

F3c

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



Filed: 11/20/98
49th Day: 1/8/99
180th Day: 5/19/99
270th Day: 8/17/99
Staff: MHC
Hearing Date: January 12-15, 1999

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO: 4-98-286

APPLICANT: City of Santa Barbara/Randall Schweitzer

AGENT: Jerry White/Fred Clough

PROJECT LOCATION: 303 W. Cabrillo Blvd, Santa Barbara, Santa Barbara County

PROJECT DESCRIPTION: Replacement of 2,600 square feet of docks and 400 square feet of office/ticket building; replacement of 3 pilings; and removal of 2 unpermitted storage sheds.

LOCAL APPROVALS RECEIVED: Design/Architectural review; Planning Commission Recommendation (10/2/98)

SUBSTANTIAL FILE DOCUMENTS: Application 4-98-286

SUMMARY OF STAFF RECOMMENDATION: Staff recommends that the Commission find that the proposed project is consistent with the requirements of the Coastal Act with the addition of a special conditions regarding the timing of removal of the two unpermitted storage sheds and waiver of liability.

Staff Note: This item was incorrectly identified as Application No. 4-98-288 on the Commission's January Commission Meeting Agenda

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 standard 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, is located between the sea and the first public road nearest the shoreline, 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 effects 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 developments, 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 the 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 Condition

1. Removal of Unpermitted Development

Within 90 days of the Commission action on the permit the applicants shall remove the floating storage shed as shown on Exhibit #3. The deadline for removal of the floating storage shed may be extended by the Executive Director of the Commission for good cause.

2. Waiver of Liability

Prior to the issuance of the Coastal Development Permit, the applicant shall submit a written document, in a form and a content acceptable to the Executive Director, which shall provide (a) that the applicant understands that the site may be subject to extraordinary hazards from storm waves, wave run-up, erosion and or flooding and the applicant assumes the risks that such hazards may pose to the development approved in this permit and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents and employees relative to the Commission's approval of the project for any damage due to natural hazards.

IV. Findings and Declarations

The Commission hereby finds and declares:

1. Project Location and Description

The proposed project is located seaward of the mean high tide-line within the inner portion of the Santa Barbara Harbor. (See Exhibits 1 through 3.)

The project entails a variety of modifications to the existing Santa Barbara Sailing rental operation which is operated by a private concessionaire under a lease from the City of Santa Barbara. The specific proposal consists of replacing (1) 2,600 feet of existing boat docks which were damaged by the past year's storms; (2); 400 square feet of office/ticket building; (3) and 3 damaged pilings; and (4) the removal of 2 unpermitted floating storage sheds. The entire project would take from one to two weeks to complete.

2. Coastal Issues

a. Ocean Related Recreational Facilities

Coastal Act Section 30220 provides that:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water ways shall be protected for such uses.

Coastal Act Section 303221 provides that:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be

accommodated on the property is already adequately provided for in the area.

The existing facilities which are proposed to be modified under this permit are located within the inner water area of the Santa Barbara Harbor, and are used as part of a private boat rental concession leased from the City of Santa Barbara Harbor. The purpose of the proposed project is to replace storm-damaged docks and an existing office/ticket building, as well as to replace three existing pilings supporting the docks. Additionally, the applicants are proposing to remove two floating storage sheds, which had not been previously permitted. The boat rental operation supports recreational sailing, including instructional and club activities within the Santa Barbara Harbor, and is the only such facility currently operating within the Santa Barbara Harbor. The proposed project is intended to support the type coastal dependent visitor serving facility which is given priority under the Coastal Act.

The Commission therefore finds that the proposed development, as proposed, is consistent with the priority uses established by Coastal Act Section 30220 and 30221.

b. Dredging/Filling Open Coastal Waters

Coastal Act Section 30233(a) provides, in part, that:

- (a) The diking, filling, or dredging of open coastal waters . . . shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where mitigation measures have been provided to minimize environmental effects, and shall be limited [in part] to the following:

- (4) In open coastal water, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

The proposed project would involve the removal and replacement of three pilings necessary to support the existing floating docks. As noted above, the docks are part of a boat rental operation which supports recreational sailing, including instructional and club activities within the Santa Barbara Harbor. The proposed project is intended to support the type coastal dependent visitor serving facility which is permitted in open coastal waters.

The proposed project therefore involves only filling for the purposes accommodating one of the permitted uses (i.e., recreational piers providing public access) enumerated in Coastal Act Section 30233((a)(4), and only in a manner which is the least environmentally damaging (See additional findings below regarding environmentally sensitive marine habitats).

The Commission therefore finds that the proposed development, as conditioned, is consistent with the requirements of Coastal Act Section 30233(a)(b).

c. Coastal Hazards

Coastal Act Section 30253 provides, 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, geologic 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.

As noted above, the proposed project is located within the inner portion of the Santa Barbara Harbor and is therefore not regularly subject to potentially damaging wave action. However, exceptional winter storm conditions can generate wave within inner portions of the Santa Barbara Harbor which may cause damage to dock facilities. The potential for such damage was demonstrated this past winter which resulted in damage to portions of the existing boat rental facilities. (See Exhibit 3.)

Special Condition #2 requires that the applicant acknowledge that (a) the site may be subject to extraordinary hazards from ocean waves and tides and that (b) the applicant waives any future claims of liability against the Commission or its successors in interests for damage from such hazards.

The Commission therefore finds that the proposed development, as conditioned, is consistent with and adequate to carry out the requirements of Coastal Act Section 30253.

d. Environmentally Sensitive/Marine Resources

Coastal Section 30230 provides that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act provides, in part, that:

The biological productivity and the quality of coastal waters . . . appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained . . .

Section 30233 of the Coastal Act provides, in part, that:

The diking, filling, or dredging of . . . wetlands shall be permitted in accordance with applicable provisions of this division, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided, to minimize adverse environmental effects, and shall be limited to the [uses noted above under this section].

The proposed project includes replacing existing docks and three pilings within the interior portion of the Santa Barbara Harbor. The project area contains three types of marine habitats: hard substrate (including pilings, floating docks, and concrete or rock structures); soft bottom (sand and silt) and the water column and water surface. Construction activities would be conducted from the existing docks, floating barge, or nearby landside area, and take approximately one to two weeks. The proposed project would not significantly alter quantity or quality of any of these types of habitats, and therefore will not have any significant affects the marine environment within the project area.

The Commission therefore finds that the proposed development, as conditioned is consistent with and is adequate to carry out the requirements of Coastal Act Sections 30230, 30231, and 30233.

e. Public Access

Sections 30210 and 30212 of the Coastal Act provides that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, and that maximum access shall be provided for all people consistent with public safety needs, the need to protect public rights, the rights of private property owners, and the need to protect natural resource areas from overuse.

The proposed project is on the ocean side of U.S. Highway 101, which is the first road paralleling the ocean in this area, and seaward of the mean high-tide line. The proposed project is intended to repair and upgrade an existing coastal dependent recreational and visitor serving facility. As noted above, the boat rental operation supports recreational sailing, including instructional and club activities within the Santa Barbara Harbor, and is the only such facility currently operating within the Santa Barbara Harbor. The proposed project is intended to support the type coastal dependent visitor serving facility which is given priority under the Coastal Act.

The construction period is expected to last from one to two weeks. Construction activities would be conducted from the existing docks, floating barge, or nearby landside area and not interfere with access to the Harbor, or with other harbor related activities.

The Commission therefore finds that the project as proposed and conditioned is consistent with Sections 30210 through 30212 of the Coastal Act.

3. Violation

This application includes the after-the-fact request for the removal of two unpermitted floating storage sheds.

To ensure that the violation aspect of this application is resolved in a timely manner, Special Condition #1 requires that the applicant remove the unpermitted floating storage sheds within 90 days of Commission action, unless the time is extended by the Executive Director of the Commission for good cause.

Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

4. LCP/CEQA

The proposed site lies within the City of Santa Barbara, but falls within the Commission's area of retained original permit jurisdiction because it is located on potential state tidelands or is below the mean high-tide. The Commission has certified the Local Coastal Program for the City of Santa Barbara (Land Use Plan and Implementation Ordinances) which contains policies for regulating development and protection of coastal resources, including the protection of environmentally sensitive habitats, recreational and visitor serving facilities, coastal hazards, and public access.

Section 13096 of the Commission's Code of Regulations requires the 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 effects, which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. The mitigation measures, which are part of the project description, as well as those contained in the special conditions, will minimize any adverse

environmental effects. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse effects, which the activity may have on the environment.

Therefore, the Commission finds that the proposed project, as conditioned to mitigate any identified effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and conform to CEQA.

MHC

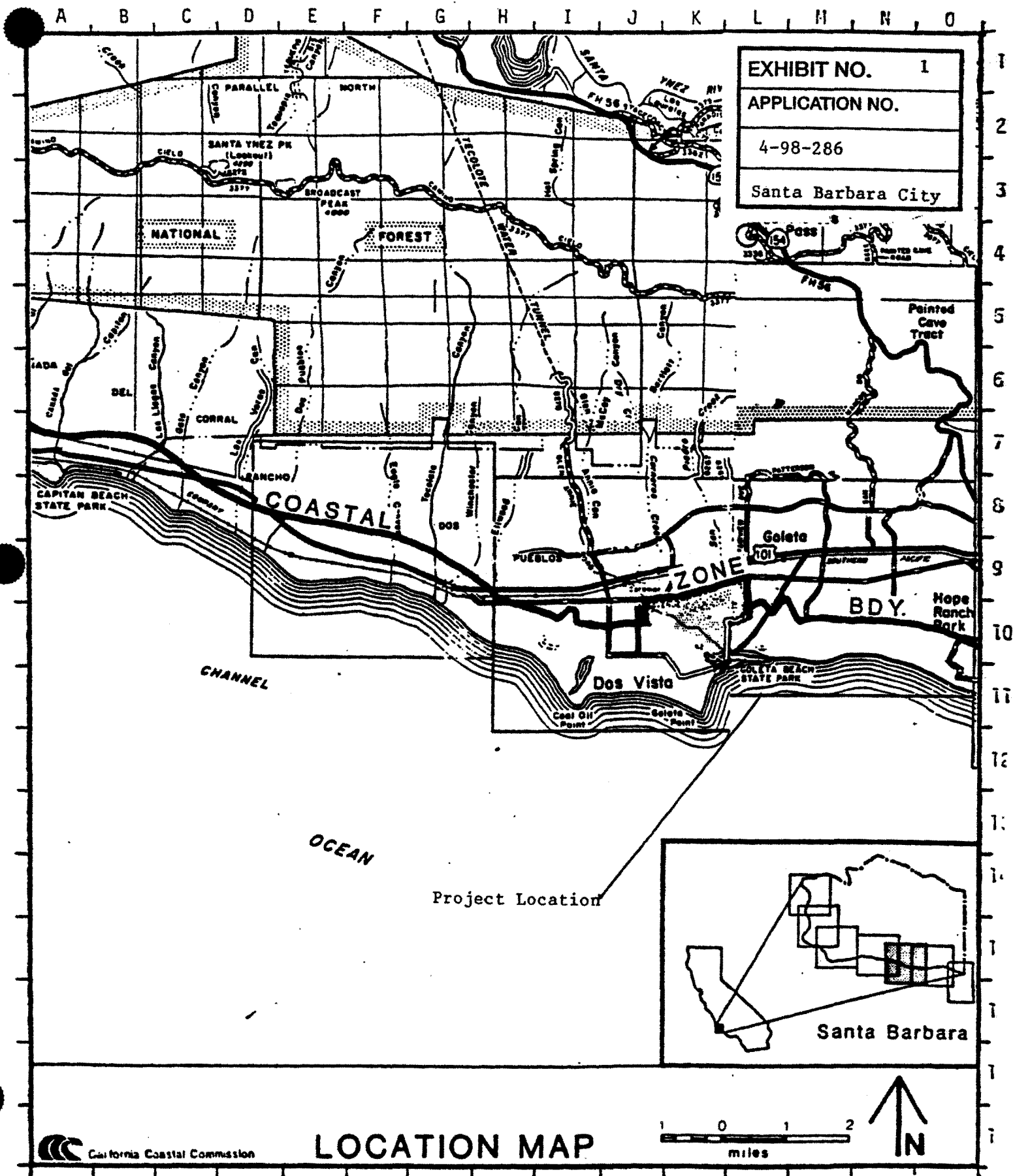


EXHIBIT NO.	1
APPLICATION NO.	4-98-286
Santa Barbara City	

California Coastal Commission

LOCATION MAP



County of Santa Barbara

EXHIBIT NO. 3

APPLICATION NO.

4-98-286

Santa Barbara City

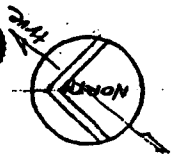
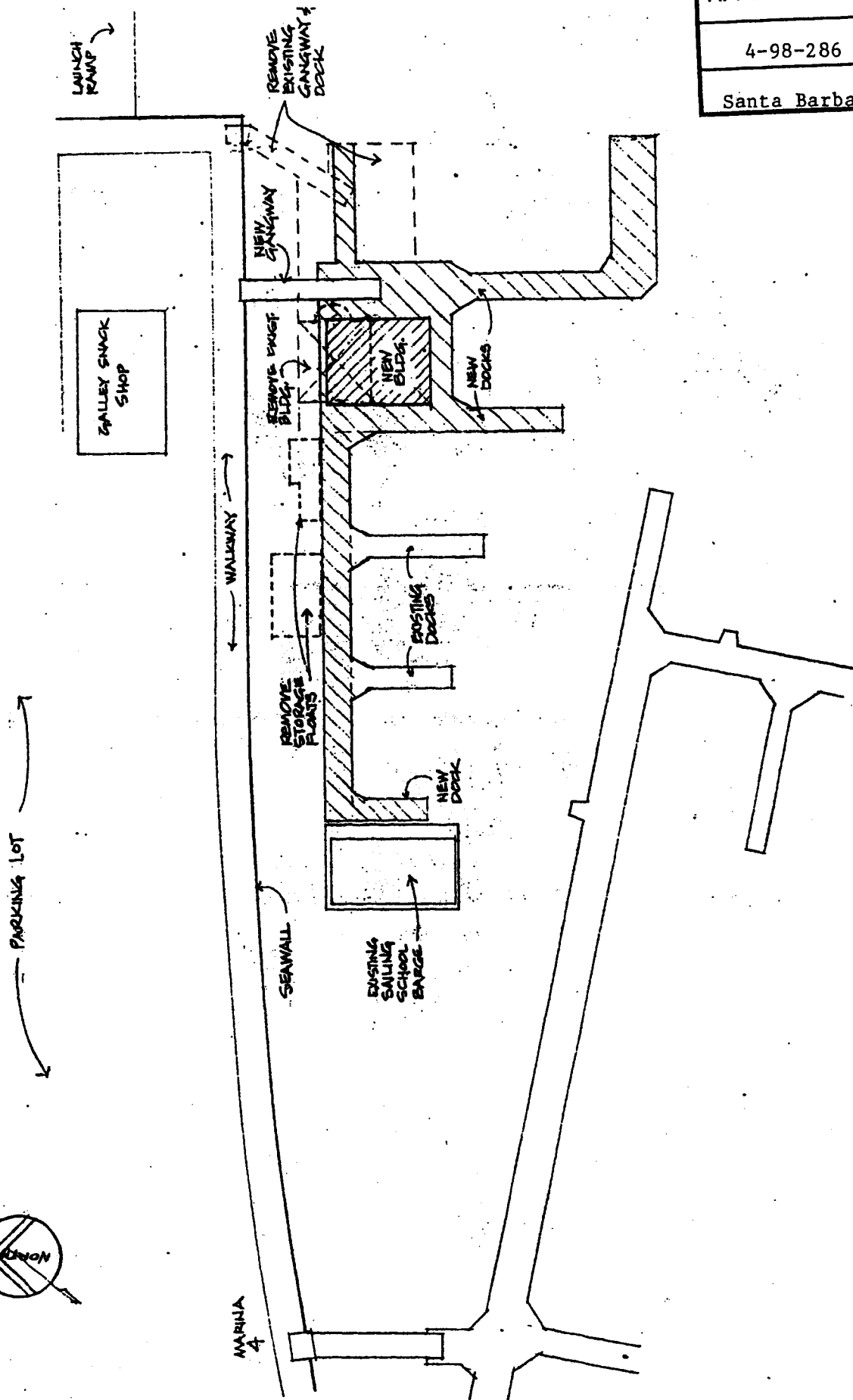
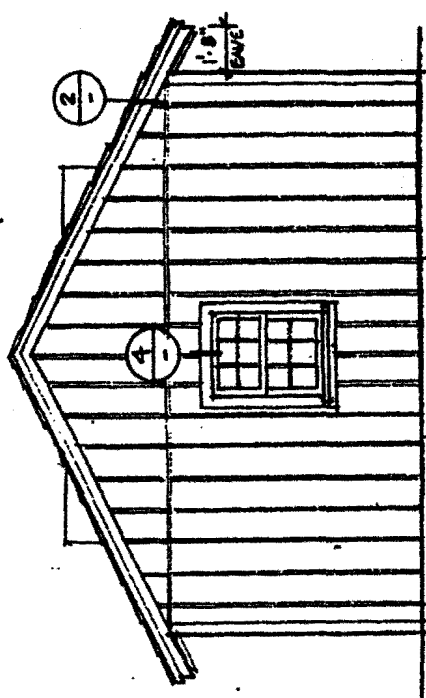
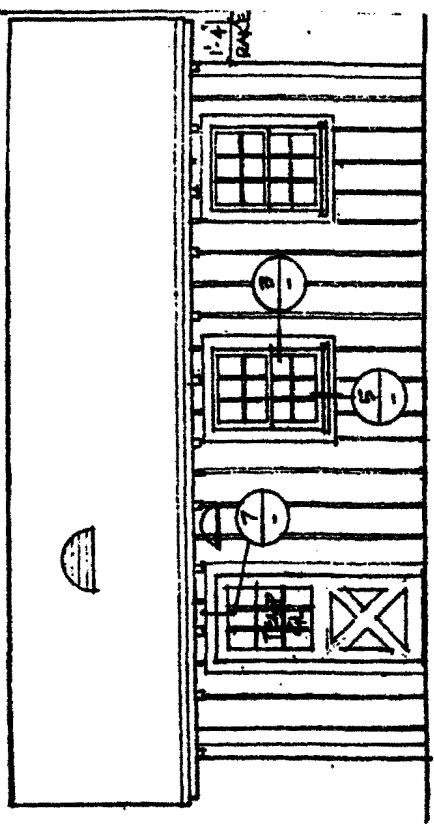


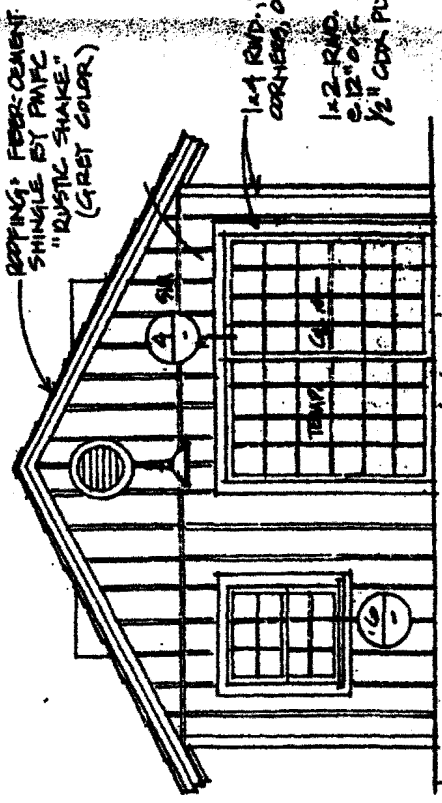
EXHIBIT NO.	4
APPLICATION NO.	
4-98-286	



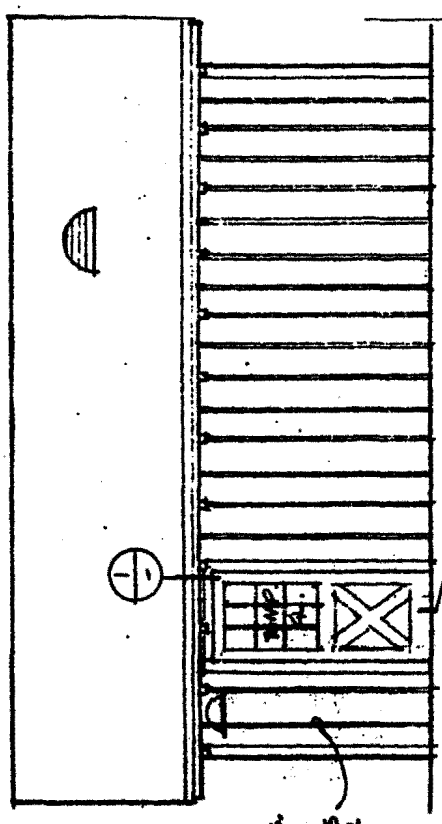
NORTH



WEST



SOUTH



EAST

ROOFING: FIBER-CEMENT SHINGLE BY FMPC "RUSTIC SHAKE" (GRAY COLOR)

1x4 RND. TRP. CORNERS, OVING.

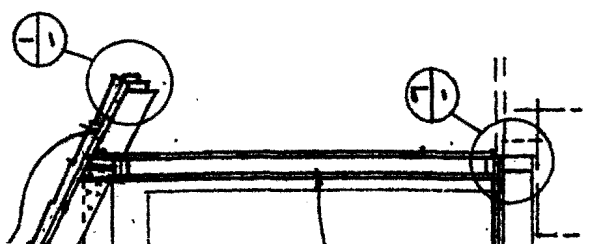
1x2 RND. BATTIS 0.12" O.F. OVER 1/2" CORR. PLY.

BODY & TRIM EXTERIOR COLOR: "GRAYS" BY SHERMAN-WILLIAMS (OFF-WHITE AT WINDOWS, DOORS)

ELEVATIONS

1/4" = 1'-0"

UPPER ROOF VENTS
1x4 WID. STARTER BOARD



1'-0"