the restaurant in 1984 (Waiver # 4-84-293).

The existing dock on the seaward side of the restaurant is currently in a state of disrepair, and as a result, is unable to be used by the public. The City of Morro Bay has required that, as a condition of continued restaurant operation, the dock be repaired and that facilities to improve lateral and vertical public access be installed. The City's permit does not allow the repaired dock to be used as an outdoor seating area for restaurant use. Consistent with the locally approved permit, the special conditions attached to this permit identify that use of the dock for outdoor seating will require subsequent Coastal Commission review and approval.

Nevertheless, the potential for conflict between restaurant and public use of the deck remains. For example, it is not clear if the restaurant, including the deck, could be rented out for private functions to the exclusion of the general public. In the Commission's experience of regulating projects which involve both public access and restaurant use, it has become evident that the specific terms by which public access will be managed must be clearly articulated in order to ensure compliance with the public access policies of the Coastal Act, as well as to allow for effective restaurant operations. Therefore, the special conditions attached to this permit require that the permittee submit, for Executive Director review and approval, a public access management plan which identifies the parameters under which public use of the deck will be managed.

While none of the deck repair work will be undertaken within the marine environment, construction activities will take place above and adjacent the environmentally sensitive intertidal habitat of Morro Bay. As a result, the special conditions attached to this permit also require that the appropriate precautions be taken to avoid construction activities from adversely impacting marine resources.

Therefore, as conditioned, the project is found to be consistent with the Chapter 3 policies of the Coastal Act, as well as with the City of Morro Bay's certified LCP, with respect to the provision of public access and recreation opportunities and the protection of environmentally sensitive habitat areas.

SPECIAL CONDITIONS:

1. Scope of Permit. This permit authorizes the repair of the existing deck at 945 Embarcadero in the City of Morro Bay, as detailed in the submitted plans prepared by J.L. Otto Engineering reissued on January 8, 1997. The approved repair work is located entirely above the mean high tide line of the waters of Morro Bay; work below the mean high tide line (if subsequently determined to be necessary), or any work beyond that identified in said plans, must be submitted for Executive Director review, and may require additional Commission approval, as well as review and approval by other regulatory agencies. Outdoor seating for the restaurant is not approved by this permit, and will require subsequent review and approval by the Coastal Commission.
2. Public Access. The repaired deck shall be available for access by the general public in a manner which takes into account public safety needs and restaurant security. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall submit, for Executive Director review and approval, a Public Access Management Plan which specifies the terms under which public use of the deck shall be managed, including, but not limited to: hours of availability; special events/private functions; and, criteria for temporary closure. The submitted plan shall be accompanied by written evidence that the City of Morro Bay Planning Director has reviewed and approved the Public Access Management Plan.
3. Containment Requirements. Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, discarded wood, wood preservatives, concrete, etc.) from entering the marine environment. Where additional wood preservatives must be applied to cut wood surfaces, the materials shall, wherever feasible, be treated at an onshore location to preclude the possibility of spills into Bay waters.
4. Procedures for Concrete Work. To prevent uncured concrete from coming into contact with Bay waters, the new concrete bases (2) and concrete columns (2) shall be installed when there is no danger of the high tide coming into contact with the concrete work areas. These areas shall be completely dewatered, within a cassion or other barrier, that shall remain in place until the concrete is sufficiently cured to prevent any significant increase in the pH of adjacent waters. A specific wash down area for all concrete work tools and equipment shall be designated and located so that there will be no chance of concrete slurry or contaminated runoff to adjacent waters.
5. Construction Contract Requirements. The construction contractor shall be made aware of the requirements of Special Conditions 3 and 4 above, and shall ensure that the work crew is carefully briefed on observing the appropriate precautions and reporting any accidental spills. The construction contract shall contain appropriate penalty provisions, sufficient to offset the costs of retrieving or clean up of foreign materials not properly contained.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

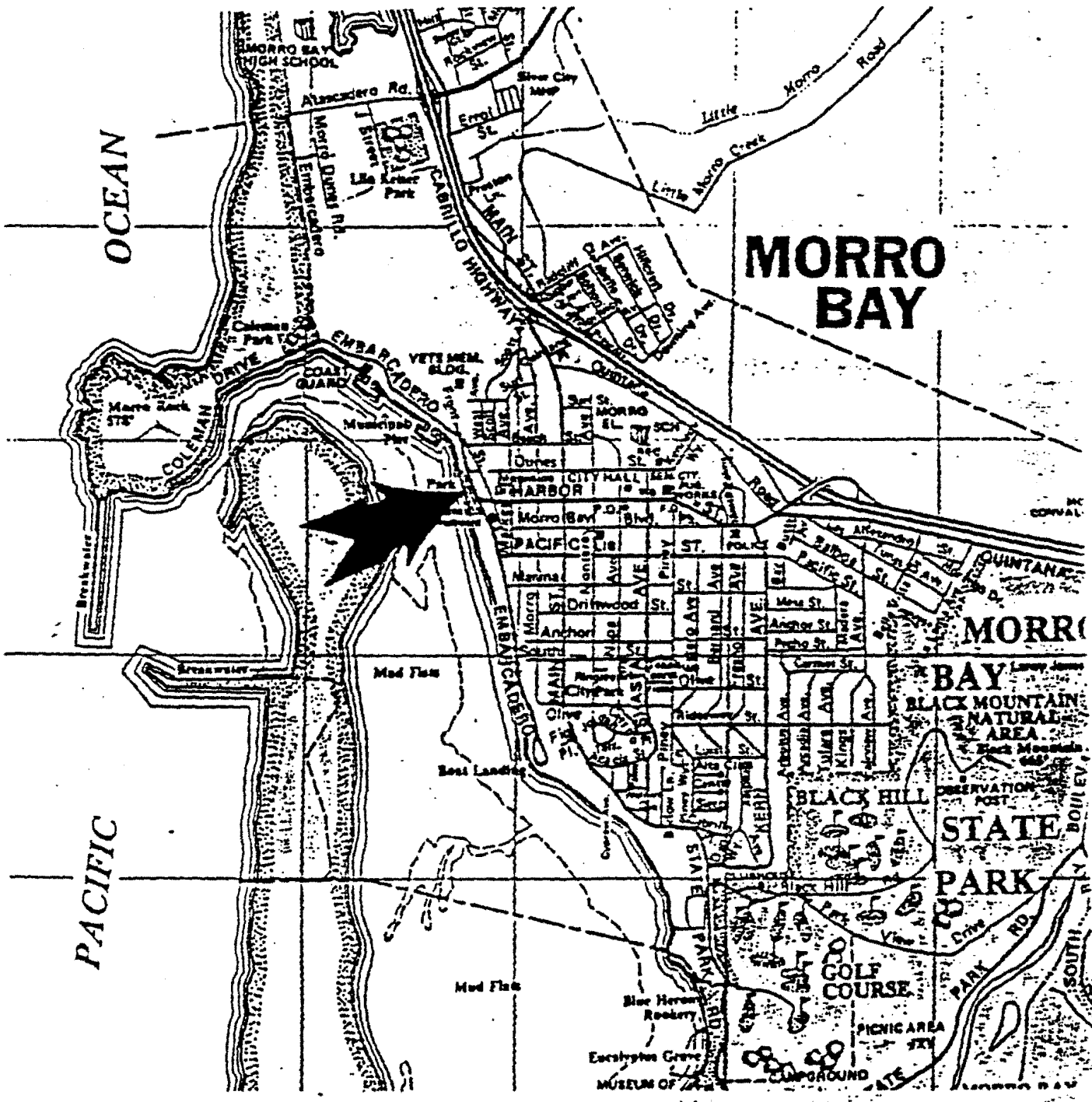


EXHIBIT NO. 1
APPLICATION NO.
3-97-31
Location Map

PACIFIC OCEAN

EXISTING DECK
TO BE REPAIRED

5
6 7

2

3

TRASH ENCLOSURE

1

2

5

MHT

EXISTING
REVETMENT

EXISTING WALKWAY

4

9

8

1070

EXISTING RESTAURANT

CITY PARK

500

9



200

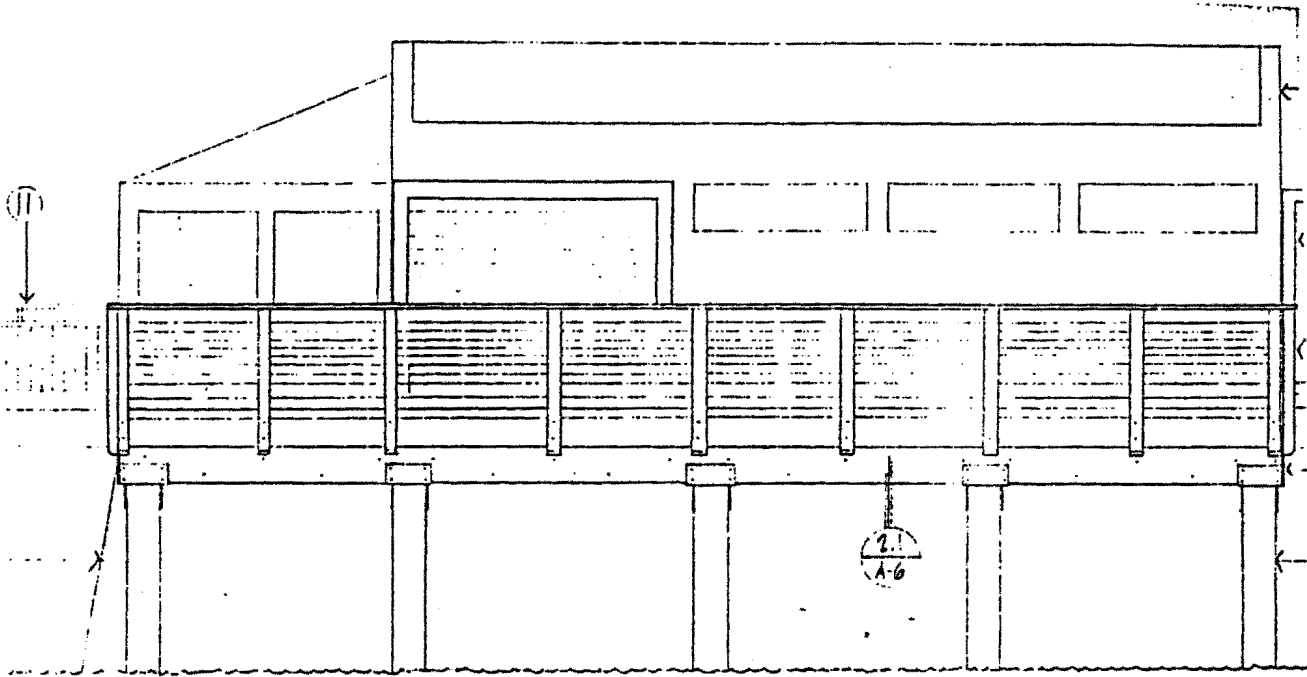
EMBARCADERO

SITE PLAN

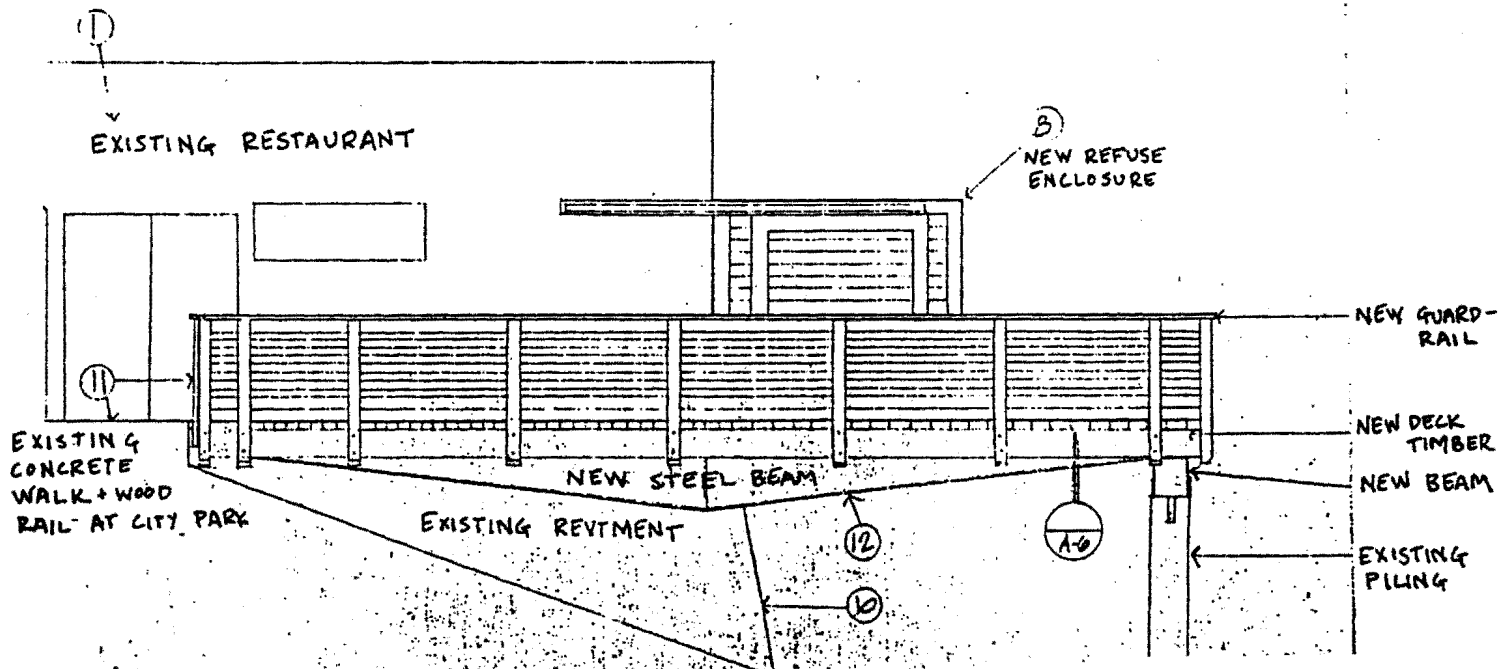
1/8" = 1'-0"



EXHIBIT NO. 2
APPLICATION NO.
3-97-31
Site Plan



WEST ELEVATION
1/4" = 1'-0"



NORTH ELEVATION
1/4" = 1'-0"

EXHIBIT NO. 3
APPLICATION NO.
3-97-31
Elevations