

CALIFORNIA COASTAL COMMISSION

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Staff: JLR:LB JLR
Staff Report: 3-23-98
Hearing Date: April 7-10, 1998
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-91-141-A3

APPLICANT: County of Los Angeles Department of Beaches & Harbors/Sea View Restaurants, Inc.

PROJECT LOCATION: 17300 Pacific Coast Highway, Will Rogers State Beach,
Pacific Palisades

DESCRIPTION OF PREVIOUSLY APPROVED PROJECT: Expansion of indoor and outdoor dining areas of existing Gladstone's-4-Fish Restaurant (total of 707 seats). Erection of signs and a three hundred square foot seasonal tent cover, and the placement of 320 square foot prefabricated storage container on a coastal bluff for restaurant dry goods storage.

DESCRIPTION OF AMENDMENT REQUEST: Renovate 707 seat restaurant, adding 1600 square foot kitchen, handicapped public restrooms, remove outside bar, service bar, and mobile kitchen; change office to restaurant seating; replace roof top equipment with decorative screen 21 feet above PCH, replace storage containers with walled service yard, change management of access to public viewing deck.

BASIC ISSUE

The existing restaurant maintains a public viewing deck open to the public without an obligation to purchase food or beverage. As part of the amendment request, the applicant is proposing to change the management of access to this deck to initiate a sign-up sheet and waiting list. The basic issue raised in the amendment is maintaining public use of the deck for viewing without obligation to purchase food or beverage.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed amendment, subject to the conditions below, is consistent with the public access requirements of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permits P-81-7894, 5-83-57A, and 5-85-283 (Morris, County of Los Angeles Dept. of Beaches & Harbors).

2. Coastal Development Permit 5-91-141 (Sea View Restaurants & County of Los Angeles Dept. of Beaches & Harbors).
3. County of Los Angeles, Department of Engineer-Facilities, Negative Declaration for Jetty's Restaurant expansion, July 25, 1979.
4. Sand Management Study, By Moffat & Nichol, Engineers, 10/13/92.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

The Executive Director has determined that the proposed amendment affects conditions required for the purpose of protecting a coastal resource. The Commission previously imposed a special condition requiring the applicant to maintain a deck for public viewing use. The applicant is proposing to change the management of access to this deck. Because this change could result in a change of intensity of use i. e., public to commercial, the applicant is required to amend that permit.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [14 California Code of Regulations Section 13166].

STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, an amendment to the 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 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 the 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. SPECIAL CONDITIONS

NOTE: Except where amended or superseded by the conditions below, all previous special conditions of coastal development permit 5-91-141 still apply.

1. Public Deck Management Program

Prior to issuance of a coastal development permit, the applicant shall submit a public deck management program, subject to the review and approval of the Executive Director, that protects the rights of the public to enter and be seated on the public viewing deck. That program shall incorporate the following:

- a) Signage shall be placed at the outdoor entrance to the deck area from the parking lot to indicate that:
 1. The outdoor deck is a public viewing deck
 2. The location of the public deck
 3. Food or beverage purchase is not required. It may say that food service is available.
- b) The sign-up (host/hostess stand) shall be located at the outdoor entranceway to the deck area from the adjacent parking lot (See Exhibit E).
- c) The applicant shall use no more than one sign-up list. That list will not distinguish between food customers and people who want to visit the deck for viewing.

2. Revised plans

Prior to issuance of a coastal development permit, the applicant shall submit revised plans that indicate the following;

- a) The restaurant will have a seating capacity of no more than 707 seats. That includes all indoor and outdoor seating including seating on the viewing deck.
- b) The plans shall indicate the location of the signs and the proposed host/hostess stand.

3. Site Visit

Prior to issuance of a coastal development permit, the Executive Director shall certify in writing that:

- a) The applicant has removed all seats that are in excess of a total of 707 seats (indoor and outdoor).
- b) The applicant has placed all signs required in the Commission's prior actions.

The total number of seats and the adequacy of signage shall be verified by Coastal Commission staff before permit may issue.

4. Future Improvements

Prior to issuance of a Coastal Development Permit, the restaurant operators shall submit a Written Letter of Agreement, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-91-141 is for the approved development only, and that any future additions, intensifications, or improvements to the property or restaurant will require a new Coastal Development Permit from the Coastal Commission or its successor agency.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Amendment Description

The applicant is requesting to renovate a 707 seat restaurant, adding 1600 square foot kitchen, handicapped public restrooms, remove outside bar, service bar, and mobile kitchen; change office to restaurant seating; replace roof top equipment with decorative screen 21 feet above PCH, replace storage containers with walled service yard, change management of access to public viewing deck. Following is a more detailed project description as submitted by the applicant:

Existing restaurant footprint to remain. We are proposing to remove the existing outdoor deck service bar, counter, storage areas, and catering truck with all supporting facilities. In replacement thereof, we are proposing to add a new kitchen and service bar which will meet current health department requirements and local codes. The remainder of the exterior deck area including seating will remain along the beach side, while the seating and deck along PCH will be modified to accommodate the new kitchen.

The exterior of the building will be renovated with new 1X12 and board and batt cedar siding, and stained. New stucco walls, stone veneer accents, and fabric covered roof screens are also proposed as indicated on the exterior elevations. Also proposed are new fabric screen for the exposed structure below the floor line.

All existing roof top equipment will be removed, a new roof installed, and new equipment will be installed per current codes, and will be screened by the proposed roof screens.

The existing storage container will be removed, a new walled in service yard is proposed within the same footprint.

The existing corrugated metal roof structure in the center dining room will be replaced with a permanent solid structure incorporating a new roof, exterior windows and fabric roof screen.

Also proposed are copper accent bands which will provide support for new signage as indicated on the elevations.

The new kitchen structure will be designed to incorporate the same types of materials as the main building, and will also use ceramic tile on two elevations facing the deck seating areas.

The new decorative wood truss with copper clad retail space is proposed adjacent to the main entry.

The current seating capacity of 707 will remain, and no new additional seating is proposed..

On July 17, 1991, the Commission approved coastal development permit 5-91-141 with conditions allowing the expansion of the indoor and outdoor dining areas of Gladstone's-4-Fish Restaurant, erection of signs and a tent, and the placement of storage container on a coastal bluff. Special conditions of coastal development permit 5-91-141 addressed hours of restaurant operation, erection of signs, removal of storage container, access to public deck, public restrooms, future improvements, and timing of condition compliance.

The proposed amendment will add, contrary to the applicant's impression, additional areas to the building footprint including a 1600 sq. ft. kitchen and restrooms that were not included in the previous permit.

B. Project Location

Gladstone's-4-Fish Restaurant is located on Will Rogers State Beach in the Pacific Palisades area of the City of Los Angeles. The site is located just west of the highly urbanized City of Santa Monica. The restaurant is situated near the middle of a four mile long State Beach that parallels Pacific Coast Highway. The Santa Monica Mountains rise immediately inland of Pacific Coast Highway.

Will Rogers State Beach is a four mile long beach bordered by Topanga State Beach on the northwest and Santa Monica State Beach on the southeast. The County of Los Angeles Department of Beaches & Harbors operates and manages Will Rogers State Beach. The State Beach is very popular and receives thousands of beach goers each day during the summer because of its accessibility from the adjacent highly populated cities of Santa Monica and Los Angeles.

The restaurant and the adjoining parking lot are situated between the narrow sandy beach and Pacific Coast Highway. Access to the parking lot for Will Rogers State Beach and Gladstone's-4-Fish Restaurant is taken directly off of Pacific Coast Highway or the terminus of Sunset Boulevard (Exhibit #2).

C. Project History

Gladstone's-4-Fish is a privately owned and operated restaurant which is located on Will Rogers State Beach. Will Rogers State Beach is operated and maintained by the Los Angeles County Department of Beaches and Harbors under a contract with the California Department of Parks and Recreation. Sea View Restaurants holds a concession agreement with Los Angeles County to operate its Gladstone's-4-Fish Restaurant and the adjoining Will Rogers State Beach

parking lot. The restaurant has been extremely successful at this location. Both the restaurant and the County have benefited greatly from the success of the concession at the State Beach.

The concession operations at this location have not always been as intensive or successful as the current restaurant is. In 1976, the County had a seasonal concession agreement which allowed the summer operation of a restaurant, two snack bars, and a mobile refreshment unit at Will Rogers State Beach. The concessionaire at that time was having problems turning a profit.

On February 14, 1978, the County entered into a new concession agreement with two successful restaurant operators; Robert Morris and Douglas Badt. These new concession operators embarked upon an aggressive marketing plan for the beachfront restaurant, then known as "Jetty's". Jetty's quickly showed signs of success.

Soon there was a need to expand the restaurant capacity because of the increased popularity of the operation. On July 25, 1979, Los Angeles County issued a Negative Declaration for the improvement and expansion of Jetty's Restaurant. The restaurant seating capacity expanded from 130 to 230 seats, two public restrooms were constructed, and a fast food stand was built. The two hundred car parking lot (split into two lots) adjacent to the restaurant was redesigned to provide forty more parking spaces, and to provide a separate entrance and exit, and a westbound left-turn lane was added to Pacific Coast Highway to mitigate the increase in seating capacity.

The parking facilities at the site then consisted of one parking lot, split into two adjacent parking lots by a gate. The lot closest to the restaurant was uncontrolled and used mostly by Jetty's customers. The County operated and controlled the lot just east of the restaurant lot for beach goers. Beach users were allowed to use both lots during daytime hours and restaurant customers could use both lots at night. The peak use periods for each use were at different times of the day.

On October 23, 1979, a new lease was agreed upon between the County and the restaurant operators. Two months later, on December 26, 1979, Jetty's Restaurant caught fire and burned down. In order to save their lease, the restaurant operators rebuilt the County owned concession building at their own expense under an agreement with the County. The restaurant was not in operation for most, or all, of 1980.

On April 2, 1981, a new concession agreement was signed between the County and Robert Morris. The agreement included the exclusive use of fifty beach parking spaces by the restaurant for their customers. There was no Coastal Development Permit application filed for the change and intensification of use.

On May 1, 1981, Robert Morris and the Los Angeles County Department of Beaches and Harbors submitted Coastal Development Permit application P-81-7894 for the further expansion of the existing restaurant. This is the first submittal of any kind to the Coastal Commission on record for the concession operations at this site. The application included a 1,650 square foot outdoor dining area with fifty seats overlooking the beach, public restrooms, a fast food take-out

stand, and a public observation deck. The Coastal Development Permit application states that there were 165 parking spaces in the parking lots and 103 of them were reserved for use by the restaurant.

Coastal Development Permit P-81-7894 was approved by the Commission on June 1, 1981 with conditions. These conditions include: revised plans showing no encroachment onto accessways or sandy beach, no advertising on Pacific Coast Highway for the fast food take-out stand, and no signs over twelve feet high or exceeding three by six feet, and no signs visible from Pacific Coast Highway. The conditions were met and the Coastal Development Permit was issued on August 24, 1981.

In June of 1982, Commission staff investigated reports of Coastal Act violations allegedly occurring on the premises of the restaurant, now called "Gladstone's-4-Fish". The alleged violations included: no fast food stand in operation, the parking lot attendant was not letting beach users use the parking lot ("for customers only"), public restrooms not open, and two construction trailers located at the site without permits. Coastal Commission staff and Gladstone's eventually resolved these alleged Coastal Act violations.

On September 1, 1982, the County gave up the operation of the eastern half of the parking lot to the restaurant. The restaurant operators then had control of all of the parking spaces near the site. Beach users and restaurant customers both were apparently allowed the use of the lot on a first-come, first-served basis. However, the parking lot was used primarily by restaurant customers. The parking fee charged at the State Beach public parking lots in 1982 was \$1.50 per car.

On January 26, 1983, Robert Morris and the County submitted Amendment Request 5-83-57A to amend Coastal Development Permit P-81-7894. The applicants requested that the permit be amended to include the construction of an aluminum roof over the previously approved 1,650 square foot outdoor dining area with fifty seats. The seating capacity at this time was listed at 223 inside and eighty outside for a total of 303. Parking reserved for the restaurant was listed at 103 spaces. Total service area for the restaurant was 4,782 square feet. The amendment was approved on March 25, 1983 with no special conditions.

On April 24, 1984, the County approved the construction of a 660 square foot trash storage area next to the restaurant in exchange for the reconstruction of a beach access road for the County lifeguards which was destroyed by storm waves. The restaurant operators undertook this construction without obtaining a Coastal Development Permit.

On April 16, 1985, Robert Morris and the County submitted Coastal Development Permit application 5-85-083 for a 1,250 square foot addition to the public deck. The applicants stated in their application that there would be no service area or seating added to the restaurant. However, after a Waiver of Coastal Permit Requirements was issued for the deck expansion, and construction finished, there was seating put on this new addition and it was used as restaurant service area. About sixty seats were added onto the new area of the public deck.

The parking lot was still divided into two areas in 1985. The parking area closest to the restaurant was used for restaurant parking and had a capacity of 133 cars made up of 31 single spaces, fifty double tandem sets, and two handicapped spaces. The other parking area, just east of the restaurant parking area, was also controlled by the restaurant operators but used for beach parking. It contained 97 regular single spaces and three handicapped spaces. Both parking areas were used by the restaurant at night.

On February 15, 1991, Robert Morris and the County submitted Coastal Development Permit Application 5-91-141 in order to resolve several alleged violations on the site. The application included the expansion of the indoor and outdoor dining areas, erection of signs and a tent, and the placement of storage container on a coastal bluff. The total seating capacity was listed as 707. The Commission approved Coastal Development Permit 5-91-141 with conditions on July 17, 1991 (Exhibit #3). Special condition one required the applicants to submit this amendment request in order to extend the term of the permit.

The State Beach public parking lot is no longer divided into two sections. It is now one large parking lot with one entrance. The entire parking lot is currently operated and controlled by the concession operators. A combination of valet and self parking are used by restaurant customers and beach users alike.

D. Public Access/Recreation/Public Views

The proposed development is located between the first public road and the sea, requiring the Commission to evaluate the project in terms of the public access and the public recreation policies of the Coastal Act. The following sections of the Coastal Act are relevant:

Section.30210

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.

Section 30211:

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.

Section.30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

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

(2) adequate access exists nearby, or,

Gladstone's maintains an existing public viewing deck open to the general public. The public is permitted to sit wherever they like on the deck and are not required to purchase food or beverages.

The basic issue raised in the amendment request is to continue to maintain and enhance public access to this deck. Over the years, Gladstone's states that their inability to control seating arrangements has caused service problems including loud disputes between people waiting for seating. Gladstone's indicates that service complaints typically fall within the following three categories:

1. Unable to find seating - Since this is a public deck, we have always had a policy of "self seating." On busy days this results in customers standing adjacent to a table waiting for the seated party to finish. This has also resulted in arguments between groups over who has seating priority at a particular table and in extreme conditions fights have broken out. This situation also causes the guests that are dining to feel uncomfortable and rushed to complete their meal.
2. Waitstaff does not acknowledge customer - On busy days, when a party leaves a table, a new party sits down immediately. Our staff does not have an opportunity to clean or re-set the table. If the food server did not see the old party leave, he may not even realize that a new party has sat down. This can result in an excessive delay in providing initial service.
3. Seating patterns overwhelm a food server - Without any ability to control seating, customers are able to sit wherever they please. It is not common for a foodserver to have all their tables go from empty to full in a matter of minutes. This makes it very difficult for the server to provide proper service to each table.

In order to resolve customer service problems, as part of the subject amendment request, the applicant is proposing to set up a small host/hostess stand where guests would check in and then be seated.

The applicant has not provided any specific details for the location of the stand and how the management will be implemented to ensure that public access to the deck will not be adversely impacted. Therefore, the Commission is requiring special conditions to implement a public access management plan to the existing public deck. Those conditions are necessary to assure adequate continued public access to the pier. Therefore, the Commission finds that, as conditioned to implement a public access management plan for the public viewing deck, the proposed amendment is consistent with the public access provisions of the Coastal Act.

E. Visual Resources

Section 30251 of the Coastal Act states in part 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.

The proposed project is located on the seaward side of Pacific Coast Highway, which parallels the beach. As part of the proposed amendment, the applicant is proposing to add a curvilinear roof top fiberglass decorative screen that varies from 2' to 4'. The existing one-story restaurant is 17' in height. The proposed roof top screen would increase the building height to a maximum of 21'. The proposed rooftop screen will not adversely impact public views from the highway because the existing development has already blocked public views. Therefore, the Commission finds, that as submitted, the proposed development is sited and designed to be consistent with the public view provisions of Section 30251 of the Coastal Act.

F. 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. Section 30604(a) 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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

The City of Los Angeles has not prepared a draft Land Use Plan for this planning subarea. However, the City's work program to develop a Local Coastal Program considers public access as an issue for this area of the City. Approval of the proposed amendment, as conditioned to enhance public access to the beach, will not prejudice the City's ability to prepare a certifiable Local Coastal Program. The Commission, therefore, finds that the proposed project is consistent with the provisions of Section 30604(a) of the Coastal Act.

G. Consistency with the California Environmental Quality Act (CEQA).

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)(A) 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 project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures to implement a management plan for access to the public viewing deck will minimize all 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.

H. Unpermitted Development

Although some development on the site is not in conformance with the conditions of previously issued Coastal Permits, and unpermitted development and intensification of use has taken place prior to the submission of this amendment, consideration of the application by the Commission has been based solely upon the Chapter 3 Policies of the Coastal Act. Approval of this permit amendment does not, in any way, constitute a waiver of any legal action with regard to any violation of the Coastal act that may have occurred; nor does it constitute, in any way, an admission as to the legality of any development undertaken on the subject site without a Coastal Permit; nor does it constitute, in any way, an admission of compliance with the imposed conditions of any previously issued Coastal Permit.

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(Thomas Guide Map Book - Page 630 1995 Edition)

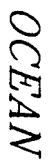
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Gladstones-4-Fish Vicinity Map CALIFORNIA
COASTAL COMMISSION

Pacific Coast Highway & Sunset Blvd.

Los Angeles, California

Exhibit A
5-91-141-A3



PACIFIC

COAST
SUNSET
BLVD

HIGHWAY

Exhibit B

5-91-141A3

**EXISTING PAVED PARKING LOT
AND HANDICAP PARKING
TO REMAIN**

PLAN
SCALE: 1" = 30'



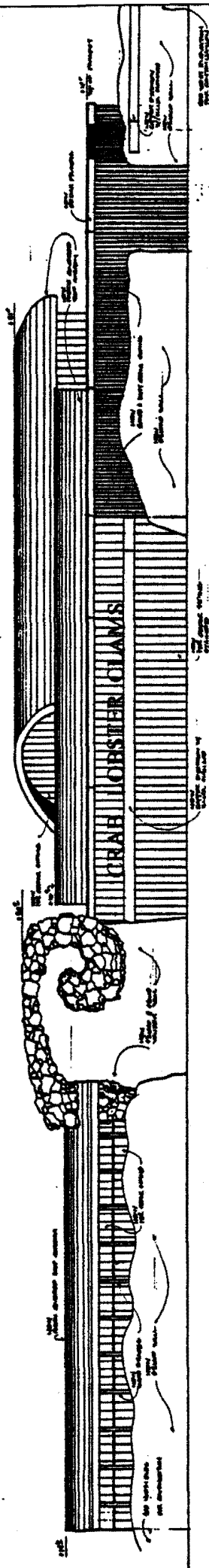
VICINITY MAP

GLADSTONE'S
Malibu



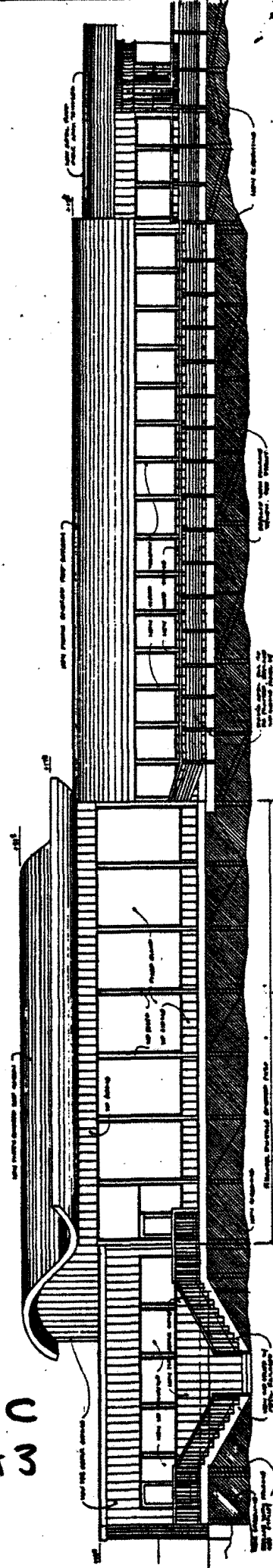
GLADSTONES

SITE PLAN

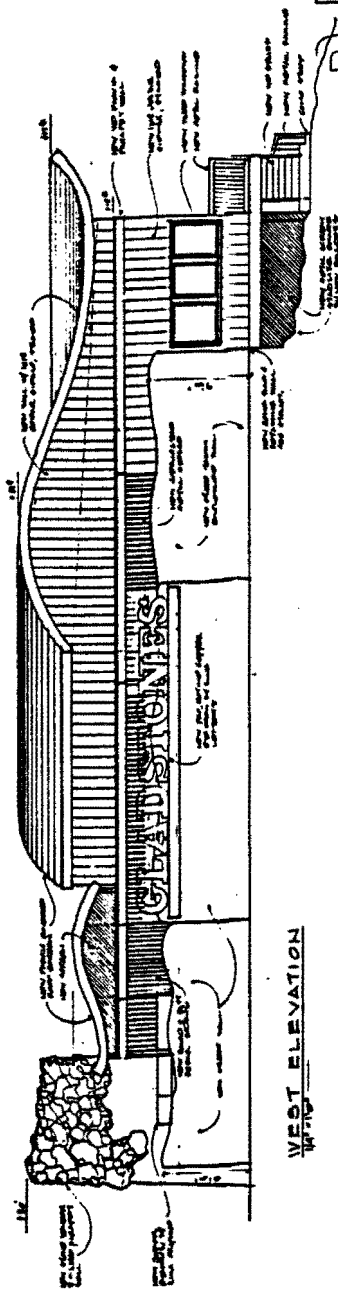


NORTH ELEVATION
W.F.P.

Exhibit C
5-91-141A3



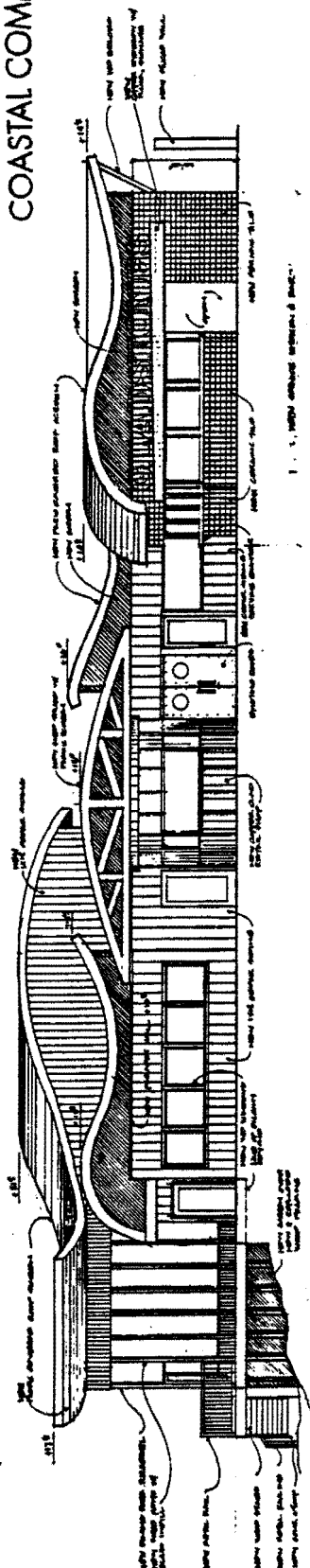
SOUTH ELEVATION
W.F.P.



WEST ELEVATION

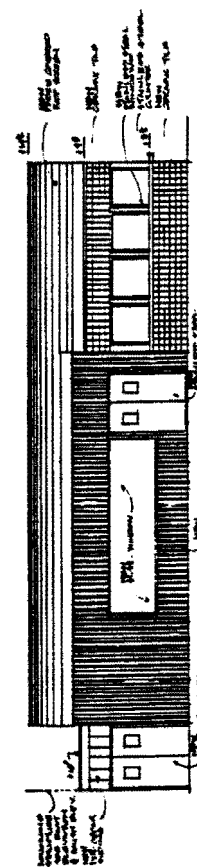
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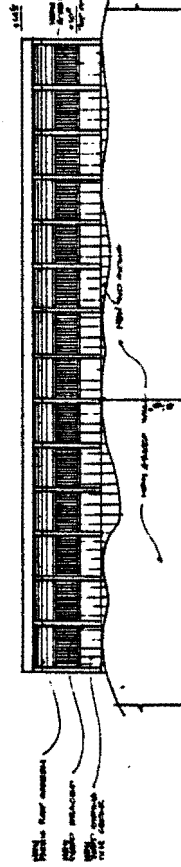


EAST ELEVATION

Exhibit D
5-91-141A3



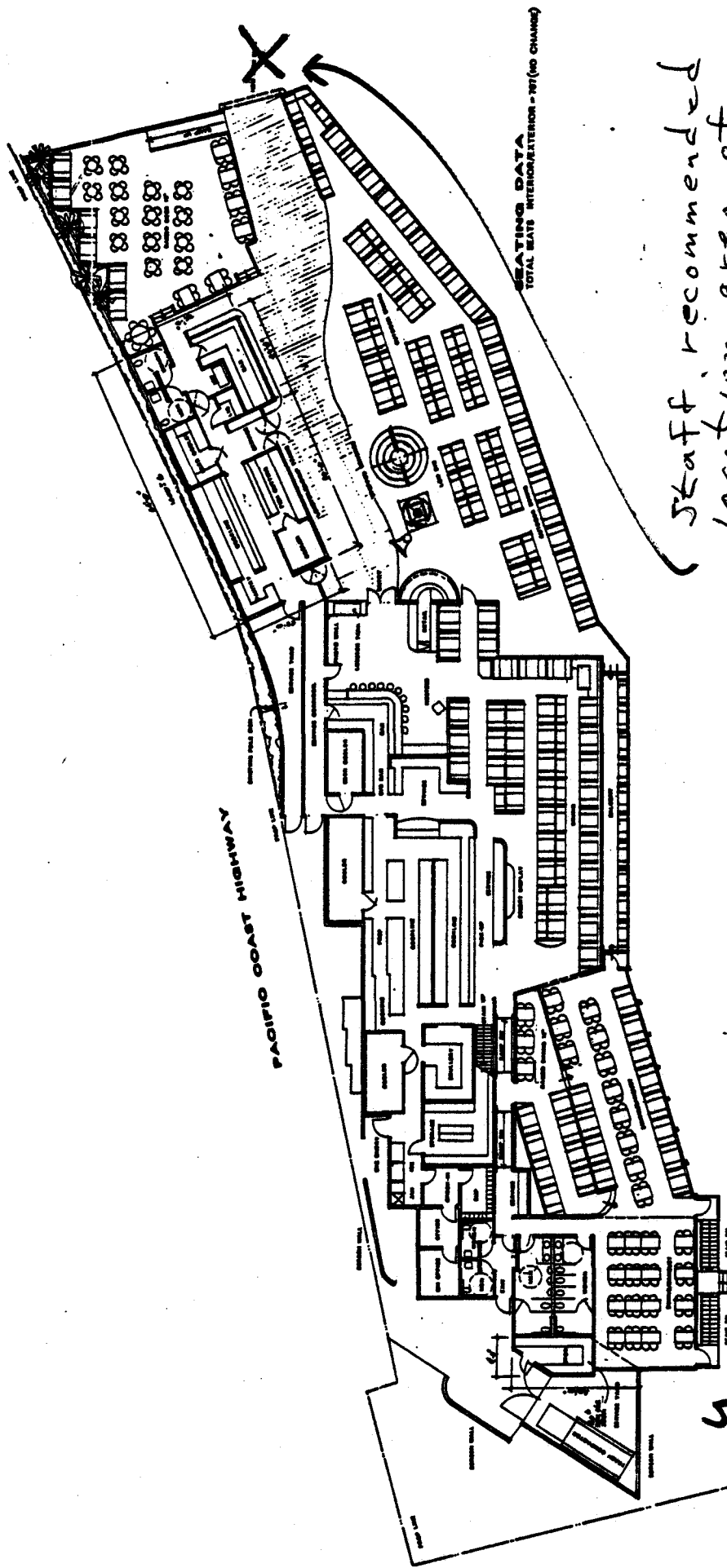
SOUTH ELEVATION - L&A NEW ONE KITCHEN & BAR



NORTH ELEVATION - L&A NEW ONE KITCHEN & BAR



GLADSTONE'S
Malibu



SEATING DATA
TOTAL SEATS INTERCOMPLETION - 197 (NO CHANGE)

Staff recommended
location area of hostess
proposed hostess
stand

NORTH



SCALE 1/8" = 1'-0"

PACIFIC OCEAN

PACIFIC COAST HIGHWAY

Exhibit E
J-91-141 A3

GLADSTONE'S
Malibu

FLOOR PLAN

VIEW OF PUBLIC BEACH FROM PARKING LOT

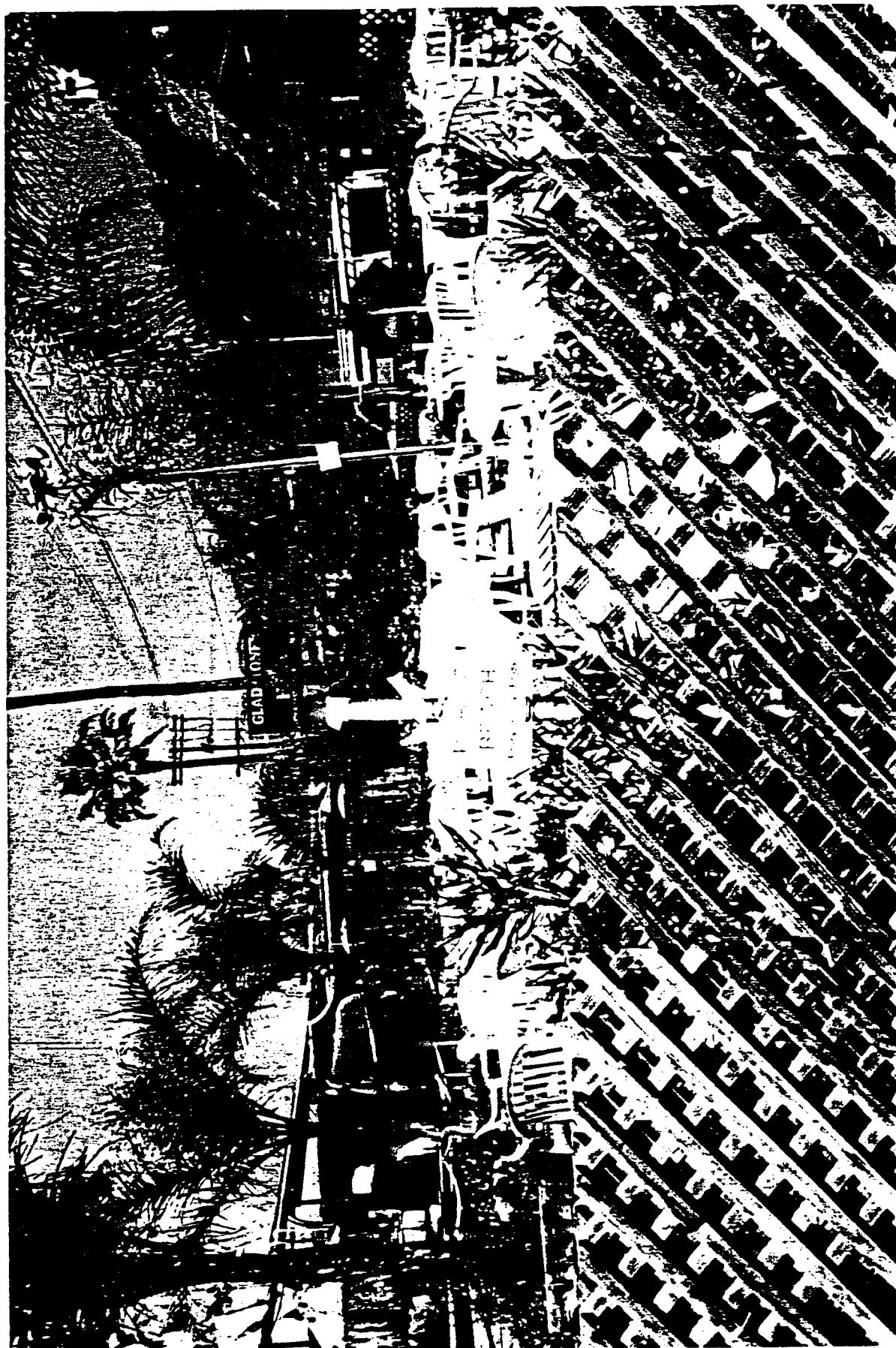


Exhibit F
5-91-141 A 3

VIEW OF PUBLIC DECK FROM FRONT DOOR



Exhibit G
5-91-141A3