

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA

89 SOUTH CALIFORNIA ST., SUITE 200

VENTURA, CA 93001

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Staff: S. Hudson *jr*  
Staff Report: 1/14/99  
Hearing Date: February 4, 1999  
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 4-98-301**APPLICANT:** California Department of Parks and Recreation**PROJECT LOCATION:** 23000 Pacific Coast Highway, City of Malibu; Los Angeles County.**PROJECT DESCRIPTION:** Restore and stabilize the Malibu Pier, demolish one existing building and stabilize three existing buildings located on the pier, and replace the existing septic system and grease trap. The project will involve the replacement of approximately 90 rotted and/or storm damaged wood pilings, 45 pile caps, 366 stringers, and 19,500 sq. ft. of decking.**LOCAL APPROVALS RECEIVED:** N/A**SUBSTANTIVE FILE DOCUMENTS:** Mitigated Negative Declaration for Malibu Pier Renovation by the California Department of Parks and Recreation received on 11/2/98; Malibu Pier Renovation Structural Engineering Response Letter by Tom Carver dated 12/16/98; TYFO Fibrwrap Interim Environmental Durability Results Report by the Aerospace Corporation received on 12/15/98; and Coastal Development Permits 5-89-013, 79-5485, and 78-3423.**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends **approval** of the proposed project with four (4) special conditions regarding an interim public parking program, construction responsibilities and debris removal, other required approvals, and assumption of risk. The Malibu Pier was declared unsafe and closed for public use in 1997 due to deterioration and storm damage. Inspection of the pier by Moffatt and Nichol Engineers prior to its closure indicated that the pier and its four buildings were severely deteriorated and that the pier could suffer catastrophic failure in the event of a severe storm. The purpose of the proposed project is to perform remedial repairs for the purpose of stabilizing the pier and three of its four historic structures in order to reopen the pier to public use.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

### **I. Approval with Conditions**

The Commission hereby grants, subject to the conditions below, a 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 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. 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 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. Compliance. All development must occur in strict compliance with the proposal as 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 development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. Special Conditions**

#### **1. Interim Public Coastal Access Parking Program**

Prior to the issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, an Interim Public Coastal Access Parking Program to mitigate for the loss of public parking spaces during construction activity. The program shall provide that:

- a. All construction equipment, construction materials, and parking for construction personnel shall be located within the designated parking lot staging area. No parking for construction personnel shall be allowed on the street. If additional parking for construction personnel is required, the applicant shall provide transportation for construction workers to the work site from an appropriate off-site parking area that will not result in adverse effects to coastal access parking. If off-site parking is required, the applicant shall notify the Executive Director of the location of the parking area.
- b. For the duration of time that the 65-space Malibu Pier parking lot remains closed to public use, the applicant shall post signs on the project site that are clearly visible from Pacific Coast Highway and provide informational flyers indicating the location of all alternative public parking locations within a ½ mile, or greater, radius of the subject parcel. The applicant shall submit, for the review and approval of the Executive Director, a list of all alternative public parking locations within a ½ mile, or greater, radius of the subject parcel and the wording to be used for all signage and informational flyers to be distributed. The signs may be removed by the applicant upon completion of this project and the reopening of the pier parking lot for public use. Prior to the commencement of construction activity, the applicant shall notify the property owners of the privately owned lots identified on the list submitted to the Executive Director where public parking is available.

#### **2. Construction Responsibilities and Debris Removal**

By acceptance of this permit, the applicant agrees that during project construction: (1) No machinery will be allowed in the intertidal zone at any time with the exception of construction activity involving the removal and installation of the offshore pilings for the pier; and (2) the permittee shall remove from the beach and ocean any and all debris that result from the construction.

### 3. Required Approvals

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of all necessary approvals or regulatory actions by the California Regional Water Quality Control Board for the proposed project, or evidence that such approvals are not required.

### 4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

- (a) By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, flooding, and wildfire; (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, its 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.
- (b) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit (1) a written agreement by the applicant, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition; and (2) a written agreement by the State of California acting through the State Lands Commission ("State"), in a form and content acceptable to the Executive Director, providing that upon termination of the applicant's lease of the property and pier that is the subject of this coastal development permit, the State agrees (i) to be bound to all of the terms of clause (a) of this condition if it becomes the owner of the possessory interest in such property, and (ii) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of clause (a) of this condition.

#### **IV. Findings and Declarations**

The Commission hereby finds and declares as follows:

##### **A. Project Description and Background**

The applicant is proposing to restore and stabilize the Malibu Pier, demolish one existing building and stabilize three existing buildings located on the pier, and replace the existing septic system and grease trap. The project will involve the replacement of approximately 90 rotted and/or storm damaged wood pilings, 45 pile caps, 366 stringers, and 19,500 sq. ft. of decking. The proposed project will be carried out over a period of approximately eight months from April through November and will require the closure of the existing 65-space pier parking lot for use as a construction activity staging area.

The subject site is a beach front lot located on the seaward side of Pacific Coast Highway in the commercial business district of Malibu and directly adjacent to Surfrider Beach which is operated as a public beach by the County of Los Angeles (Exhibit 1). The site is operated by the California Department of Parks and Recreation and is developed with an existing 65-space public parking lot and the 780 ft. long Malibu Pier. The California Department of Parks and Recreation holds a lease from the California State Lands Commission for that portion of the pier which is located seaward of the mean high tide line on public tidal lands.

The Malibu Pier was declared unsafe and closed for public use in 1997 due to deterioration and storm damage. Inspection of the pier by Moffatt and Nichol Engineers prior to its closure indicated that the pier and its four buildings were severely deteriorated and that the pier could suffer catastrophic failure in the event of a severe storm. The purpose of the proposed project is to perform remedial repairs for the purpose of stabilizing the pier and three of its four historic structures in order to reopen the pier to public use.

The Malibu Pier is designated by the State of California as a point of historical interest. The original pier was constructed in the early 1900's and expanded between 1938 and 1946 to its current length and to construct the currently existing structures on the pier. Four existing structures are located on the pier: Alice's Restaurant (4,400 sq. ft.), a food preparation building (1,100 sq. ft.), and two twin buildings on the end of the pier (1,800 sq. ft. each). The Department of Parks and Recreation proposes to stabilize and restore the restaurant and the two twin buildings located on the end of the pier that were used as a bait/tackle shop, snack shop, and Los Angeles County Lifeguard Department Office prior to the closure of the pier. The fourth structure, the Food Preparation Building, and the surrounding decking and piles have deteriorated beyond salvage. Additionally, unlike the other three existing structures, a concrete floor has been poured over the original floor of the structure that makes it infeasible to lift or move the Food Preparation Building to allow for the proposed repairs. The Department

of Parks and Recreation has indicated that the Food Preparation Building is not necessary for the operation of the restaurant facility. Therefore, the Food Preparation Building will be demolished and not replaced at this time. The Food Preparation Building will be fully recorded with photographs and measured drawings for potential future reconstruction. The three existing buildings on the pier to be retained and restored are proposed to be used for the same purposes for which they were used prior to the closure of the pier.

## **B. Public Access**

Section 30210 of the Coastal Act states:

*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 of the Coastal Act states:

*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 of the Coastal Act states (in part):

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

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 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.*

Coastal Act Sections 30210, 30211, and 30212 provide that maximum access and recreational opportunities shall be provided, consistent with public safety and the protection of coastal resources. Specifically, 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. Sections 30220 and 30221 of the Coastal Act requires coastal areas suited for coastal recreational activities, that cannot be provided at inland water areas, be protected.

The Malibu Pier was a popular recreational facility for residents of the City of Malibu and visitors alike. The Malibu Pier has been closed to public use due to safety concerns since 1997. The proposed project is intended stabilize and repair the existing pier in order to reopen the facility for public use. The three existing buildings on the pier to be retained are proposed to be used for the same purposes that they were used prior to the closure of the pier; a restaurant, fishing bait/tackle shop, snack shop, and a County of Los Angeles Lifeguard Department office. The Commission notes that the proposed project is intended to support the type of coastal dependent visitor serving recreation facility that is permitted in open coastal waters.

However, in order to carry out the proposed public pier stabilization and restoration project, it will be necessary to close the 65-space public parking lot owned by the California Department of Parks and Recreation in order to use the site as a construction staging area. The existing parking lot is currently available for public parking and beach access on a per-vehicle fee basis. All stabilization and restoration work will be carried out over an approximately eight month period of time from April through November in order to avoid construction work during the winter storm season. During this period of time, the pier parking lot will be closed to public use. The Commission notes that no suitable alternative locations for a construction staging area are available, including the relatively narrow beach fronting the parking lot which is located seaward of an existing rock revetment and periodically subject to wave action. The Department of Parks and Recreation has submitted a letter dated January 11, 1999, that indicates that the entire 65-space lot is required for the entire duration of the project and that it is not feasible to set aside any portion of the lot for public parking due to construction activity, space requirements, and safety concerns (Exhibit 5).

In order to minimize the temporary adverse effect to public access from the loss of parking available to the public during construction activity, Special Condition Two (2) requires the applicant to submit, for the review and approval of the Executive Director, an Interim Public Coastal Access Parking Program. This program shall provide that all construction equipment, materials, and parking for construction personnel shall be located within the designated parking lot construction staging area and that no parking for construction personnel shall be allowed on the street. If additional parking for construction personnel is required, the applicant shall provide transportation for construction workers to the work site from an appropriate off-site parking area that will not result in adverse effects to coastal access parking. In addition, the program shall also provide that for the duration of time that the 65-space Malibu pier parking lot remains closed to public use, the applicant shall post signs on the project site that are clearly visible from Pacific Coast Highway and provide informational flyers indicating the

location of all alternative public parking locations within a ½ mile, or greater, radius of the subject parcel.

The Commission notes that several commercial/office developments within walking distance of the project site are required, through a special condition of approval for their coastal development permit, to make their parking lots and/or parking structures available for public use during weekends, holidays, and from sunset to sunrise and that signs should be conspicuously posted informing the public of their availability. For instance, the Commission notes that the commercial/office building complex located at 22761 Pacific Coast Highway (approximately 750 ft. to the east of the pier parking lot on the landward side of the highway) has 106 existing parking spaces available for public use (42 additional spaces will be available for public use at this address after the construction of a new previously approved office/parking structure) as required by Coastal Development Permits (CDPs) 78-3423 and 5-89-013. In addition, 57 parking spaces are also available for public use at the commercial/office building located at 22809 Pacific Coast Highway (approximately 650 ft. to the east of the pier parking lot on the landward side of the highway) as required by CDP 79-5485. As such, the Commission notes that at least 163 parking spaces (available for use by the public on weekends and holidays) are located within approximately 750 ft. or less of the pier parking lot. However, these parking lots/structures have not been used by the public due to the lack of adequate signage to direct the public to these parking lots. Therefore, directing the public to these underutilized privately owned parking lots, as required by Special Condition Two (2) above, will mitigate the loss of the 65 parking spaces at the pier lot on weekends and holidays when the demand for parking is at its highest level.

In addition, the Commission notes that the proposed project will also result in a temporary increase to traffic along Pacific Coast Highway due to the transportation of construction equipment and materials to the project site. In order to minimize any adverse effects to traffic circulation, the Department of Parks and Recreation proposes to transport all construction materials and equipment to the project staging area over a one to two day period in April prior to the commencement of construction activity. After construction has commenced, transportation of construction materials and machinery will be primarily limited to the periodic removal of demolished materials and is not expected to result in significant adverse effects to public coastal access. If closure of a traffic lane is required during the initial delivery, the applicant is required to obtain the necessary permit from the California Department of Transportation and to adhere to any conditions of that permit. In order to further minimize adverse effects to circulation and public access, the Department of Parks and Recreation has stated that all work involving transportation of construction materials and machinery will be carried out only during non-peak traffic hours.

The Commission finds that the temporary adverse effects to public access and recreation during the eight month construction/repair phase of the proposed project, as conditioned, will be minimized. Further, upon completion of the repairs, the pier will be reopened for public use and the proposed project will result in greater overall benefits to



coastal public access and recreation resources. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Sections 30210, 30211, 30212, 30220, and 30221 of the Coastal Act.

### **C. Coastal and Marine Resources**

Section 30230 of the Coastal Act states 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 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Coastal Act Section 30233(a) states in part:

*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.*

The proposed project would involve the removal and replacement of approximately 90 wood pilings necessary to support the existing public pier. The three existing buildings to be retained are proposed to be used for the same purposes that they were used prior to the closure of the pier; a restaurant, fishing bait/tackle shop, snack shop, and a County of Los Angeles Lifeguard Department office. The Commission notes that the proposed project is intended to support the type of coastal dependent visitor serving facility that is permitted in open coastal waters.

The proposed project includes the removal of damaged wood pilings and the replacement with new wood pilings. Therefore, the proposed project does constitute "fill" within the meaning of Section 30233 of the Coastal Act. The Commission notes, however, that the proposed fill project (replacement of existing pilings) is specified as an allowable use under Coastal Act Section 30233(a)(4) (i.e., recreational piers providing public access and recreational activities) when adverse effects to the marine environment are minimized.

The project area contains three types of marine habitats: hard substrate (including pilings and rock); soft bottom (sand and silt) and the water column and water surface. Construction activities would be conducted from the existing pier and portions of the beach and would continue for a period of approximately eight months from April through November. The proposed project would not significantly alter the quantity or quality of any of these types of habitats, and therefore will not have any significant effects on the marine environment within the project area.

However, the Commission notes that the proposed development will result in a temporary localized disturbance of the marine environment and increased turbidity due to construction activity. The temporary increase in turbidity of the coastal waters will not result in any significant adverse effects to the marine environment. To ensure that effects to the marine environment are minimized from the proposed development to the maximum extent feasible, Special Condition Two (2) requires the applicant to agree that no machinery will be allowed in the intertidal zone at any time with the exception of the installation of the pilings for the pier and that all debris resulting from the construction period is removed from the ocean and beach area.

Further, as indicated above, the proposed stabilization and restoration project will involve the replacement of existing deteriorated and damaged wood components (pilings, caps, stringers, and decking) with the same materials and design. The California Department of Fish and Game (DFG) has indicated in their letter dated September 10, 1998, that creosote-treated wood products (such as that used for piers) result in the release of polynuclear aromatic hydrocarbons (PAHs) into the marine environment (Exhibit 6). The letter from the DFG further indicates that the DFG recognizes that the use of alternative building materials such as concrete, metal, and plastics are not feasible for projects that involve the repair or stabilization of existing wooden structures, such as the Malibu Pier. In cases where an existing wooden structure already exists, the DFG accepts the use of "plastic wrapped" creosote-treated wood pilings when designed to prevent creosote leakage. In the case of the proposed stabilization project, the applicant is proposing that all wood pilings will be creosote-pressure treated and wrapped with polyethylene or kevlar matting impregnated with brown colored epoxy resin. The wrapping will serve to contain wood preservatives while also prolonging piling life expectancy and enhancing structural strength. Thus, the Commission notes that the proposed project is consistent with all recommendations of the California Department of Fish and Game and will serve to minimize adverse effects to the biological resources within the marine environment.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of Coastal Act Sections 30230, 30231, and 30233.

#### **D. Coastal Hazards**

Section 30253 of the Coastal Act states in part that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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.*

The proposed development is located on the Malibu shoreline, an area which is generally considered to be subject to an unusually high amount of natural hazards. Hazards common to coastal areas along the Malibu coast include wave attack, flooding, and wildfire.

The proposed project consists of replacing damaged, rotted, or missing wood pilings, decking, and other wood components of an existing historic pier. The pilings, decking, and other components will be replaced with the same size and type of material as was there historically.

The applicant has submitted a Renovation and Structural Engineering Response Letter by Tom Carver, Senior Civil Engineer for the California Department of Parks and Recreation dated December 16, 1998. The letter indicates that the structure, as proposed to be stabilized, is adequate to withstand the predictable forces that will occur during the useful life of the renovated pier.

However, the Commission notes that proposed development will extend into an area exposed to wave attack and flooding that in the past have caused significant damage to development along the California coast. The Coastal Act recognizes that development, such as the stabilization and restoration of the Malibu Pier, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right, or in this case the State's right, to use its property. The potential for such damage is demonstrated by the fact that the pier was declared unsafe and closed to public access in 1997 due in part to storm damage.

As such, the Commission finds that due to the unforeseen possibility of wave attack, flooding, and fire, the applicant shall assume these risks as a condition of approval. In addition, the State, as lessor as acted through the State Lands Commission, upon termination of the applicant's lease of the property and pier, shall assume these risks or

require any new lessee to assume these same risks in any subsequent lease of the property. Because the risk of harm cannot be completely eliminated, Special Condition Four (4) requires that the applicant: (i) acknowledge that the site may be subject to hazards from storm waves, flooding, and wildfire, (ii) 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, its 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

The Commission therefore finds that the proposed development, as conditioned, is designed to minimize risks to life and property and assure stability and structural integrity and is consistent with and adequate to carry out the requirements of Coastal Act Section 30253.

### **E. Septic System**

The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.***

The applicant is proposing to replace the existing 4,500 gallon septic tank with a new tank of the same capacity. The existing septic tank to be replaced is located under the existing parking lot and landward of an existing rock revetment and will not require additional wave uprush protection. In order to ensure that the proposed septic system is consistent with the minimum requirements of the Uniform Plumbing Code, Special Condition Three (3) requires the applicant to submit approval from the Regional Water Quality Control Board prior to issuance of the coastal development permit. The minimum standards of the Regional Water Quality Control Board have been found protective of coastal resources. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## **F. Local Coastal Program**

Section 30604 of the Coastal Act states that:

*a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

## **G. CEQA**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

**SMH-VNT**

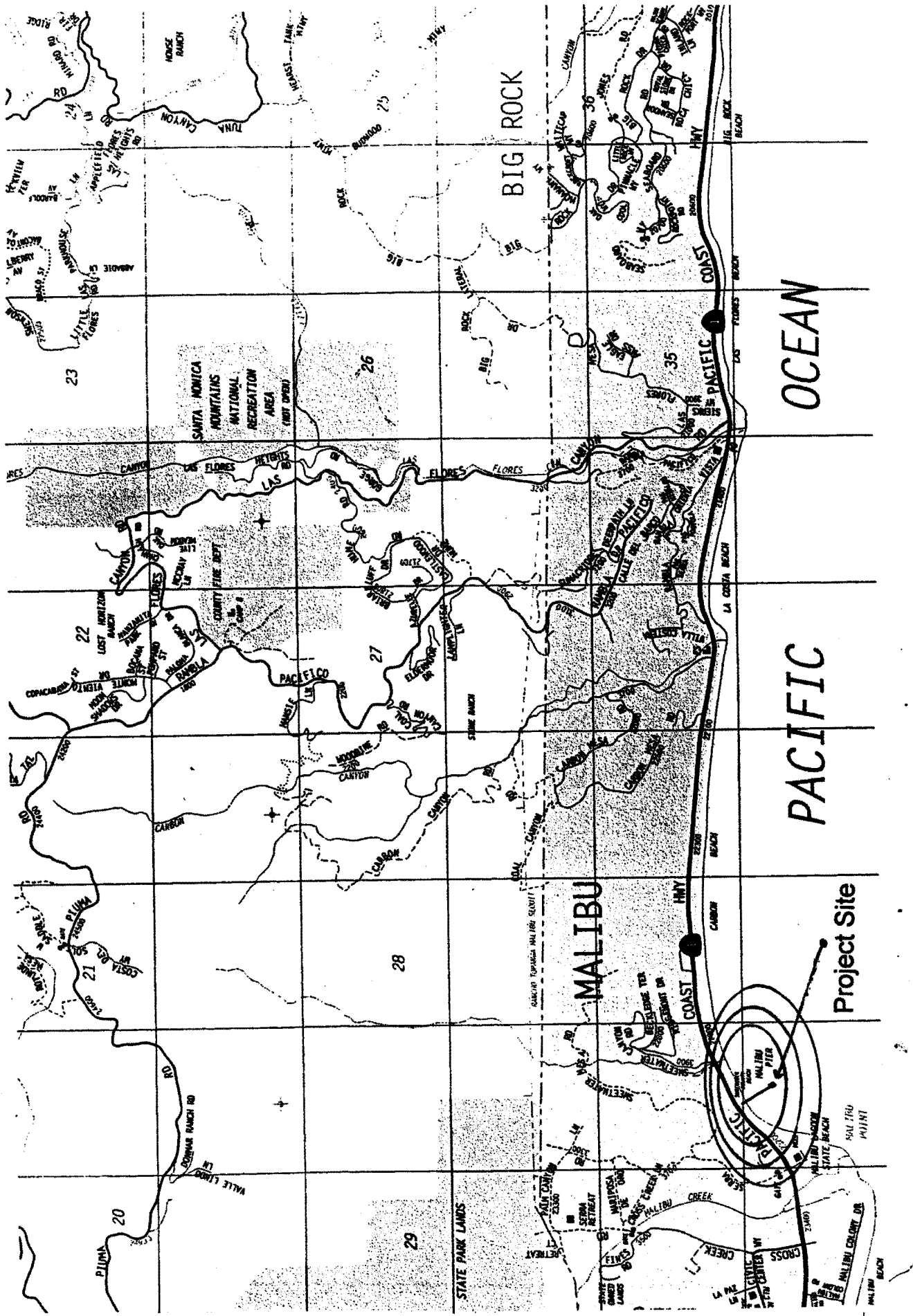
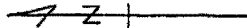
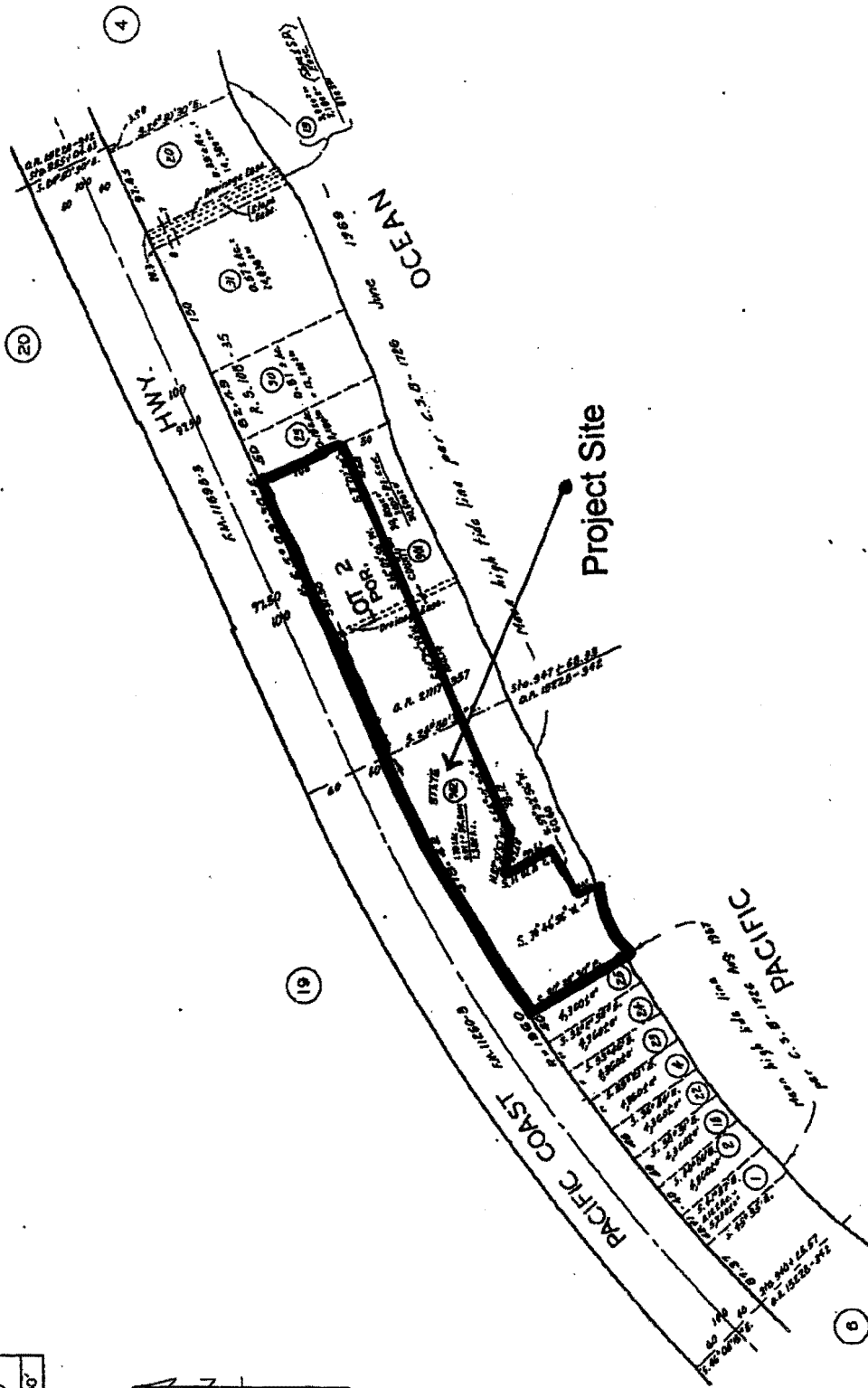


Exhibit No. 1: (4-98-301) Location Map

4452 | 5  
 SCALE 1" = 100'



SCALE IN 1/10 OF AN INCH



ASSESSOR'S MAP  
 COUNTY OF LOS ANGELES, CALIF.

Exhibit No. 2: (4-98-301) Parcel Map

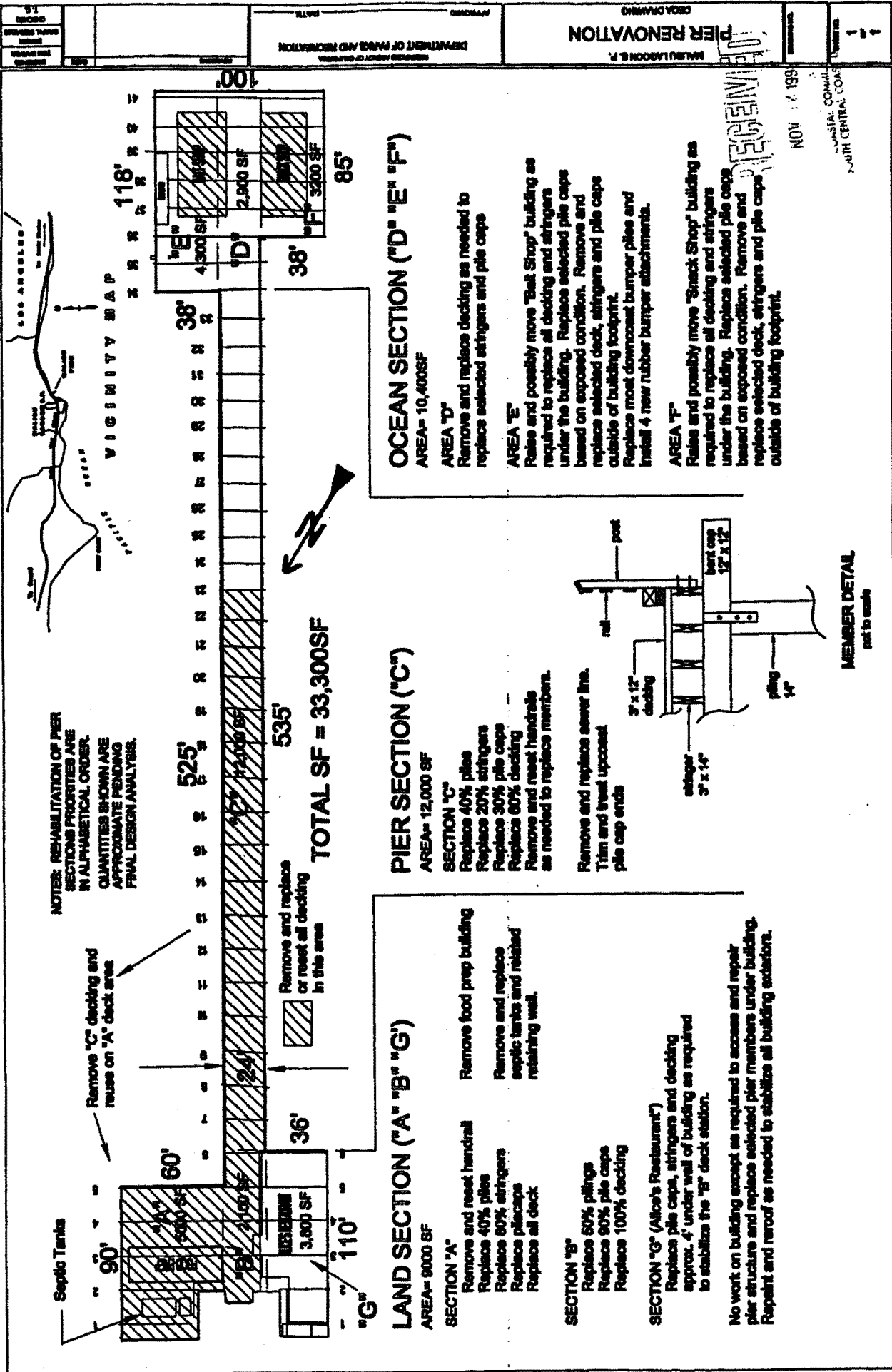


Exhibit No. 3: (4-98-301) Site Plan - Pier



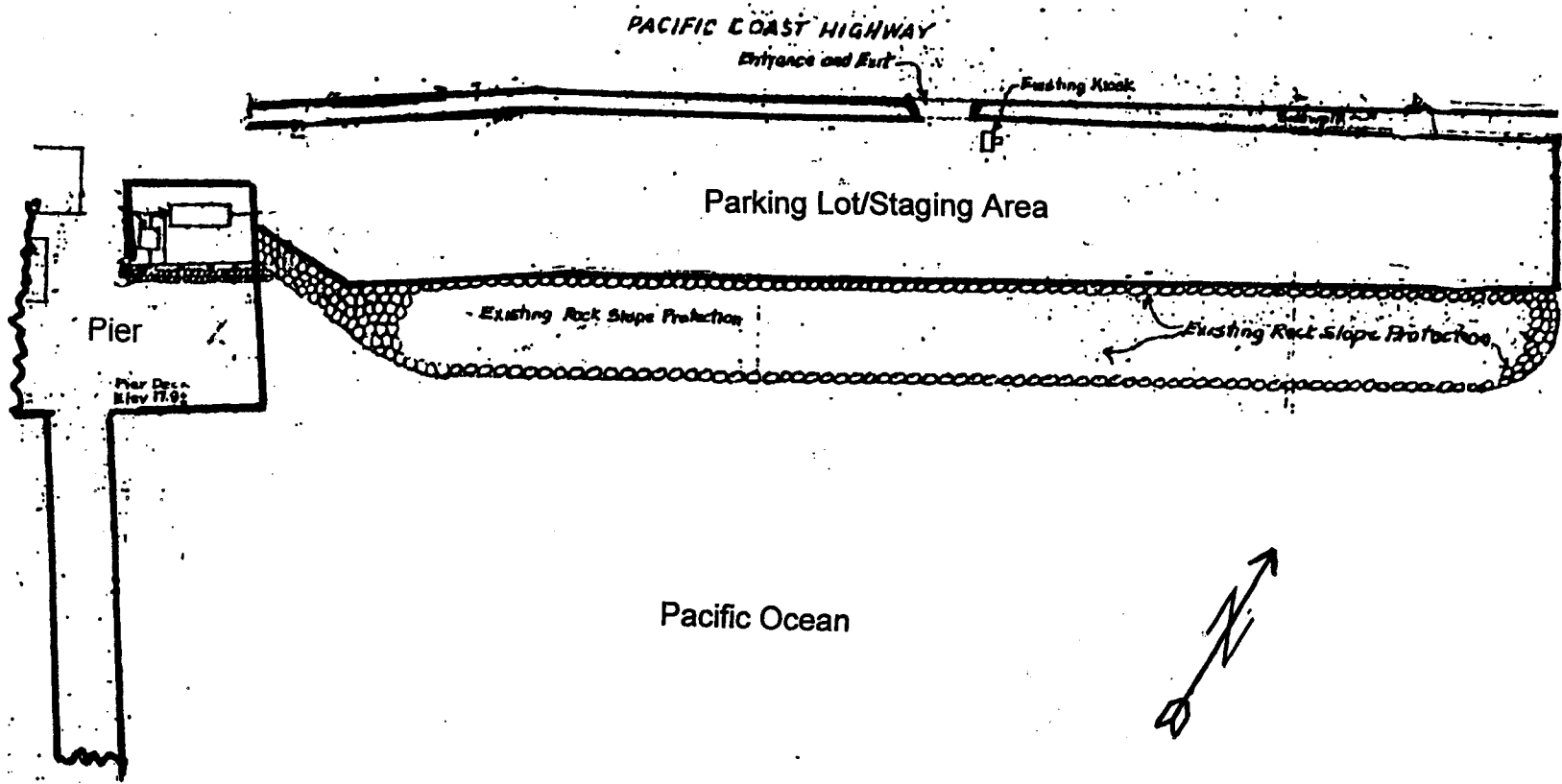


Exhibit No. 4: (4-98-301) Site Plan - Staging Area

STATE OF CALIFORNIA-RESOURCES AGENCY

GRAY DAVIS, Governor

**DEPARTMENT OF PARKS AND RECREATION**

Angeles Dis-ict  
1925 Las Virgenes Road  
Calabasas, California 91302  
(818)880-0350



January 11, 1999

RECEIVED

JAN 11 1999

Steve Hudson  
California Coastal Commission  
89 S. California Street #200  
Ventura, California 93001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re: Malibu Pier Renovation - Parking

Dear Mr. Hudson:

The California Department of Parks and Recreation plans on closing the Malibu Pier parking lot during the renovation of the Malibu Pier from April, 1999 to November, 1999. The closure of the parking lot is necessary to provide a safe staging area for this construction project. The lot will be used for the temporary storage of large pier piles, pile caps, stringers and decking material. Heavy equipment, employee vehicles and other miscellaneous construction materials will also be kept in this area.

The California Department of Parks and Recreation acknowledges that the use of the Malibu Pier parking lot will temporarily decrease the amount of public parking available for those visiting Surfrider Beach. However, in order to protect the safety of the public it is necessary to preclude vehicle and pedestrian access into this area while construction is occurring. Providing public access to a portion of the parking lot during construction is not an option because it will invite the public into an unsafe area, slow construction activity and push the construction activities into the stormy winter months. Furthermore, stopping the construction activities during the summer months and reopening the parking lot will increase the costs of the project to a point where the project may be jeopardize.

The California Department of Parks and Recreation will erect information signs to direct the public to alternative coastal access points in the vicinity of the Malibu Pier. Thank you for considering this information.

Sincerely,

Richard Rozzelle  
Associate Land Agent

State of California

**M e m o r a n d u m**

**To :** Mr. Noah Tilgiman  
California Department of Parks and Recreation  
Resource Management Division

Date: September 10, 1998

NOV 02 1998

**From :** Department of Fish and Game

**Subject :** Use of Creosote-treated Wood Products (e.g., pilings) in Marine Waters of the State of California

CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

This memo is in response to your request for information concerning the Department of Fish and Game's (DFG) preferred piling material for use in marine waters. The DFG currently has a position of not approving the placement of creosote-treated wood products (e.g., pilings) in waters of the State where Streambed Alteration Agreements with the DFG (Fish and Game Code, Secs. 1601 and 1603), apply (i.e., rivers, streams, or lakes). For project proposals in which Streambed Alteration Agreements are not required (i.e., marine and estuarine waters), we strongly recommend to State and Federal regulatory agencies (e.g., California Coastal Commission, Regional Water Quality Control Boards, U.S. Army Corps of Engineers, etc.) against the use of these materials.

The compounds of greatest concern in creosote-treated pilings and other wood products are polynuclear aromatic hydrocarbons (PAHs), which have been shown to leach into the aquatic environment. Exposure to elevated levels of PAHs can be deleterious to marine life and, as such, are of concern to the DFG (Fish and Game Code, Sec. 5650). The DFG recommends that pilings, fenders, cross beams, and other support and protective structures placed into marine and estuarine waters be composed of more environmentally acceptable material such as reinforced plastic, metal, or concrete. However, the DFG recognizes that these options are not always feasible and will accept the use of "plastic wrapped" creosote-treated wood pilings in specific situations and under conditions designed to prevent creosote leakage. These situations and conditions are as follows:

- For the repair of existing projects that were previously constructed using wood products. This exception is intended to help prevent hardships for permit applicants that would otherwise be caused by a need to redesign or replace existing structures if wood could not be used for repair work.
- Where the use of plastic-wrapped creosote pilings is restricted to marine or estuarine waters.
- Where measures are taken to prevent damage to plastic wrap from boat use. Measures may include installation of rub strips or bumpers.

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- Where measures are taken to prevent creosote from dripping over the top of plastic wrapping into State waters. These measures may include wrapping pilings to the top or installing collars.
- Where the plastic wrapping is sealed at all joints to prevent leakage.
- Where the plastic material is expected to maintain its integrity for at least 10 years, and where plastic wrappings that develop holes or leaks are repaired or replaced in a timely manner.

As always, DFG personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for discussion, please contact Ms. Marilyn Fluharty, Environmental Specialist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (619) 467-4231.

Sincerely,



Donald L. Lollock, Chief  
Scientific Division  
Office of Spill Prevention  
and Response

cc: Ms. Marilyn Fluharty  
Department of Fish and Game  
San Diego, California 92123

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