

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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**Wed 24c**Staff: LRO-SD
Staff Report: 11/15/9
Hearing Date: 12/7-10/99

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-96-44-A

Applicant: University of California, San Diego Agent: Milt Phegley

Original

Description: Demolish existing south and east wings (totaling 28,945 sq.ft.) of Ritter Hall and construct 31,825 sq.ft., three-story, laboratory/office building on a existing, adjacent, vacant land.

Proposed

Amendment: After-the-fact approval for the addition of eight, 11-foot high strobic fan units (air vents) on the roof of a 50-foot high building (replacement Ritter Hall building) and modification of the approved landscaping plan.

Site: University of California, San Diego - Scripps Institution of Oceanography campus, on the west side of La Jolla Shores Drive, between El Paseo Grande and Naga Way, La Jolla-La Jolla Shores, San Diego, San Diego County.

Substantive File Documents: 1989 Revised Long Range Development Plan; Certified La Jolla- La Jolla Shore LCP Segment

Summary of Staff's Preliminary Recommendation:

The project raises a concern relative to potential impacts to visual resources. While no public views to the ocean are affected by the subject proposal, the proposed fans on the top of the 50 ft. high building are very visible from the adjacent scenic roadway.

Staff is recommending approval of the proposed project, subject to a special condition requiring the applicant to install landscaping (trees) to visually screen the fan structures from views from the adjacent scenic roadway. With the proposed special condition, the proposed development will be consistent with Chapter 3 policies of the Coastal Act.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

- I. **MOTION:** *I move that the Commission approve Coastal Development Permit No. 6-96-44-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby grants a permit amendment for the proposed development, subject to the conditions below, on the grounds that the development, as amended, 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. **Special Conditions.**

The permit is subject to the following conditions:

1. **Landscaping Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan. Said plan shall include the following:
- a. A plan showing the type, size, extent and location of all trees on the site, to consist of, at a minimum, one tree for every ten feet of street frontage (minimum 24-inch box) and other shrubs that will visually screen the stoic fan units on the roof of the Ritter Hall Replacement building from the adjacent scenic roadway (La Jolla Shores Drive).
 - b. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible.
 - c. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Condition Compliance/Project Implementation. WITHIN NINETY (60) DAYS OF COMMISSION ACTION OF THIS COASTAL DEVELOPMENT PERMIT APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. In addition, within 60 days after issuance of the permit, the applicants shall implement the required landscape improvements. Failure to comply with these requirements may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The subject amendment is to a previously approved coastal development permit for the subject site, CDP #6-99-44, which was approved by the Commission on May 7, 1996. That permit was for the demolition of the existing south and east wings (totaling 28,945 sq.ft.) of Ritter Hall and the construction of a 31,825 sq.ft., three-story, 50 ft. high, laboratory/office building existing adjacent vacant land on the Scripps Institute Oceanography campus of the University of California, San Diego (UCSD).

The subject proposal involves an amendment to the above-referenced permit for the addition of eight, 11-ft high exhaust fans (strobic fan units) to the building exhaust system equipment on the roof of the building and modification of the approved landscaping plan. The fans have already been installed without benefit of a coastal development permit, in an apparent violation of the Coastal Act.

The project site consists of a 66,650 sq.ft. area located on the west side of La Jolla Shores Drive in the southwest portion of the SIO campus in the City of San Diego. The entire project site is located within the Commission's area of permit jurisdiction. Thus, the standard of review is Chapter 3 policies of the Coastal Act.

2. Visual Resources. Section 30251 of the Act states, in part, the following:

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,...

As noted previously, La Jolla Shores Drive, where the project site is located, is designated as a scenic roadway in the certified La Jolla-La Jolla Shores LCP. The proposed amendment, to retain the existing strobic fan units on top of an existing three-story structure previously approved by the Commission represents a potential adverse impact to the viewshed of this scenic roadway.

When the building was undergoing construction in the early part of this year (January, 1999), complaints were received from members of the public that several tall "smokestack"- looking structures were being constructed to the roof of the building. Photographs were also submitted showing the tall cylindrical structures that resembled smokestacks (reference Exhibit No. 5). These structures, which were 18 ft. in height above the building rooftop are very visible from the adjacent roadway. Commission staff contacted the University to inform them of the complaints received from the public and that the units did not appear to be part of the approved coastal development permit. In response, the University stated that during construction of the building, eight exhaust fans were added to the roof of the building. These exhaust fans were not included in the original project approval nor in the approved plans for the project.

The University indicated that they would analyze alternatives to either remove the fans or reduce their height and that if the fans were not removed, an amendment to the permit (to retain them) would be submitted. After their review, it was determined that the fans could not be removed as they were necessary for the function of the laboratory building, but could be reduced in height to 11 ft. Thus, the subject request is to maintain the 11 ft. high fans. The alternatives reviewed by the University, which were considered infeasible, are detailed below:

1) Placing the strobic fan units at location below top of building. - This option would require structural modifications of the building to provide new ductwork. Placement of the fan units below the height of the building roof would not result in the achievement of code-required air mixing above the top of the building.

2) Placing the strobic fan units in grouped configuration. - Placement of the fan units is designed for proper airflow characteristics. Changes would require re-ducting the entire interior of the building. Grouped fan units might result in more visual impact.

3) Changing the axis of strobic fan units. - This option would require complete building redesign and reconstruction of the building. Other air handling systems would not be as efficient, would be more expensive and would result in a greater number of exhaust stacks on the building.

4) Substitute different type of air handling system. - This option would require complete building redesign and reconstruction of the building. Other air handling systems would not be as efficient, would be more expensive and would result in a greater number of exhaust stacks on the building.

5) Reduce height of strobic fan units by system modification. – This was the option chosen by the University because it would maintain the system operational design and efficiency of the units and the visual impact would be significantly reduced.

In addition, Commission staff requested review of other alternatives that included the following:

- 1) Whether or not the units could be placed on the side of the building instead of the top of the building;
- 2) If there was a different technology that would provide the same function that could be used in place of the existing units;
- 3) What structural modifications to the building would be necessary to reduce the visual impact of the units;
- 4) Whether or not the laboratories that were being vented could be used instead as store rooms or for some other purpose and if the laboratory rooms could be relocated to another building where the use of a ventilation or air exhaust system would not pose a visual impact.

In response to these questions, the University indicated that that any discharge location below the roof of the building would not produce the code-required air mixing so relocation of the units was not a feasible option. With regard to the second question, the University indicated that there was no known technology other than the strobic fan units or traditional fume hood vent pipes that would provide the same function. Vent pipes would be more numerous and would result in a greater visual impact than the existing configuration. Another consideration would be to gather all of the exhaust from the building and duct to another location but this would require an additional discharge tower above the height of the building and might also require additional equipment on the building roof for necessary air movement. With regard to the third question, the University indicated that if a different system were used or if the discharge point for any system was changed, the building would need to be re-ducted and structural modifications to the building might be required for the new duct work. It was also possible that certain structural requirements for the building might preclude a different duct routing. With regard to the fourth question, the University stated that all of the space in the building has been purpose-designed for a particular use. Also, adjacent building uses are coordinated. For example laboratory use is supported by office use and support uses. One use cannot be relocated to another building without there being a serious secondary impact on campus function. As such, the applicant has determined that other than reducing the height of the fans from 18 ft. to 11 ft., the fans must remain.

Thus, means of "masking" the structures was explored with the applicant. While on site inspection of the subject property, Commission staff noted that other structures on the SIO campus have wooden slat enclosures on the rooftop to house/conceal mechanical equipment and/or exhaust systems of a different nature. Commission staff inquired as to the feasibility of installing such enclosures on the subject building to hide the fan units. However, the University indicated that such a structure would draw more attention to the fan units and would result in a greater visual impact. Computer-generated photographs

were also submitted which simulated the building with enclosures on the rooftop and Commission staff concurred that such enclosures would result in a larger adverse visual impact than the fan units themselves. Consideration was also given to painting the fan units a grey-blue color to help minimize their contrast with the backdrop of the sky. However, as was noted by the University, the sky is so often a variety of colors in the nearshore areas (overcast, foggy, sunny) that it would be impossible to pick a color that would make them blend in better with the sky. As such, their present color, which is a grayish color, is probably the best choice of a color.

If these fan units been shown on the building plans when the project was first being reviewed by Commission staff, they would likely have not been approved due to their degree of visibility. As originally built, they were extremely visually obtrusive. However, the University has since lowered their height to 11 feet (reference Exhibit No. 3) which has significantly reduced their visual impact. Although the project site is not located within any designated view corridor in the certified LCP, it is important to note that La Jolla Shores Drive is designated as a scenic roadway in the certified La Jolla-La Jolla Shores LCP. Panoramic ocean views are visible from the northern portion of the roadway as it descends in elevation to the south.

Commission staff drove this roadway and checked several public vantage points available from the roadway including the back patio of the Steven Birch Scripps Aquarium to determine if the fan units severely impacted public views of the ocean or of the viewshed from the scenic roadway. The strobic fan units were not visible from any portion along this roadway while traveling south or from the aquarium property. The units were also not visible from any portion of the public beaches to the west due to both the presence of other existing SIO structures between the subject building and the shoreline, as well as due to the fact that the terrain of this area slopes down in elevation from the roadway to the west. Views were also checked from La Jolla Cove across the ocean to the southwest looking at the project site. Although the subject building itself was visible, it was not possible to see the strobic fan units on top of the structure and there is a proliferation of many other structures in this viewshed on the SIO campus as well as residential development on the hillsides behind it. The fan units are most visible only immediately in front of the existing building while passing it by both motorists, pedestrians, bicyclists, etc. While walking along the roadway in front of the building, portions of the fan units on the rooftop were blocked by existing mature trees to the south of the building as well as a large tree to the northeast of the building.

As it was noted that some existing landscaping helped to buffer the fan units from public views from the scenic roadway, Commission staff asked the University if additional landscaping could be installed. The University indicated that a lot of the landscaping that previously existed on the subject site was removed during the construction of the building. Therefore, as part of the subject amendment, this landscaping is proposed to be replaced. In addition, portions of the project site will also be landscaped in connection with another coastal development permit that was recently approved by the Commission (CDP# 6-99-25) for construction of a seawater tank in close proximity to the project site. The applicant believes that this landscaping will also help to reduce the visual impact of

the Ritter Hall Replacement building. Once again, it is important to note that these fan units would not have been approved originally had their height and visibility been known at the time of original approval. Also, if they had proven to seriously impact the scenic viewshed of the La Jolla Shores Drive or resulted in blockage of public views toward the ocean from this scenic roadway, the Commission would have required their removal. However, in this case, they are only visible from immediately in front of the building and it is possible to minimize their visual impact through the installation of landscaping on the project site. Therefore, to further assure that the visual impacts associated with the fan units are visually buffered from this scenic roadway to the maximum extent feasible, Special Condition #1 has been attached that requires submittal of a detailed landscaping plan with special emphasis on the provision of a minimum of one tree (minimum 24-inch specimen size) and shrubs to adequately screen the structures from the east from La Jolla Shores Drive. Because the fans have already been installed, Special Condition #2 requires that the landscaping be implemented within a specified time period. In summary, with the proposed landscaping, the adverse visual impacts associated with the strobic fan units will be reduced to the maximum extent feasible. Therefore, the Commission finds the proposed development, as conditioned, consistent with Section 30251 of the Act.

3. No Waiver of Violation. The subject amendment involves after-the fact approval for the addition of eight, 11-foot high strobic air fan units on the top of an existing three-story, laboratory/office building installed without benefit of a coastal development permit. Although development has taken place prior to the submission of this permit request, consideration of the request by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Commission action upon the permit does not constitute a waiver of any legal action with regard to the alleged violation of the coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

4. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. The University of California campus is not subject to the City of San Diego's certified Local Coastal program (LCP), although geographically the Scripps Institute of Oceanography (SIO) campus is within the La Jolla Shores segment or the City's LCP. UCSD does, however, have the option of submitting an LRDP for Commission review and certification.

While UCSD has submitted a draft LRDP, its EIR and topographic maps to the Commission staff informally, as an aid in analyzing development proposals, the Coastal Commission has not yet formally reviewed the LRDP, and the University has not indicated any intention of submitting the LRDP for formal Commission review in the future.

As stated previously, Chapter 3 policies of the Coastal Act are the standard of review for UCSD projects, in the absence of a certified LRDP. Since the proposed development has

been found consistent with all applicable Chapter 3 policies, the Commission finds that approval of the proposed project, will not prejudice the ability of UCSD to prepare a certifiable Long Range Development Plan for its campus.

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

Section 13096 of the Commission's 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 effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the visual resource policies of the Coastal Act. Mitigation measures, including conditions addressing landscaping, will minimize all adverse environmental 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 is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

SITE PLAN AT COMPLETION OF RITTER HALL REPLACEMENT PROJECT

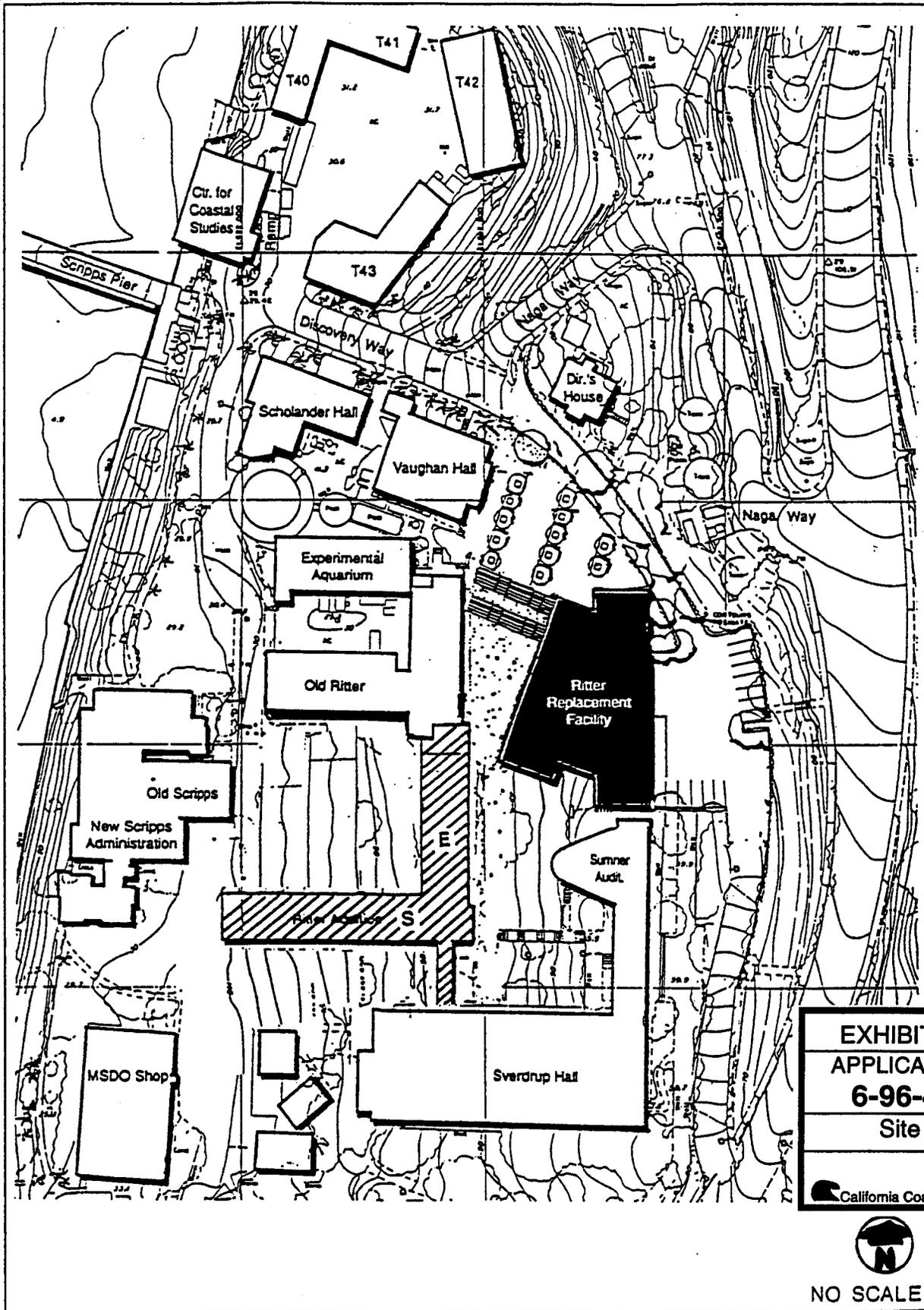


EXHIBIT NO. 2
 APPLICATION NO.
6-96-44-A1
 Site Plan

California Coastal Commission



NO SCALE

Figure 3

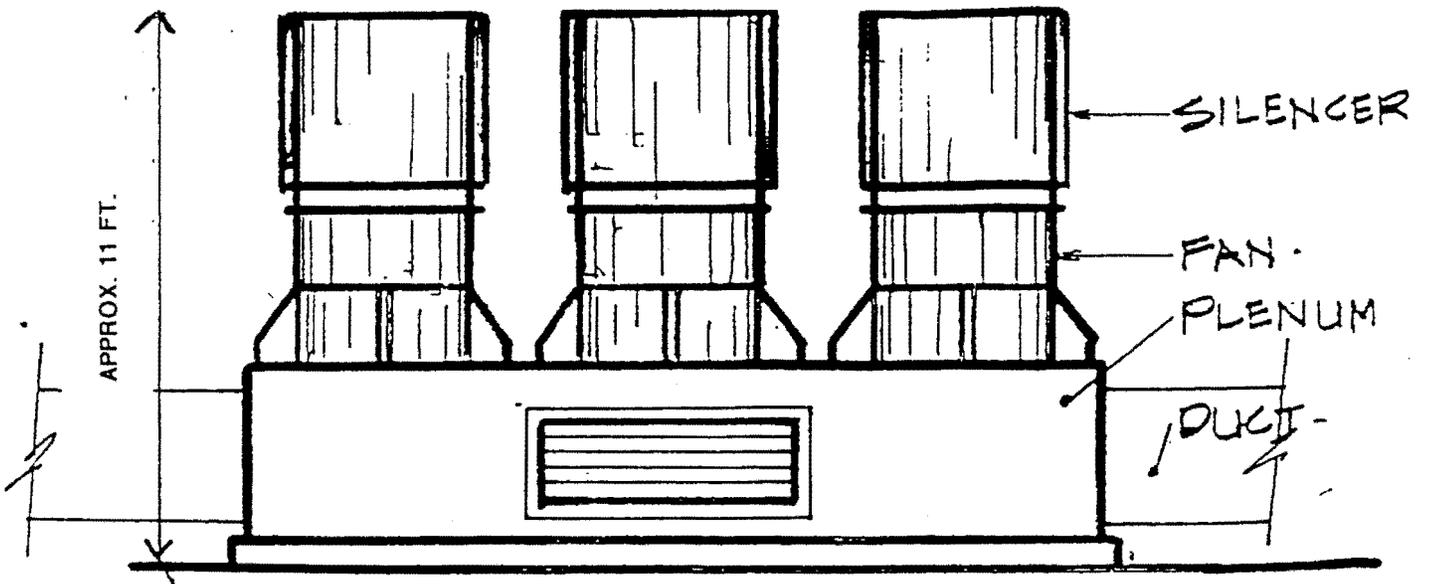
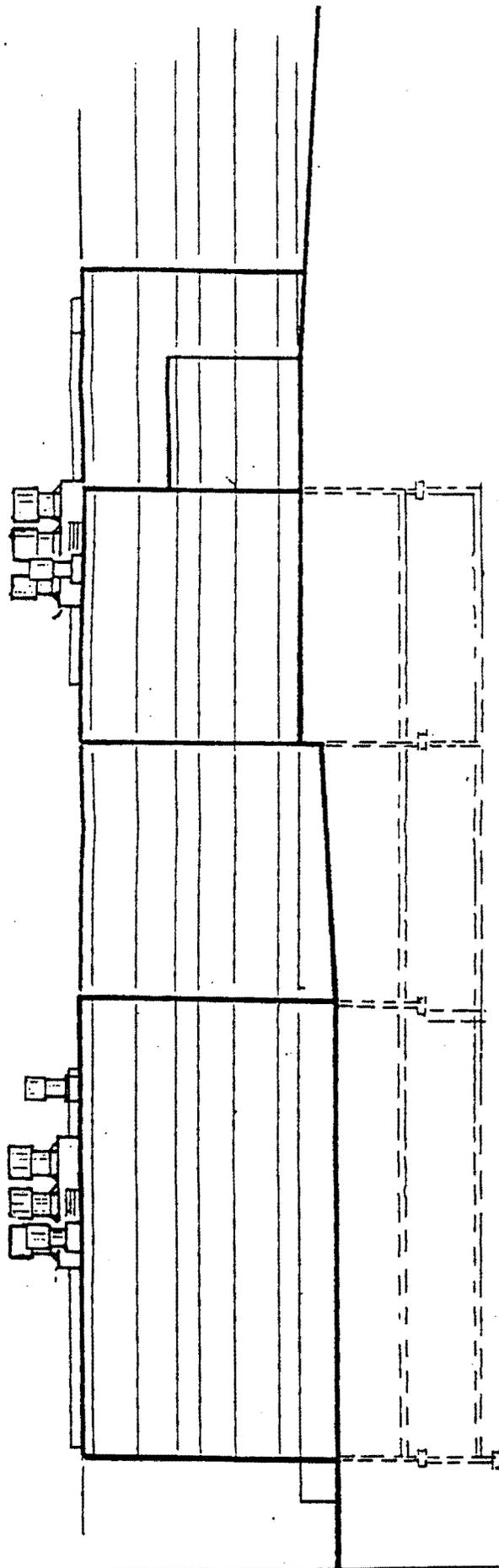


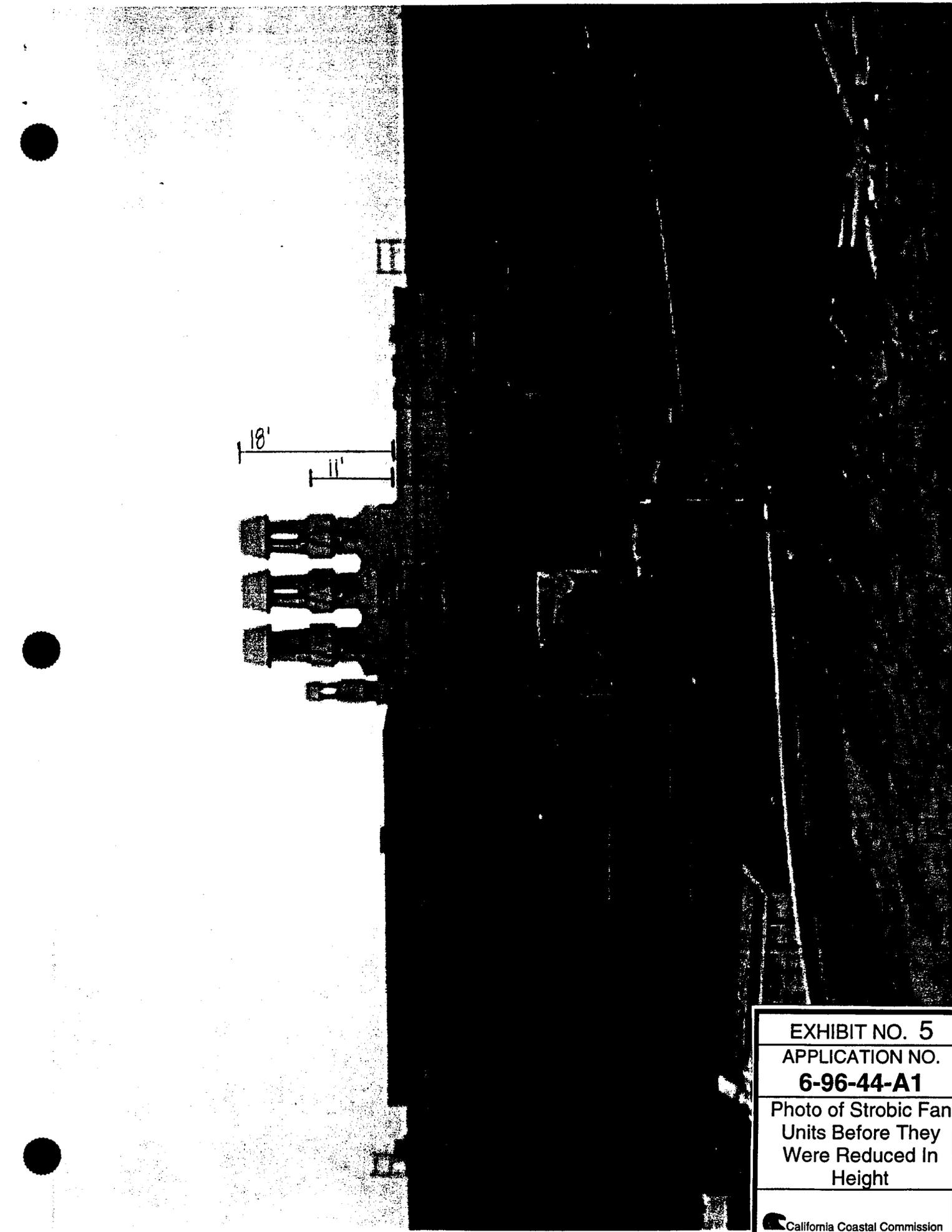
EXHIBIT NO. 3
APPLICATION NO.
6-96-44-A1
Revised Design for Strobic Fan Units
 California Coastal Commission



EAST ELEVATION -

**RITTER HALL REPLACEMENT FACILITY
SCRIPPS INSTITUTION OF OCEANOGRAPHY**

EXHIBIT NO. 4
APPLICATION NO.
6-96-44-A1
East Elevation
 California Coastal Commission



18'
11'

EXHIBIT NO. 5
APPLICATION NO.
6-96-44-A1

Photo of Strobic Fan
Units Before They
Were Reduced In
Height

