

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: CAREY *for*

Staff Report: 6/18/97

Hearing Date: 7/8-11/97

Commission Action:

STAFF REPORT: CONSENT CALENDAR**APPLICATION NO.:** 4-97-083**APPLICANT:** Douglas Himmelfarb**AGENT:** Robert Thibodeau**PROJECT LOCATION:** 21323 Pacific Coast Highway, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Conversion of existing 3,800 sq. ft. building utilized in the past for retail/office uses to a banquet facility with a maximum occupancy of 78 people and office space for the management of the banquet facility and adjacent restaurant. The offices will not be used at any time that the banquet facility is in operation. The proposed project includes the construction of a retaining wall and 314 cu. yds. of grading to expand the existing parking lot to provide a total of 41 spaces and the addition of a 229 sq. ft. storage area to the banquet facility building. As part of the project, the applicant will provide valet parking service.

Lot area:	37,800 sq. ft.
Building coverage:	5,574 sq. ft.
Pavement coverage:	17,060 sq. ft.
Landscape coverage:	3,700 sq. ft.
Parking spaces:	41
Ht abv ext grade:	13 ft., 9 in.

LOCAL APPROVALS RECEIVED: City of Malibu Conditional Use Permit No. 93-009, Environmental Health Department In-concept Approval

SUBSTANTIVE FILE DOCUMENTS: 4-94-221 (Himmelfarb)

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. Future Improvements

Prior to issuance of the Coastal Development Permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 4-97-083 is for the approved development only and that any future improvements or additions to the banquet facility structure will require a 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 or any other encumbrances which the Executive Director determines may affect the interest being conveyed.

2. Plans Conforming to Geologic Recommendation

All recommendations contained in the Geologic and Soils Engineering Update Report for the Proposed Addition and Retaining Walls, dated 2/19/97, prepared by Parmlee-Schick and Associates, Inc. shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultants. Prior to the issuance of permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

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. Landscape Screening.

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a landscaping plan prepared by a

licensed landscape architect designed to screen and soften the visual impact of the retaining walls using shrubs and vines or trailing plants. The plan shall identify the species, size, and location of all plant materials. Invasive plant species which tend to supplant native species, shall not be used.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description.

The applicant proposes the conversion of an existing 3,800 sq. ft. building utilized in the past for retail/office uses to a banquet facility with a maximum occupancy of 78 people and office space for the management of the banquet facility and adjacent restaurant. The offices will not be used at any time that the banquet facility is in operation.

The proposed project includes the construction of two retaining walls and 314 cu. yds. of grading to expand the existing parking lot to provide a total of 41 spaces. The parking lot provides parking for both the existing restaurant and the proposed banquet facility. As part of the project, the applicant will provide valet parking service. Finally, the applicant proposes to add a 229 storage area to the east end of the existing building.

The existing buildings on the site are historical brick structures. The restaurant structure was originally a Sheriffs facility and the banquet building was the original Malibu Courthouse. Since those uses, the buildings have been utilized for a florist shop and real estate office, among other uses. The proposed banquet building has been vacant for some time.

DeMinimus Waiver 4-94-221 (Himmelfarb) was previously granted for the conversion of the other retail building on the proposed project site to 78-seat restaurant use, including construction of kitchen, restrooms, and new septic system. The restaurant contains 727 sq. ft. of interior service area and 479 sq. ft. of outside serving area. The project included 26 off-street parking spaces.

B. Geologic Stability/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 that 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.

The applicant proposes the conversion of existing 3,800 sq. ft. building utilized in the past for retail/office uses to a banquet facility with a maximum occupancy of 78 people and office space for the management of the banquet facility and adjacent restaurant. In order to provide additional spaces in the existing parking lot (increase from 26 to 41 spaces), the applicant proposes to construct two retaining walls and to cut 314 cu. yds. of material along the slope at the rear of the proposed project site. The lower retaining wall extends along the whole length of the parking lot and ranges in height from 2 feet to 7 feet from existing grade. The upper retaining wall would be located along the center portion of slope above the parking lot and ranges in height from 6 to 18 feet above existing grade. Additionally, the applicant proposes the addition of a 229 sq. ft. storage area to the east end of the existing banquet building.

The applicant has submitted a **Geologic and Soils Engineering Update Report for the Proposed Addition and Retaining Walls**, dated 2/19/97, prepared by Parmlee-Schick and Associates, Inc. The applicants' consultants determined that the proposed project site is suitable from a geologic and soils engineering standpoint for construction of the proposed retaining walls and storage room addition, provided their recommendations are incorporated into the final project design. The consultants found that:

Based upon the exploration, research, consultation and review of the prepared development plans, it is the finding of PSA that construction of the proposed project is feasible from a geologic and soils engineering standpoint and that the proposed building sites will be safe from landslide, settlement or slippage, provided the advice and recommendations contained in this report are included in the plans and implemented during construction.

Based on the recommendations of the consulting geologists and geotechnical engineers, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as the consultant's recommendations are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geologists and geotechnical engineers as conforming to their recommendations.

Even though the consultants have determined that the project site will be free of geologic hazards, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire. As such, the Commission can only approve the proposed 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. The Commission finds that only as conditioned to provide evidence of the consulting geologists' review and approval of the final plans and to submit the wildfire waiver of liability is the proposed development consistent with Section 30253 of the Coastal Act.

C. Visual Resources.

Section 30251 of the Coastal Act states:

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.

The applicant proposes the conversion of existing 3,800 sq. ft. building utilized in the past for retail/office uses to a banquet facility with a maximum occupancy of 78 people and office space for the management of the banquet facility and adjacent restaurant. In order to provide additional spaces in the existing parking lot (increase from 26 to 41 spaces), the applicant proposes to construct two retaining walls and to cut 314 cu. yds. of material along the slope at the rear of the proposed project site. The lower retaining wall extends along the whole length of the parking lot and ranges in height from 2 feet to 7 feet from existing grade. The upper retaining wall would be located along the center portion of slope above the parking lot and ranges in height from 6 to 18 feet above existing grade. The distance between the two parallel retaining walls is approximately 3 feet.

The proposed project involves the conversion of an existing structure to a new use. As such, the proposed establishment of a banquet facility will not result in any visual impacts. While the proposed retaining walls are of a significant height, the majority of the walls will be located behind the existing structures on the site. The walls will not be visible from any public beach or other public vista points. However, some areas of the walls will be visible from Pacific Coast Highway across the parking lot at the rear of the project site. In order to ensure that any visual impacts are minimized to the maximum extent, the Commission finds it necessary to require the applicant to landscape the hillside area above the walls and the three foot area between the walls with vegetation that can serve to screen and soften the view of the walls. Vines or other trailing plant material should be utilized in the area between the walls. The Commission finds that as conditioned to provide a landscape plan, the proposed project will be consistent with Section 30251 of the Coastal Act.

D. New Development -- Coastal Access Parking

Section 30252 of the Coastal Act states in part that:

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 nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation . . .

In addition, Section 30250(a) of the Coastal Act requires that new development be permitted only where public services are adequate and where such development will not have any adverse impacts on coastal resources. Further, the Coastal Act requires that new development be allowed consistent with public access policies (30210, 30211, and 30212) of the Coastal Act and assure that such development will not adversely impact the public's ability to access the coast. Finally, the Coastal Act requires that areas necessary to support coastal recreational uses, such as visitor-serving commercial uses, be protected for such uses.

On a statewide basis, the Commission has required through permit actions and approved local coastal programs that new developments have adequate parking. Parking standards required by the Commission were included in its certification of the Malibu/Santa Monica Mountains LUP in 1986. The Commission has consistently found in its review of permits in the Malibu/Santa Monica Mountains coastal zone that one of the fundamental impediments to coastal access is lack of public beach access parking. The Commission has further found 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 areas for overflow parking. This can negatively impact access by reducing the potential on-street parking which would ordinarily be available for beach-goers. In most beach communities, on-street parking is usually limited at best.

Existing development on the proposed project site consists of a restaurant with 727 sq. ft. of interior service area and 479 sq. ft. of patio service area. The proposed banquet facility would have a maximum occupancy of 78 persons. In past permit actions, the Commission has required 1 parking space per 50 sq. ft. of service area for restaurant use and 1 space for every three persons allowed within the maximum occupancy load for uses such as the proposed banquet facility (dance halls...exhibition halls and assembly halls without fixed seats, including community centers, private clubs, lodge halls and union headquarters) Staff calculates that based on these requirements, the project needs to provide 50 parking spaces. The proposed parking lot has a total of 41 spaces. Therefore, the proposed project provides 9 spaces fewer than what has been required by the Commission in past permits.

However, there are unique factual circumstances that apply to this proposed project. The buildings on the proposed project site are existing and were constructed before current parking standards applied. The applicant proposes to increase the size of the existing parking lot from 26 to 41 spaces by cutting into the slope area and constructing the retaining walls described above to extend the parking lot towards the rear of the site. Given the slope and the area of the site occupied by the existing structures, it does not appear that any additional spaces could be provided without significant grading into the slope or construction of a large parking structure. The applicant proposes to provide a valet parking service for the restaurant/banquet facility patrons, which would ensure full utilization of the parking spaces.

On the seaward side of Pacific Coast Highway in the area of the proposed project site (La Costa/Las Flores Beaches), there is a continuous wall of residential development. As such, access to the beach can only be gained along existing public accessways from the highway to the beach. The nearest public accessways are located at 22706 Pacific Coast Highway (Zonker Harris) and a stairway at 20350 Pacific Coast Highway. These accessways are over 1 mile away from the proposed project site. As such it seems unlikely that on-street parking in the area of the proposed project site would be utilized for beach parking. Therefore, if any overflow parking did result from the proposed project, this minimal overflow would not displace beach parking or adversely impact access to the coast in this area.

Therefore, the Commission finds that the proposed project will provide adequate parking facilities and will not adversely impact coastal access given the unique constraints of the proposed project site and the fact that the buildings on the site are pre-existing. However, any future additions, modifications, or changes in use would have to be evaluated by the Commission for conformance with the policies of the Coastal Act. As such, the Commission finds it necessary to require the applicant to record a future improvements deed restriction. The Commission finds that as so conditioned, the proposed project is consistent with Section 30210, 30211, 30212, 30250(a), and 30252 of the Coastal Act.

E. Septic System.

The Commission recognizes that the build-out of lots in Malibu, including beachfront lots, and the resultant installation of septic systems to serve such development, may contribute to adverse health effects and impacts to water quality. Section 32031 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 has received in-concept approval for the septic system design from the City of Malibu Environmental Health Department. This approval indicates that the proposed design meets the standards of the health and plumbing codes. The Commission has found, in past permit decisions, that adherence to these codes would assure that impacts to human health and marine resources are minimized. Therefore, the Commission finds that the proposed project, meeting these codes, is consistent with Section 30231 of the Coastal Act.

F. 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 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. 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).

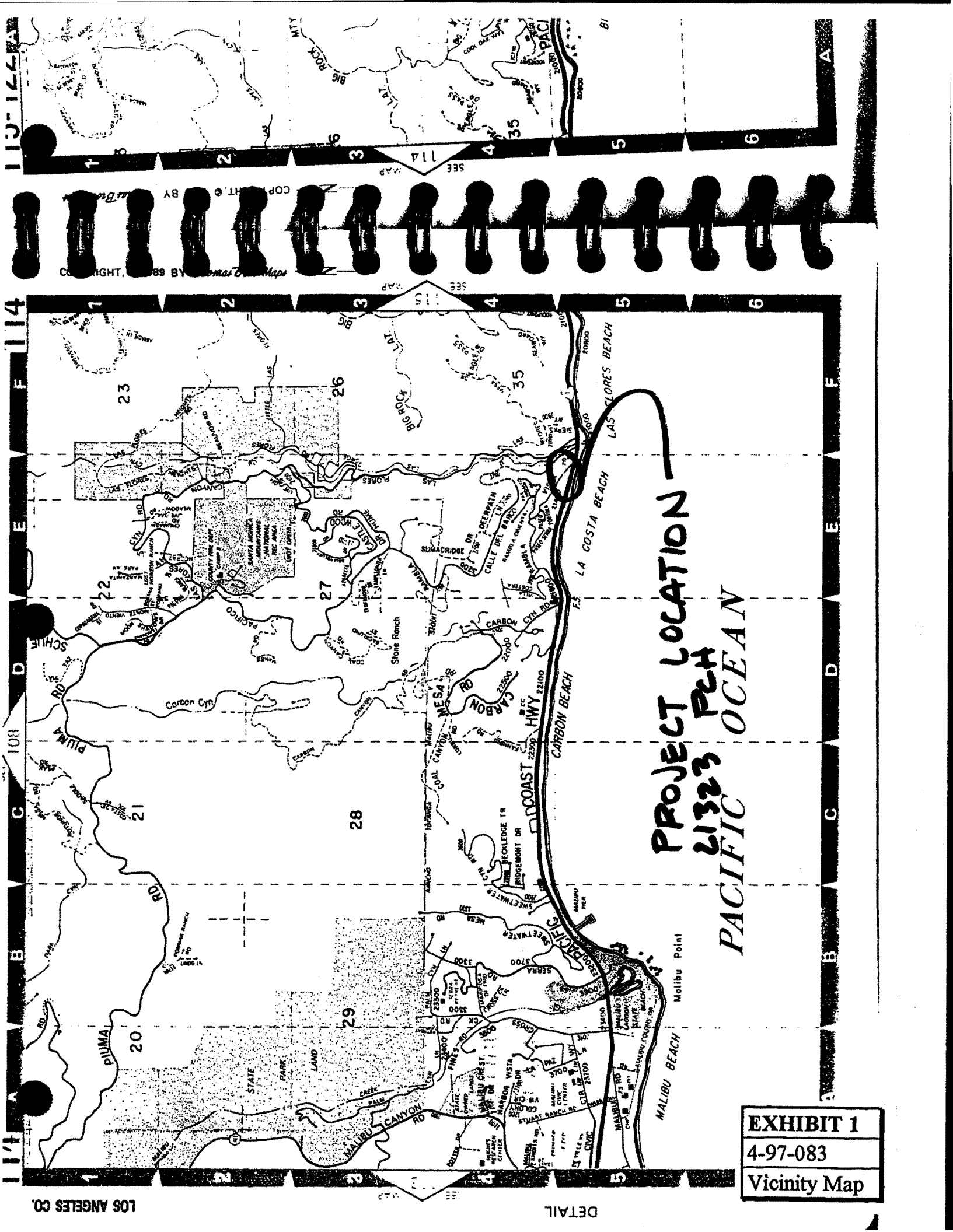
G. California Environmental Quality Act.

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 that 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.

bc/permits/himmel497083



PROJECT LOCATION
21323 PCH
PACIFIC OCEAN

EXHIBIT 1
4-97-083
Vicinity Map

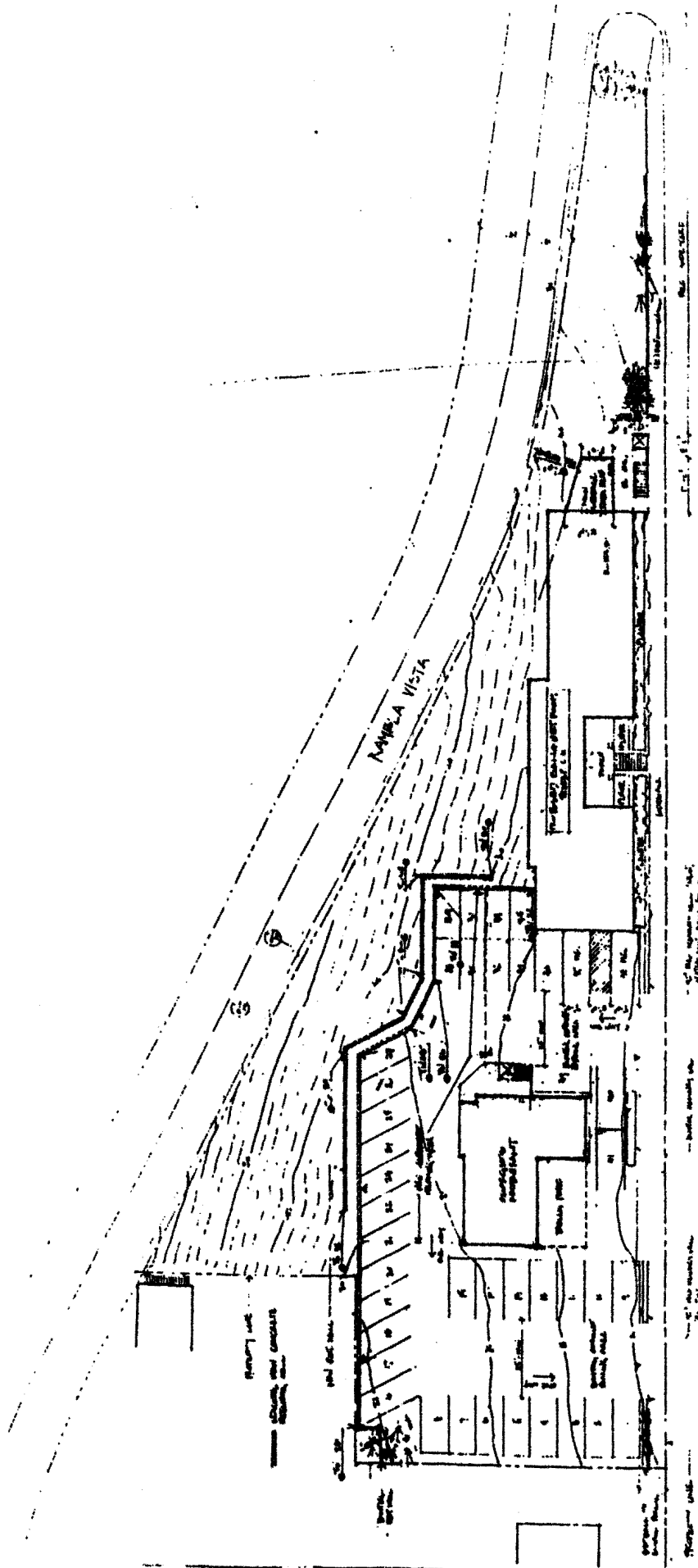


EXHIBIT 2
4-97-083
Site Plan

SITE PLAN 21323 PCH - BANQUET ROOM