CALIFORNIA COASTAL COMMISSION

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





Filed: 1/6/99 49th Day: 2/24/99 180th Day: 7/5/99 Staff: M.H. Capelli Staff Report: 1/14/99 Hearing Date: 2/2-5/99 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-98-336

APPLICANT: City of Santa Barbara - Waterfront Department AGENT: John Bridley

PROJECT LOCATION: South end of State Street, City of Santa Barbara, Santa Barbara County

PROJECT DESCRIPTION: Demolish and reconstruct portions of the Stearns Wharf and appurtenant buildings and facilities which were destroyed by fire, including 47,068 square feet of wharf area, the Moby Dick's Restaurant, the Santa Barbara Shellfish Company, and Mike's Tackle Shop, located at the south end of State Street, City of Santa Barbara, Santa Barbara County

Lot area:

Building coverage:

47,068 sq ft (wharf deck); 7,284 sq ft (wharf buildings)

Pavement coverage:

None

Landscape coverage:

NA

Parking spaces:

126

Zoning:

H-C Harbor Commercial; PRC Parks & Recreation

Plan designation:

Beach

Project density:

NA

Ht abv fin grade:

28 ft (wharf deck) from MMWL; 22 ft (wharf buildings)

from wharf deck

LOCAL APPROVALS RECEIVED: Local Coastal Development Permit CDP97-0060

SUBSTANTIVE FILE DOCUMENTS: Application 4-98-336

STAFF RECOMMENDATION: Approval with special conditions regarding, waiver of liability, issuance of U.S. Army Corps of Engineers permit, and a time limit on the use of a temporary staging and storage area.

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, 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. Standard Conditions.

- 1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. 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. <u>Compliance</u>. 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. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 6. <u>Assignment</u>. 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. Assumption of Risk, Waiver of Liability and Indemnity

Prior to the issuance of the Coastal Development Permit, the applicant shall submit a written document, in a form and content acceptable to the Executive Director, that shall provide that the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, and fires; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, it officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

2. U.S. Army Corps of Engineers 404 Permit

Within 60 days of the issuance of the Coastal Development Permit, the applicant shall provide the Executive Director of the Commission with a valid 404 Permit from the U.S. Army Corps of Engineers for the project. The Executive Director may extend this time for good cause.

3. Location and Use of Staging and Storage Area

The staging area shall be limited to the area immediate east of Stearns Wharf and depicted in Exhibit #6 of the report, and shall be used and maintained for the purposes of supporting the reconstruction of Stearns Wharf authorized by this permit. The staging and storage area shall be used for only one year, and shall be dismantled, and restored to its pre-project condition within one year of the date of the issuance of this permit.

IV. Findings and Declarations.

1. Background

Following a fire on April 14, 1973 which destroyed portions of Stearns Wharf and many deck-side structures, the wharf was rebuilt in 1981 under a Coastal Development Permit (No. 305-03) from the State Coastal Commission. The Coastal Development Permit provided for the rehabilitation of the existing wharf and the construction of 28,410 square feet of building area and 126 on-wharf parking spaces. The uses permitted under this permit were predominantly visitor—serving uses, including two restaurants, a fast food outlet, fish market, bait and tackle store, and miscellaneous retail shops and supporting office space. The original rehabilitation of Stearns Wharf was a joint project of the City of Santa Barbara and the California Coastal Conservancy. Since the issuance of Coastal Development Permit No. 305-03 there have been a number of subsequent Coastal Development Permits issued for relatively minor additions and alterations to the originally approved buildings, and for the addition of a educational sea-center operated by the Santa Barbara Museum of Natural History, and administrative offices to support The Nature Conservancy's Santa Cruz Preserve. No additions have been made to the deck area of Stearns Wharf. (See Exhibits 8 through 20.)

On November 18, 1998, Stearns Wharf was struck by a major fire which destroyed approximately 27% of the middle reaches of the wharf, including the Moby Dick's Restaurant, the Santa Barbara Shellfish Company, Mike's Bait and Tackle Shop, and various appurtenant

facilities originally permitted under Coastal Development Permit No. 305-03. In response to the fire, the City initiated an emergency effort to contain the damage and to remove burnt portions of the wharf (including piling) as well as the totally destroyed buildings. The City notified the Commission staff by phone that it was undertaking the activity as an emergency measure to protect public and private facilities and private businesses, as well as boaters and beach users who were liable to injury from the large amounts of floating debris cause by the fire. (See Exhibit 4.)

The entire project is located seaward of the mean high-tide line, and therefore falls within the area of the Coastal Commission's retained original permit jurisdiction. While replacement of structures destroyed by a disaster is exempt from permit requirements under Sections 30610(d) and 30610(g) of the Coastal Act, the development proposed under this permit application is not exempt under Section 30610(d) because it in involves extraordinary method of repair that involve a risk of substantial adverse environment impact; further the proposed development is not exempt under Section 30610(g) because the project involves the replacement of a public works facilities, which includes publicly financed recreational facilities as defined by Section 30114(c) of the Coastal Act.

2. Project Description

The project consists of demolishing the damaged and destroyed portions of Stearns Wharf, entailing approximately 47,068 square feet of decking area, and approximately 650 pilings. The wharf would be rebuilt in the same configuration, size, and location. However, to reduce the potential effects of future wave damage the elevation of a portion of the rebuilt deck would be raised slightly by increasing its elevation beginning at the seaward side of the remaining wharf, and running seaward to the end of the wharf, giving a maximum height increase of 2 feet at the seaward end of the wharf. A total of 126 parking spaces would also be provided on the rebuilt deck. (See Exhibits 4 through 7.)

Additionally, the burnt out Moby Dick's restaurant, Santa Barbara Shellfish Company, and Mike's Bait and Tackle would be rebuilt in their original locations and to their pre-fire configuration and size. The Moby Dick's restaurant would have a total building area of 5,494 square feet, with a total of 148 interior seats on the first floor, office and administrative uses on the second floor, and an exterior deck of 1,320 square feet with no seating. The Santa Barbara Shellfish Company would have a total building area of 1,578 square feet, with a total of 26 interior seats, a public restroom, and office and administrative uses on the second floor. Mike's Bait and Tackle Shop (which is attached to the Santa Barbara Shellfish Company building) would have a total area of 260 square feet. Seven outside picnic tables with a seating capacity of 42 for public use would also be rebuilt. (See Exhibits 8 through 12)

Finally, the reconstruction would include replacing destroyed or damaged appurtenant facilities, including ticket kiosk, passenger boat loading ramp, hoists, and public services facilities (water, sewer, gas, and electrical lines). (See Exhibits 13 through 20.)

Reconstruction of the wharf will take place from off-shore barges and the wharf deck as it is rebuilt. The City will use approximately 0.8 of an acre of the sandy portion of East Beach

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immediately east of Stearns Wharf as a temporary storage and staging area for the project. It is estimated that the reconstruction will take approximately eleven months. (See Exhibits 6 and 7.)

3. Coastal Issues

A. Pubic Access/Recreation

PRC Section 30210 provides that:

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.

PRS Section 30211 provides that:

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.

PRC Section 30220 provides that:

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

PRC Section 30221 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 proposed project consists of reconstructing the damaged portions of Stearns Wharf and related buildings, including the Moby Dick Restaurant, Santa Barbara Shell Fish Company, Mike's Bait and Tackle Shop, and appurtenant facilities.

Stearns Wharf is a major visitor-serving destination point and recreational facility within the City of Santa Barbara and serves both local and out-of-area visitors. The pier is also popular fishing pier. It is estimated that Stearns Wharf draws over a million visitors a year. Restoration of Stearns Wharf will restore an important visitor-serving facility along the California coast, as well as an important point of access to near shore waters within the City of Santa Barbara.

The reconstructed wharf, buildings and facilities will be replaced in the same location, and built to the same size, and configuration, with the exception that the seaward end of the wharf will be raised to reduce the potential for wave related damage. The Moby Dick's restaurant would have a total building area of 5,494 square feet, with a total of 148 interior seats on the first floor, office

and administrative uses on the second floor, and an exterior deck of 1,320 square feet with no seating. The Santa Barbara Shellfish Company would have a total building area of 1,578 square feet, with a total of 26 interior seats, a public restroom, and office and administrative uses on the second floor. Mike's Bait and Tackle Shop (which is attached to the Santa Barbara Shellfish Company building) would have a total area of 260 square feet. Seven outside picnic tables with a seating capacity of 42 for public use would also be rebuilt. (See Exhibits 8 through 12.)

As part of the proposed restoration of Stearns Wharf, the applicant proposes to use a 0.8 acre portion of East Beach immediately east of the wharf as a temporary staging and storage area. The area is needed to store miscellaneous heavy equipment, timber piles, and other materials to reconstruct the wharf. It is anticipated that the reconstruction project will take approximately eleven months. The area to be used as storage is a wide sand beach (approximately 500 feet wide) immediately adjacent to Cabrillo Boulevard. The Beach extends west of the proposed storage area approximately 1,500 feet to the Santa Barbara Harbor, and approximately 1.5 miles east to the Andrea Clarke Bird Refuge. In addition to the East Beach area, the Leadbetter Beach west of the Santa Barbara Harbor provides an additional public beach in the immediate vicinity of the project area. (See Exhibits 6 and 7.)

The proposed staging area constitutes a relatively small percentage of the total East Beach area, and its use would not interfere with the remaining portion of East Beach. The temporary use of this sand beach area will not therefore significantly impact public beach access to the Santa Barbara waterfront area, but will facilitate the re-establishment of important public recreational and access opportunities lost as a result of the damage to Stearns Wharf.

To ensure that the use of the staging and storage area does not unnecessarily impact or displace public recreational use of the area, Special Condition #3 limits the use of the staging and storage area at East Beach to one year from the date of the issuance of the permit for this project.

The Commission finds that the proposed project, as conditioned, is consistent with and adequate to carry the provisions of PRC Sections 30210, 30211, 30220, and 30221.

B. Environmentally Sensitive Habitats

PRC Section 30230 provides, in part, that:

Marine resources shall be maintained, enhanced, and where feasible, restored. . . 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.

PRC Section 30231 provides, in relevant 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 and, where feasible, restored through, among other means, minimizing adverse effects of waste water

PRC Section 30233 provides that:

- (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other 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 following:
- (4) In open coastal waters, 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.

PRC Section 30240 provides, in part, that:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values . . .

The proposed project consists of reconstructing the damaged portions of Stearns Wharf and related buildings, including the Moby Dick Restaurant, Santa Barbara Shell Fish Company, Mike's Bait and Tackle Shop, and appurtenant facilities. The reconstructed wharf, buildings and facilities will be replaced in the same location, and built to the same size, and configuration, with the exception that the seaward end of the wharf will be raised to reduce the potential for wave related damage. (See Exhibit 5.)

Restoration of Stearns Wharf will require the replacement of approximately 650 wooden pilings. The applicant proposes to use wooden pilings which have been treated with creosote, and wrapped and collared with plastic to prevent the escape of the creosote into the ocean waters. The California Department of Fish and Game has reviewed the applicants proposal to use creosote treated and wrapped pilings and has indicated that the City's proposal is consistent with the Department's position on the use of creosote treated wood pilings for the repair of existing structures in marine waters.

As noted above, the proposed restoration of Stearns Wharf will require the use a 0.8 acre portion of East Beach immediately east of the wharf as a temporary staging and storage area. The area is an unvegetated sand beach immediately adjacent to Cabrillo Boulevard. Wildlife use is limited because of its proximity to Cabrillo Boulevard and Chase Palm Park. The principal wildlife use is by migratory shore-birds, including plovers, sandpipers, sanderlings, and gulls. There are no bird nesting or rearing activities on this section of beach, largely because of the proximity of development and the lack of any dune topography. Grunion are not known to breed on this beach, though their occasional presence is possible because of the sandy substrate. (See Exhibit 6 and 7.)

Special Condition #2 requires that the applicant provide evidence of having received a 404 permit from the U.S. Army Corps of Engineers. This requirement will ensure that any federally listed threatened or endangered species which may periodically utilize the site will be considered through the Section 7 consultation process of the Endangered Species Act. To ensure that the use of the staging and storage area does not unnecessarily impact or displace wildlife use of the area,

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Special Condition #3 limits the use of the staging and storage area at East Beach to one year from the date of the issuance of the permit for this project.

The Commission finds that the proposed project, as conditioned, is consistent with and adequate to carry the provisions of PRC Sections 30230, 30231, 30233, and 30240.

C. Hazards

PRC 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 the stability and structural stability, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area..

Stearns Wharf, like all wood piers along the California coast, is subject to a variety of hazardous conditions, including high waves and periodic fires. To address the potential for wave related development the City has proposed modifying the design of the reconstructed portion of Stearns Wharf to elevate the seaward end a maximum of two feet. The change in elevation will be at a 2% gradient so it f will not be visibly noticeable, but will reduce the chance of the end portion of the wharf suffering damage from periodic high swell and surf. (See Exhibit 6.) To address the potential for fires on the wharf the City will also review and modify the "dry deluge system" currently used to suppress fires on Stearns Wharf.

Because of the inherent hazards associated with a wood pier over coastal water, however, Stearns Wharf remains subject to repeated damage from high waves and fires.

Because the project site is located in an area which is periodically subject to waves as well as fires, which has the potential to cause damage to structures or injury to those frequenting the area, it is necessary to indemnify the Commission or any or its agents or representatives against any claims of liability arising from the permitted development. Special Condition #1 requires that the applicant 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, and expenses of liability arising out of the acquisition, design, construction operation, maintenance, existence, or failure of the permitted project.

The Commission finds that the proposed project, as conditioned, is consistent with and adequate to carry out the provisions of PRC Sections 30253.

D. Scenic and Visual

PRC Section 30251 provides:

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.

Stearns Wharf is centrally located in a highly visible and scenic section of the City of Santa Barbara's waterfront area. The wharf has been in continued existence at this location since 1872 and is considered an important visual and historical element of the City's waterfront.

The project consists of demolishing the damaged and destroyed portions of Stearns Wharf, entailing approximately 47,068 square feet of decking area, and approximately 650 pilings. The wharf would be rebuilt in the same configuration, size, and location. Additionally, the Moby Dick's restaurant, Santa Barbara Shellfish Company, and Mike's Bait and Tackle would be rebuilt in their original locations and to their pre-fire configuration and size. The maximum height of structures will be 22 feet. Seven outside picnic tables with a 42 person seating capacity for public use would also be rebuilt. The scale, spacing, and architectural design of the buildings and structures to be replaced are generally local-scale and reflect their marine setting. The applicant proposed no additions or expansions of the previously permitted and built structures. (See Exhibits 8 through 12)

The Commission finds that the proposed project, as conditioned, is consistent with and adequate to carry out the provisions of PRC Sections 30251.

4. CEQA

The proposed site lies within the City of Santa Barbara, but falls within the Commission's area of retained permit jurisdiction because it is located on potential state tide lands or is below the mean high tide line. The City's Local Coastal Program (Land Use Plan and Implementation Ordinances) was certified in 1986 and contains policies governing the Waterfront Planning area, including those regarding recreational and visitor serving uses, public access, and the protection of scenic and visual qualities.

Section 13096 of the Commission's Code of Regulations requires the Commission approval of the Coastal Development Permits to be supported by findings 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.

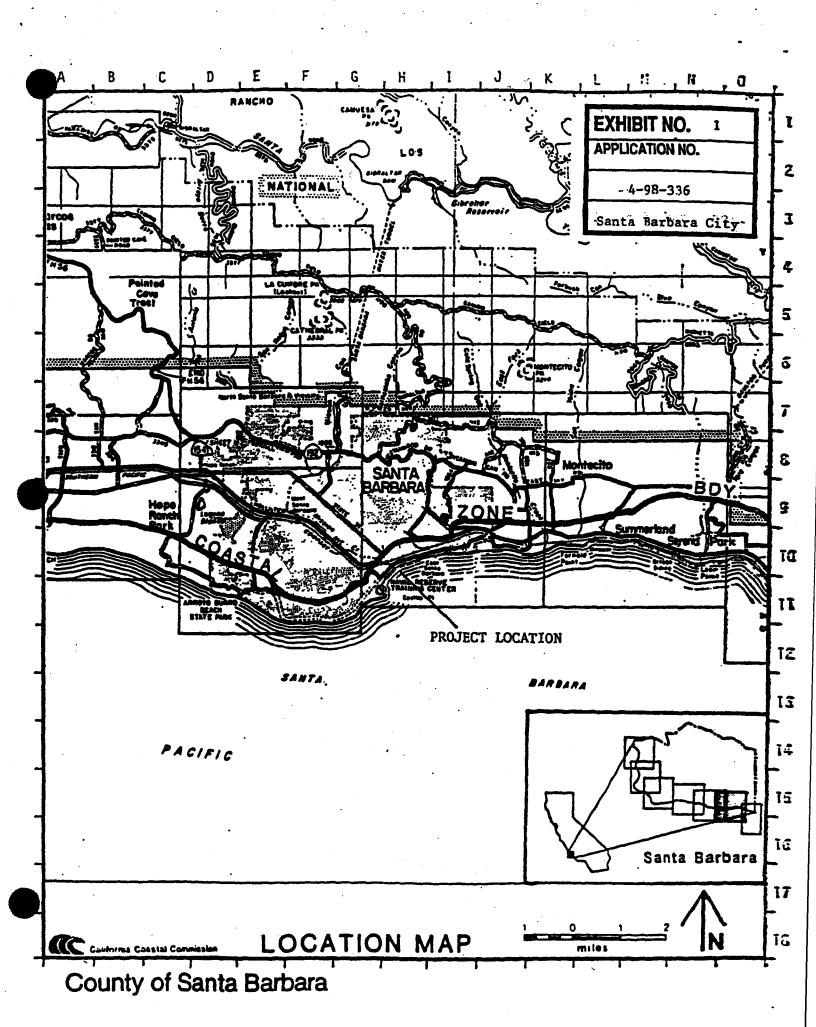
The proposed project has been conditioned in order to be found consistent with the resource protection and hazard policies of the Coastal Act. The attached mitigation measures will minimize all adverse effects of the project, and there are no others measures available, which

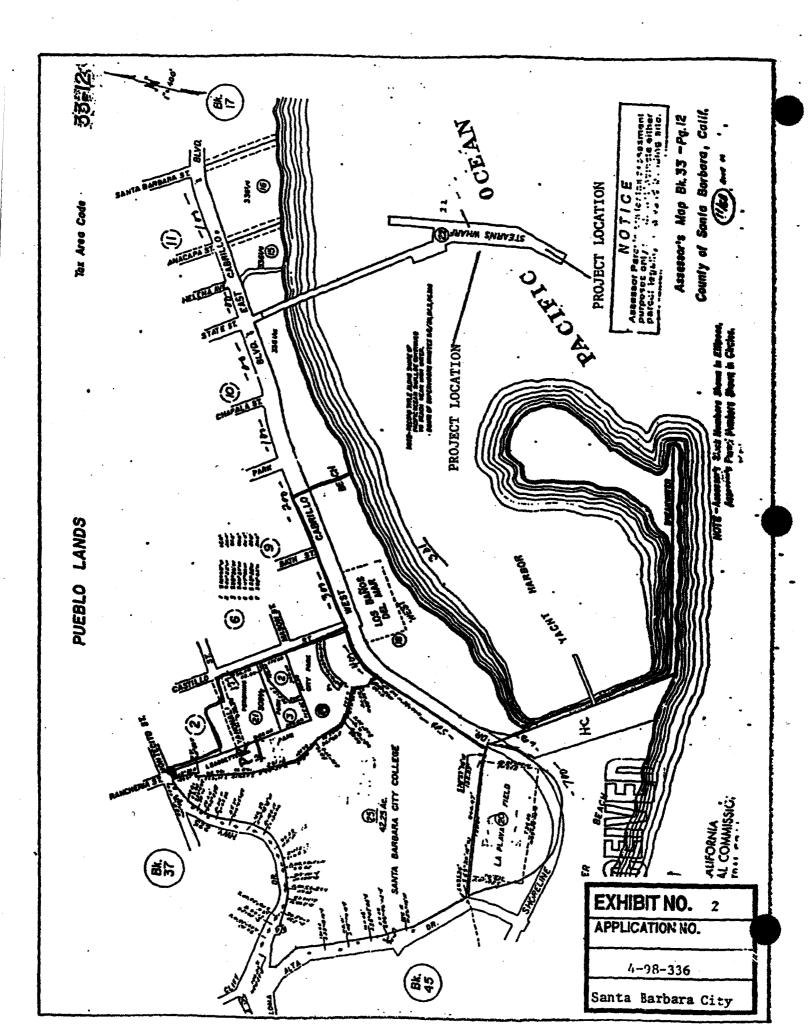
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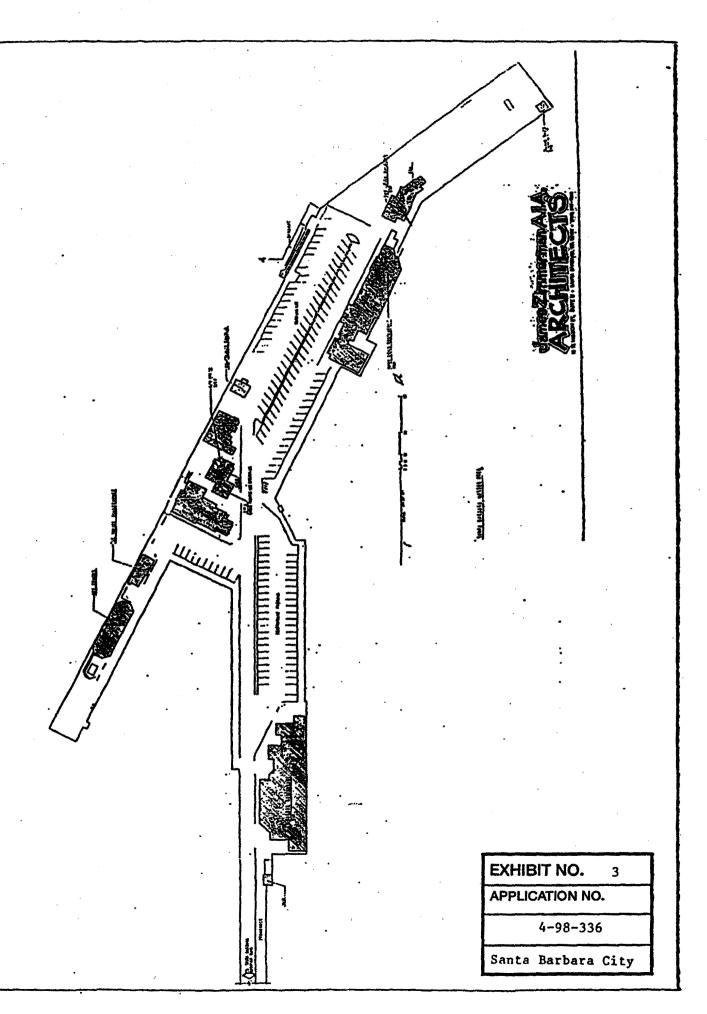
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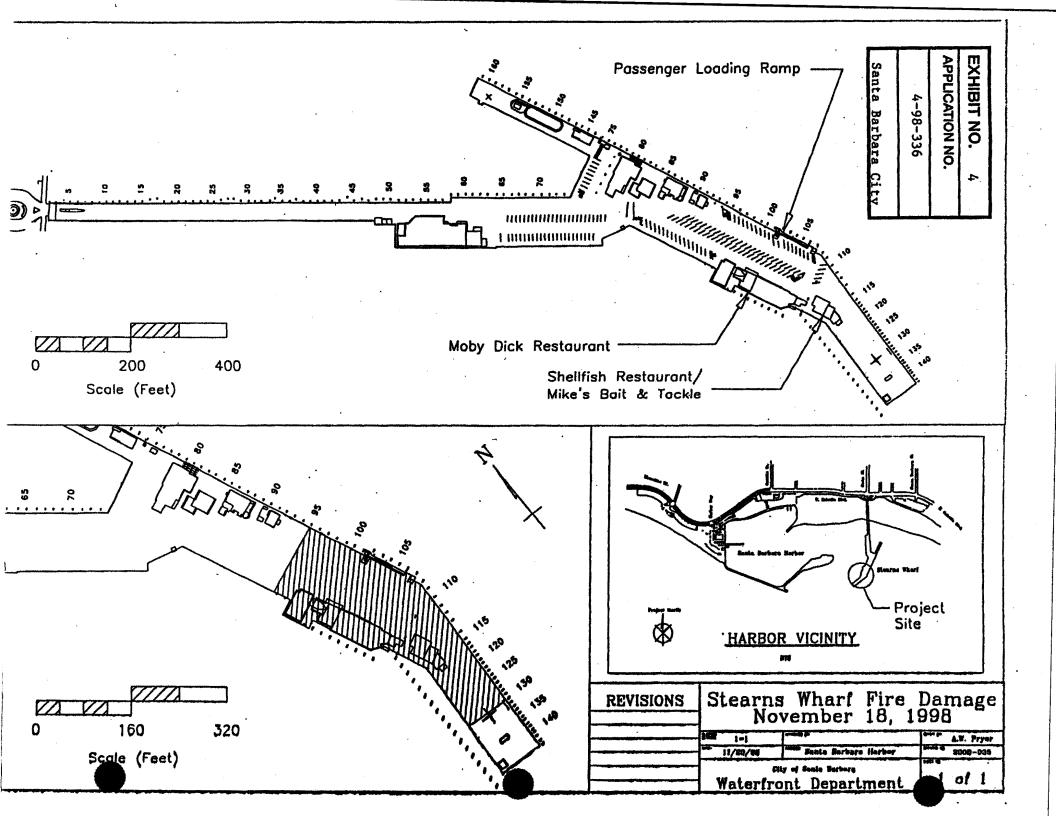
would substantially lessen any significant adverse effects, which the project may have on the environment.

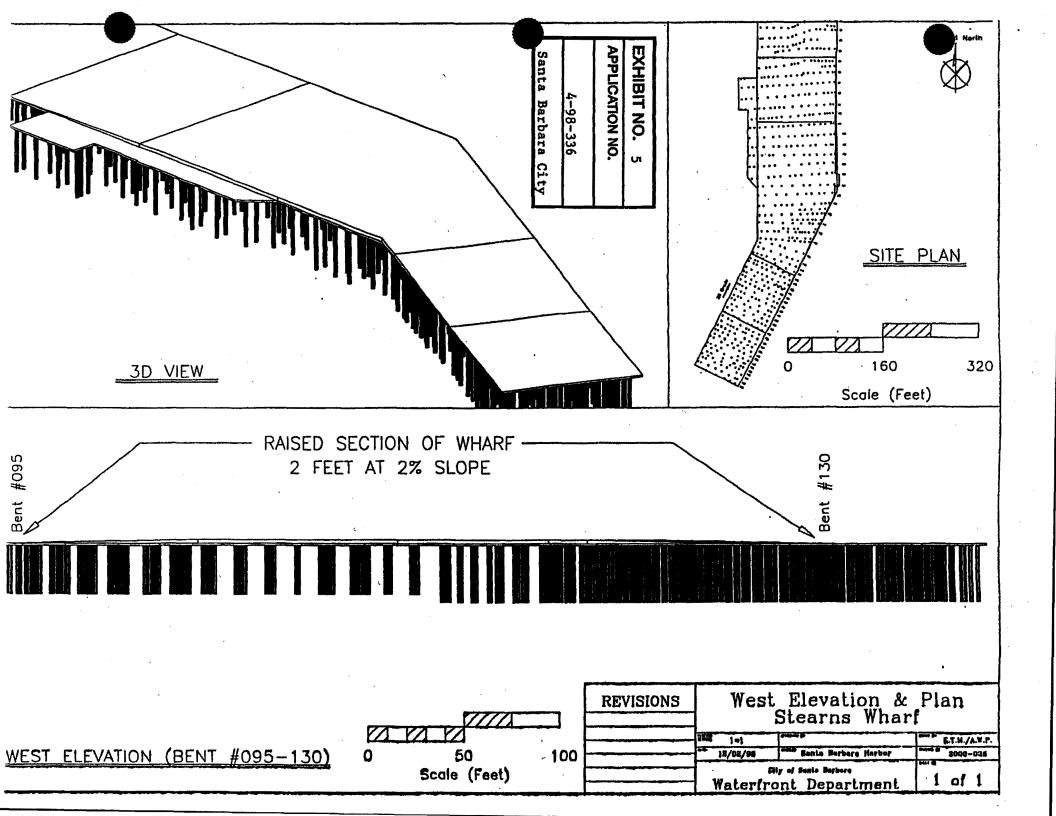
Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified adverse effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and with the CEQA.

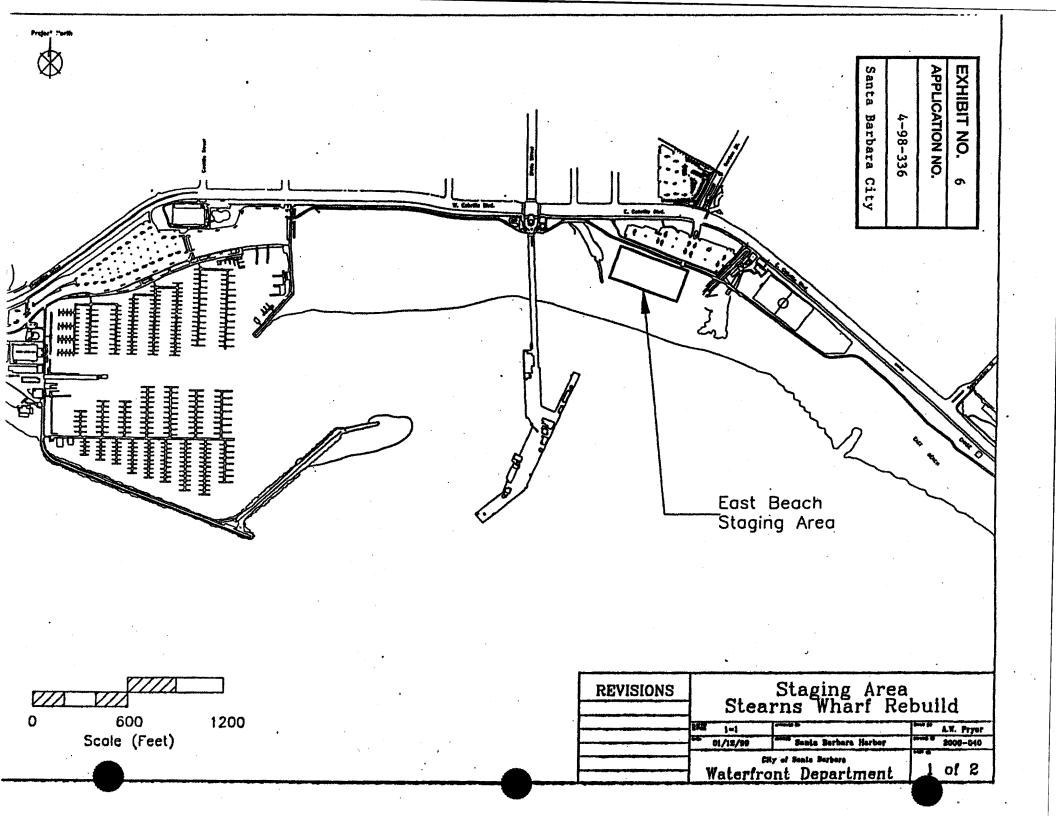


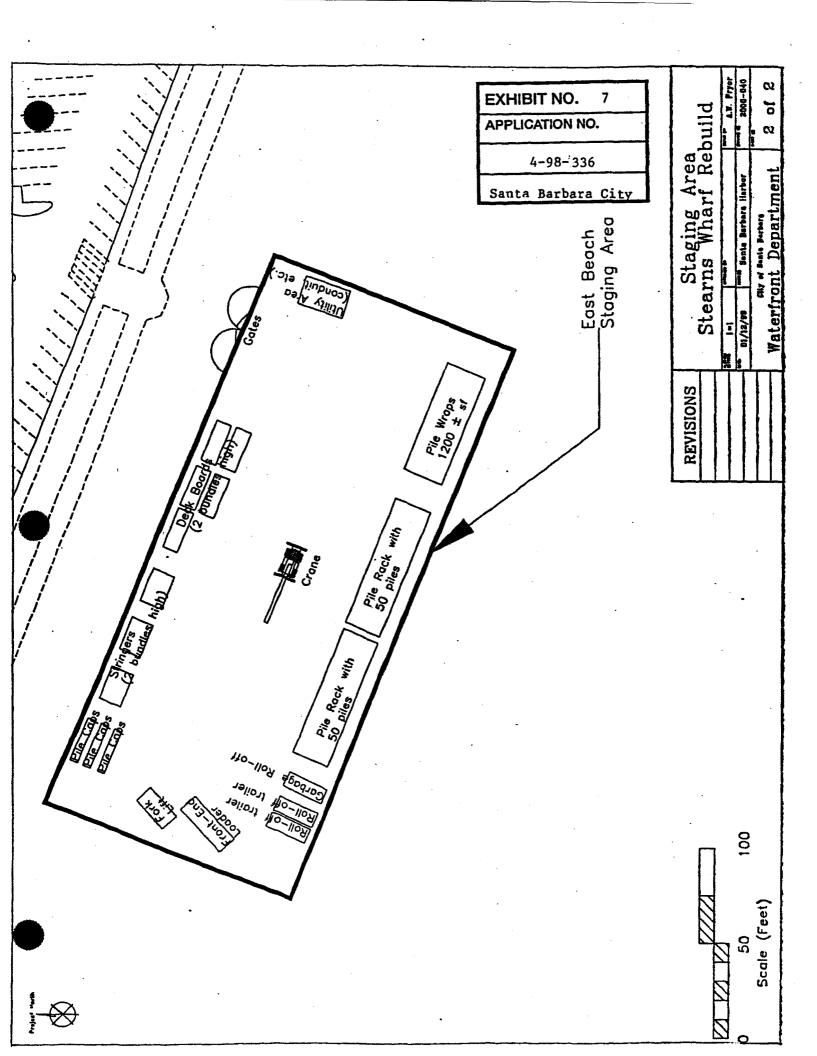


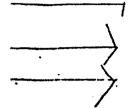




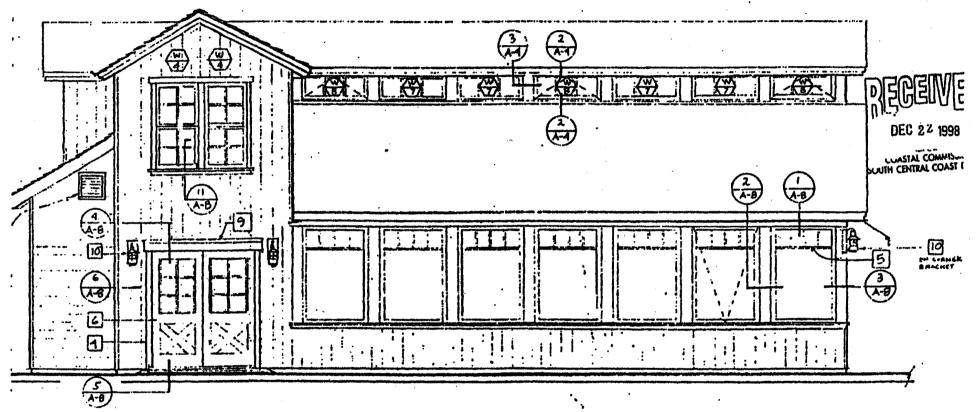








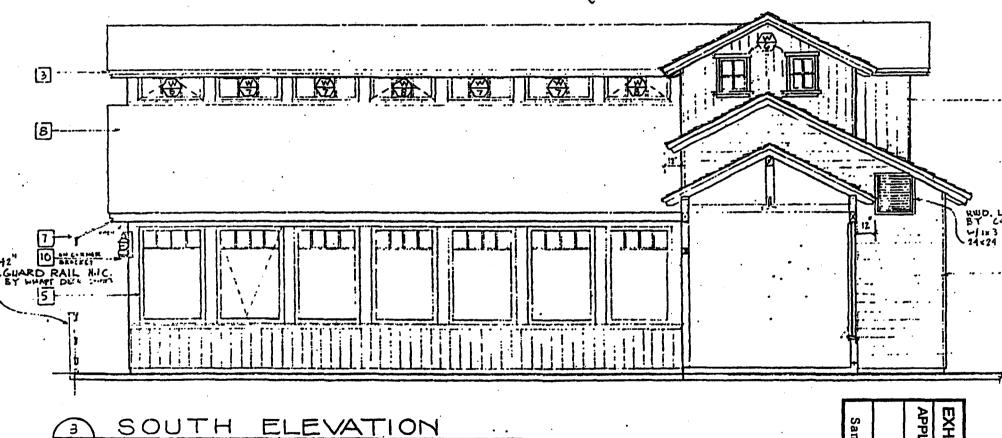
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ANORTH ELEVATION

Note: As modified by permit in 1984

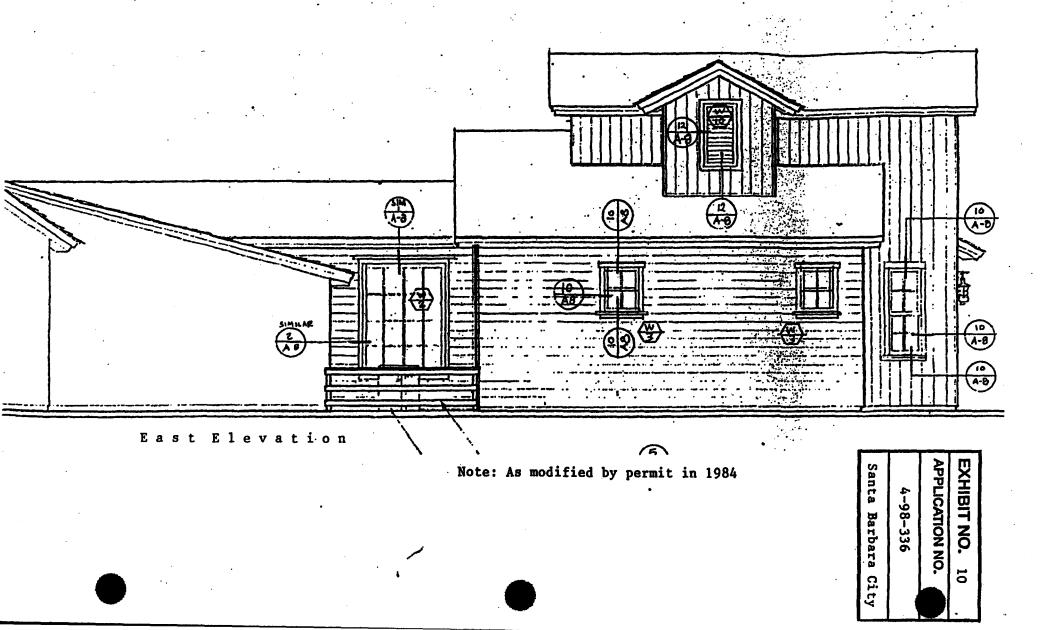
EXHIBIT NO. 8 APPLICATION NO. 4-98-336 Santa Barbara City



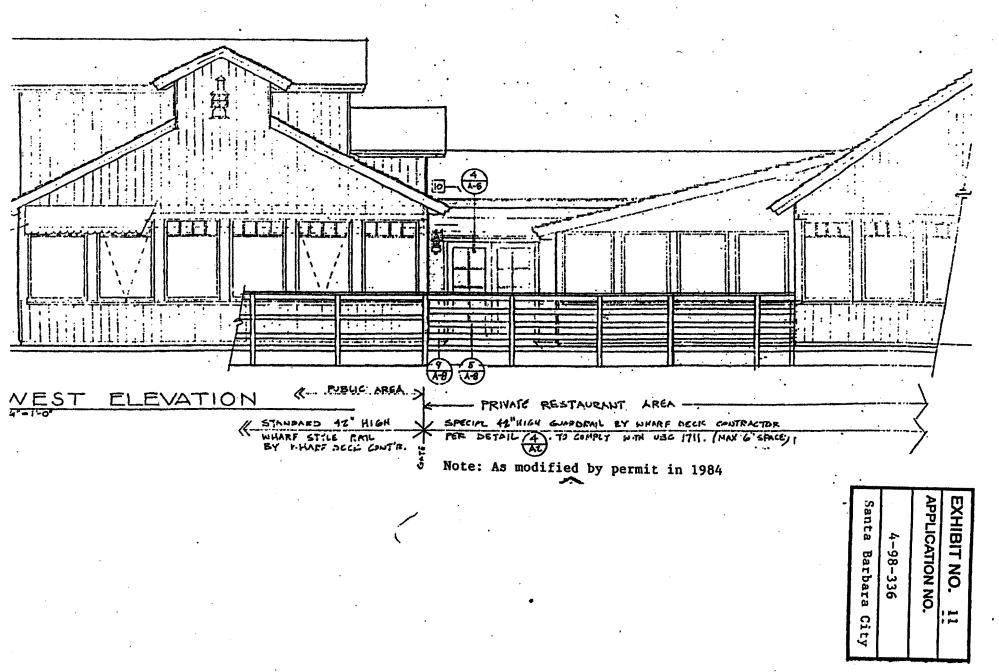
SOUTH ELEVATION

Note: As modified by permit in 1984

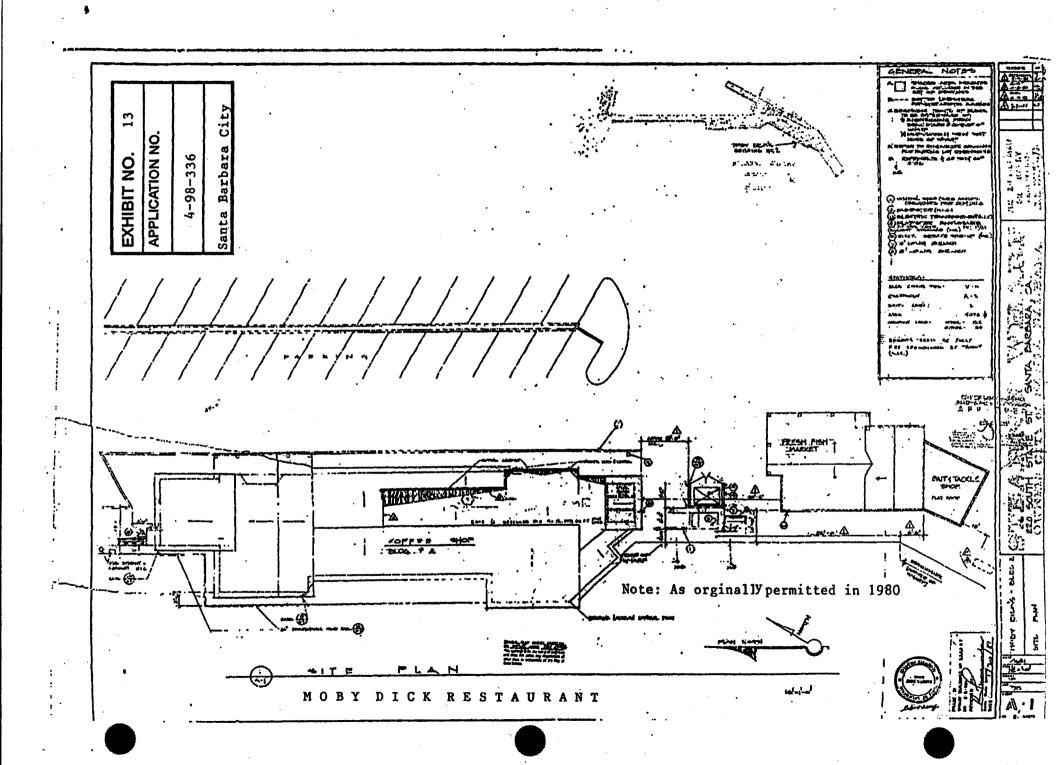
MOBY DICK RESTAURANT

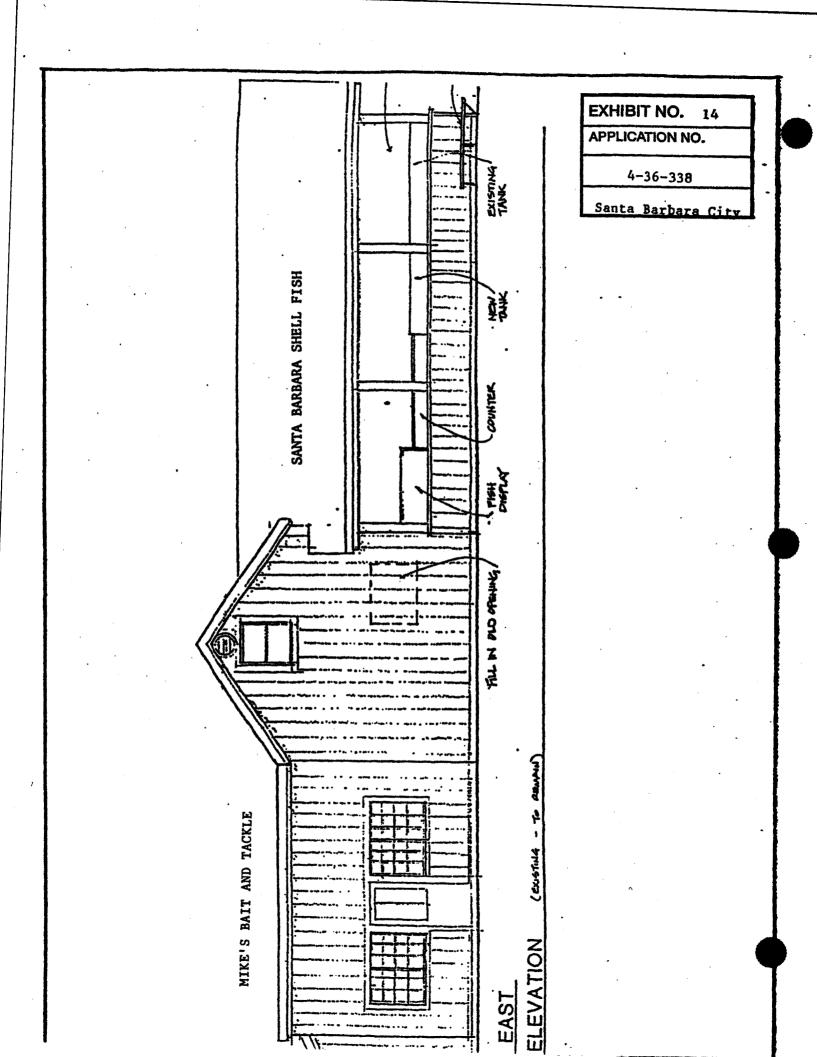


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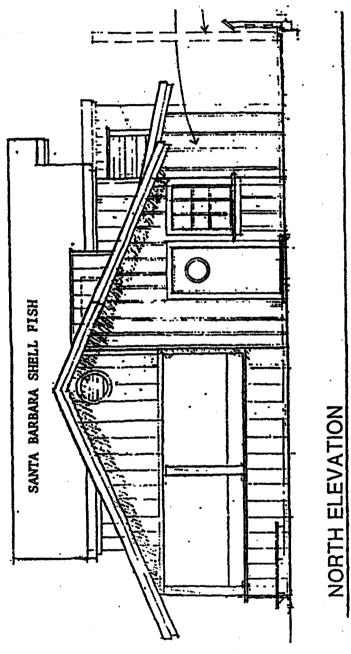


EXHIBIT NO.

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