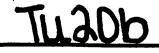
CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA SOUTH CALIFORNIA ST., SUITE 200 TURA, CA 93001 (005) 641 - 0142

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GRAY DAMS, GON

Filed: 6/10/99 49th Day: 7/27/99 180th Day: 12/7/99 Staff: M.H. Capelli Staff Report: 6/20/99 Hearing Date: 7/13-16/99 Commission Action:

# STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-98-336-A1

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

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

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** 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

**DESCRIPTION OF PROJECT AMENDMENT:** Make minor amendments to the previously approved Coastal Development Permit, including a minor modification to the configuration of the wharf deck adjacent to the Moby Dick's Restaurant, add a catwalk to the wharf adjacent to the Moby Dick's Restaurant, and move the Santa Barbara Shellfish Co./Mike's Bait and Tackle building 2 feet south to create a slightly larger separation between the Shellfish Co./Mike's Bait and Tackle Building and the Moby Dick Restaurant, located at the south end of State Street, City of Santa Barbara, Santa Barbara County

LOCAL APPROVALS RECEIVED: Local Coastal Development Permit CDP97-0060

SUBSTANTIVE FILE DOCUMENTS: Application 4-98-336-A1

STAFF RECOMMENDATION: Approval with special conditions regarding waiver of liability, 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.

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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.

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# **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 assignce files with the Commission an affidavit accepting all terms and conditions of the permit.

7. <u>Terms and Conditions Run with the Land</u>. 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;

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(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. Location and Use of Staging and Storage Area

The staging area shall be limited to the area immediately 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. (See Exhibit 7 and 8.)

# **IV.** Findings and Declarations.

# 1. Background

Following a fire on April 14, 1973 which destroyed portions of Stearns Wharf and many deckside 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 visitorserving 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.

On November 18, 1998, Stearns Wharf was again 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 caused by the fire.

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 involved extraordinary method of repair that involve a risk of substantial adverse environment impact; further the proposed development is not exempt

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under Section 30610(g), and because the project involves the replacement of a public works facility, which includes publicly financed recreational facilities as defined by Section 30114(c) of the Coastal Act.

In December 1998, the Commission granted a Coastal Development Permit for the proposed reconstruction of that portion of the Stearns Wharf and related buildings destroyed in the November 1998 fire. The approval was predicated on a series of standard and special conditions, but did not require any changes to the proposed design of the reconstructed wharf or the related buildings. After receiving approval for the reconstruction of the wharf, the applicant identified a number of minor changes, which would improve the maintenance, safety and circulation on Stearns Wharf without changing its size or basic design. These changes are the subject of this amendment.

### 2. Project Description

The project amendment consists of making a minor modification to configuration of wharf deck adjacent to Moby Dick Restaurant, add a catwalk to the wharf adjacent to the Moby Dick Restaurant, and move the Santa Barbara Shellfish Co. building 2 feet south to create a slightly larger separation between the Shellfish Co. Building and the Moby Dick Restaurant. (See Exhibits 1 through 6.)

The wharf reconstruction project permitted following the November 1998 fire (entailing approximately 47,068 square feet of decking area, and approximately 650 pilings) consisted of reconstructing the wharf in the same configuration, size, and location as the previously permitted Stearns Wharf. To reduce the potential effects of future wave damage, however, 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. With the exception of those areas directly under the two destroyed buildings (Santa Barbara Shellfish Co./Mike's Bait and Tackle Shop and Moby Dick's Restaurant), the reconstruction would use wood pilings similar to those destroyed in the fire. The areas under the two destroyed buildings would be supported by steel pilings, with the exception of the outer row at the edge of the Wharf which would be wooden. All pilings (wooden and steel) would be wrapped with plastic and collared.

All work (including the proposed minor modifications which are the subject of this permit) on the wharf and buildings will take place from offshore 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 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 7 and 8.)

# 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

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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 amendment project consists of minor modifications to the damaged portions of Stearns Wharf and related buildings, including the Moby Dick Restaurant, Santa Barbara Shell Fish Company, and Mike's Bait and Tackle Shop. These modifications entail making a minor modification to configuration of wharf deck adjacent to Moby Dick's Restaurant, adding a catwalk to the wharf adjacent to the Moby Dick's Restaurant, and moving the Santa Barbara Shellfish Co./Mike's Bait and Tackle building 2 feet south to create a slightly larger separation between the Shellfish Co./Mike's Bait and Tackle Building and the Moby Dick's Restaurant. (See Exhibits 4 through 6.)

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 a 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 proposed amendments to the previously issued Coastal Development Permit 4-98-336 do not materially affect the visitor serving components of Stearns Wharf. The minor changes to the configuration of the wharf decking adjacent to the Moby Dick's Restaurant entails replacing two 90 degree angles of the deck with one 45 degree angle, resulting in a slight increase in the surface area of the deck (less than 10 square feet). This change allows a slightly simpler and more effective design of the deck support structures. The addition of a catwalk around the Moby Dick's Restaurant will provide more convenient access to utility lines and windows for maintenance and cleaning. Moving the Santa Barbara Shellfish Co./Mike Bait and Tackle Building two feet to the south will increase separation between the Santa Barbara Shellfish Co./Mike's Bait and Tackle Building and the Moby Dick's Restaurant. This modification will

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improve slightly the vehicular and pedestrian access to the electrical cabinet and trash enclosure, and pedestrian access to the Shellfish /Mike Bait and Tackle building.

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.

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 #2 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

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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 amendment consists of making a minor modification to configuration of wharf deck adjacent to Moby Dick Restaurant, adding a catwalk to the wharf adjacent to the Moby Dick's Restaurant, and move the Santa Barbara Shellfish Co./Mikes Bait and Tackle building 2 feet to the south to create a slightly larger separation between the Shellfish Co. Building and the Moby Dick Restaurant. (See Exhibits 4 through 6.)

None of the amendments will require working directly in the marine environment. The reconfiguration of the deck area, the addition of a catwalk, and the modification of the building separation between Santa Barbara Shellfish Co./Mike's Bait and Tackle and the Moby Dick's Restaurant will not require any increase in the number of pilings (650) previously approved as part of the Stearns Wharf reconstruction.

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 Exhibits 7 and 8.)

To ensure that the use of the staging and storage area does not unnecessarily impact or displace wildlife use of the area, Special Condition #2 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:



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(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...

The proposed amendment project consists of minor modifications to the damaged portions of Stearns Wharf and related buildings, including the Moby Dick Restaurant, Santa Barbara Shell Fish Company, and Mike's Bait and Tackle Shop. These modifications entail making a minor modification to configuration of wharf deck adjacent to Moby Dick Restaurant, adding a catwalk to the wharf adjacent to the Moby Dick Restaurant, and moving the Santa Barbara Shellfish Co./Mike's Bait and Tackle building 2 feet south to create a slightly larger separation between the Shellfish Co./Mike's Bait and Tackle building and the Moby Dick Restaurant. (See Exhibits 4 through 6.)

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 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. 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. Moving the Santa Barbara Shellfish Co./Mike Bait and Tackle Building two feet to the south will increase separation between the Santa Barbara Shellfish Co./Mike's Bait and Tackle building and the Moby Dick's Restaurant. This modification will allow a larger electrical equipment cabinet to provide increased fire safety.

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. To further reduce fire hazards the City has proposed using steel pilings and concrete foundations under the two buildings (Santa Barbara Shellfish Co./Mike's Bait and Tackle and Moby Dick's Restaurant) which were destroyed during the November 18, 1998 fire. The use of steel piers and concrete directly under these buildings will reduce the potential ignition of accidental fires as well as reduce the spread of fires.

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 Resources

PRC Section 30251 provides:

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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 proposed amendment project consists of minor modifications to the damaged portions of Stearns Wharf and related buildings, including the Moby Dick Restaurant, Santa Barbara Shell Fish Company, and Mike's Bait and Tackle Shop. These modifications entail making a minor modification to configuration of wharf deck adjacent to Moby Dick Restaurant, adding a catwalk to the wharf adjacent to the Moby Dick Restaurant, and moving the Santa Barbara Shellfish Co./Mike's Bait and Tackle building 2 feet south to create a slightly larger separation between the Shellfish Co./Mike's Bait and Tackle building and the Moby Dick Restaurant. (See Exhibits 4 through 6.)

The wharf would be rebuilt in the same configuration, and location, with only an approximately 10 square foot change in the wharf deck area for structural purposes. Additionally, the Moby Dick's restaurant, Santa Barbara Shellfish Company, and Mike's Bait and Tackle would be rebuilt to their pre-fire configuration and size. The maximum height of structures will be 22 feet. The proposed amendment dos not alter either the size or the height of any building. 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. The visual effects of the use of steel pilings will be effectively mitigated by wrapping the pilings in plastic identical to the wooden pilings, and by the use of wooden pilings for the out row of pilings on the exterior edge of the Wharf.

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

# 4. <u>CEQA</u>

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.

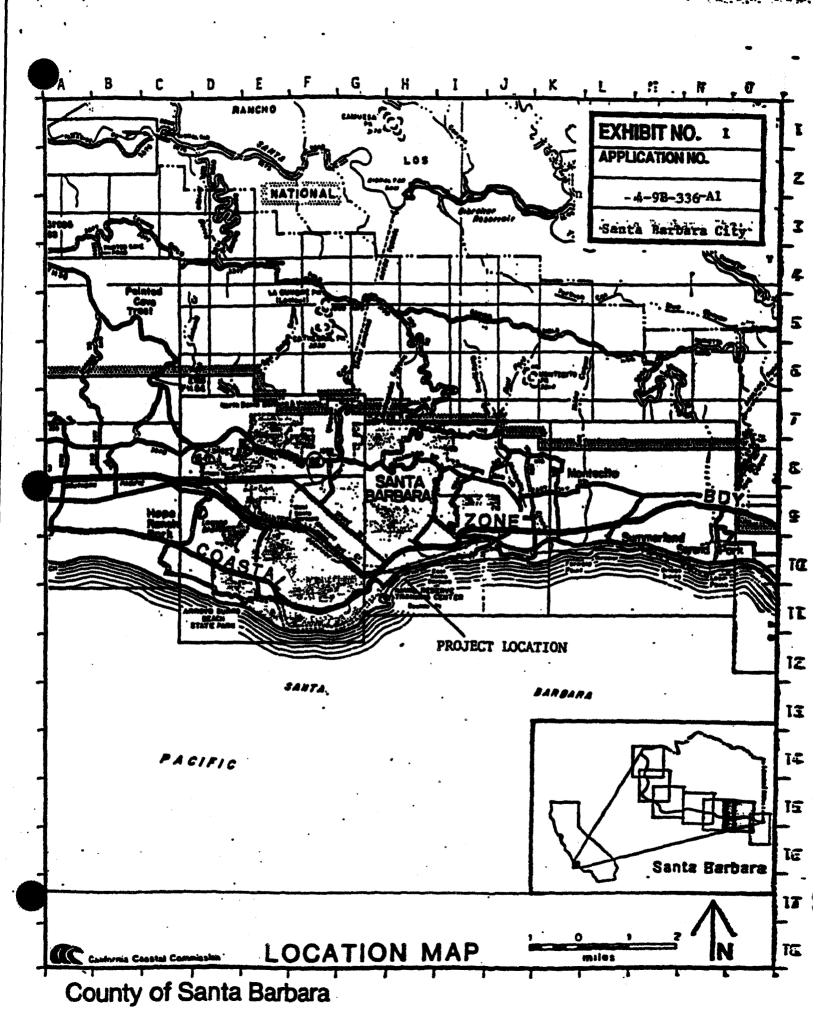
Section 13096 of the Commission's Code of Regulations requires the Commission approval of the Coastal Development Permits to be supported by findings showing the permit, as conditioned,

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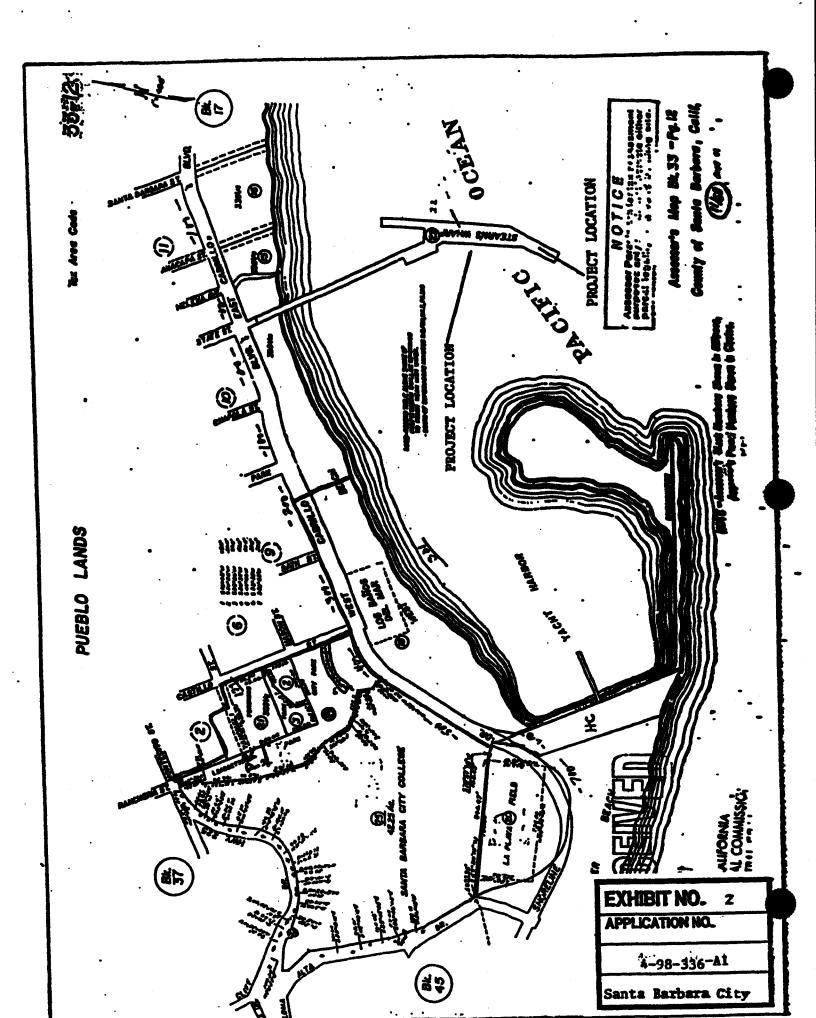
to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

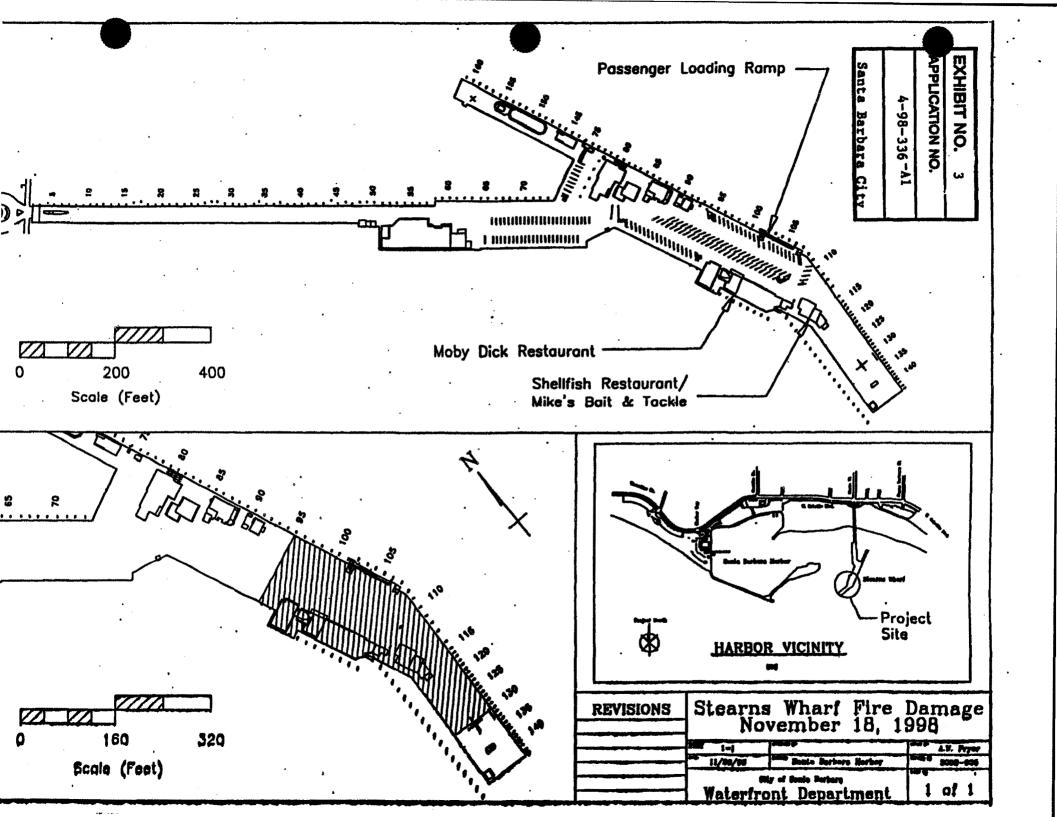
The proposed project has been conditioned in order to be found consistent with the resource protection and hazard policies of the Coastal Act. The attached mitigation measures will minimize all adverse effects of the project, and there are no others measures available, which would substantially lessen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

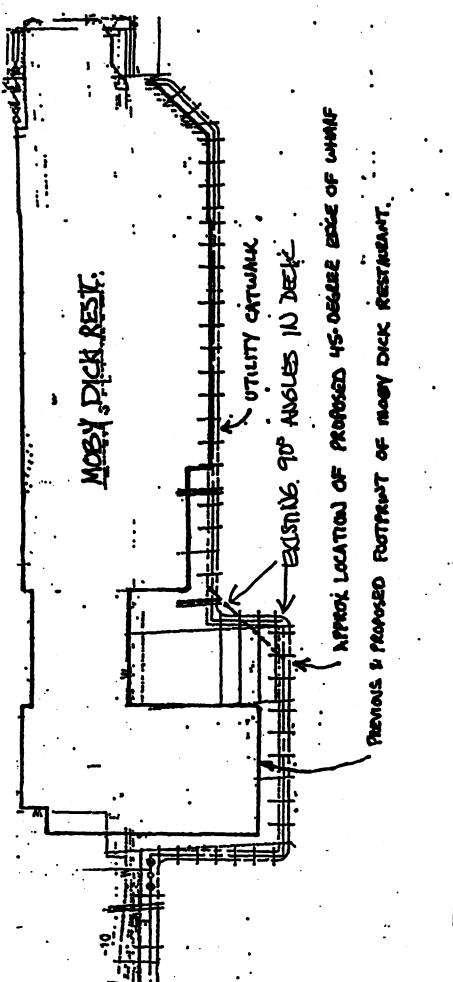
Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified adverse effects, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act

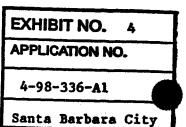


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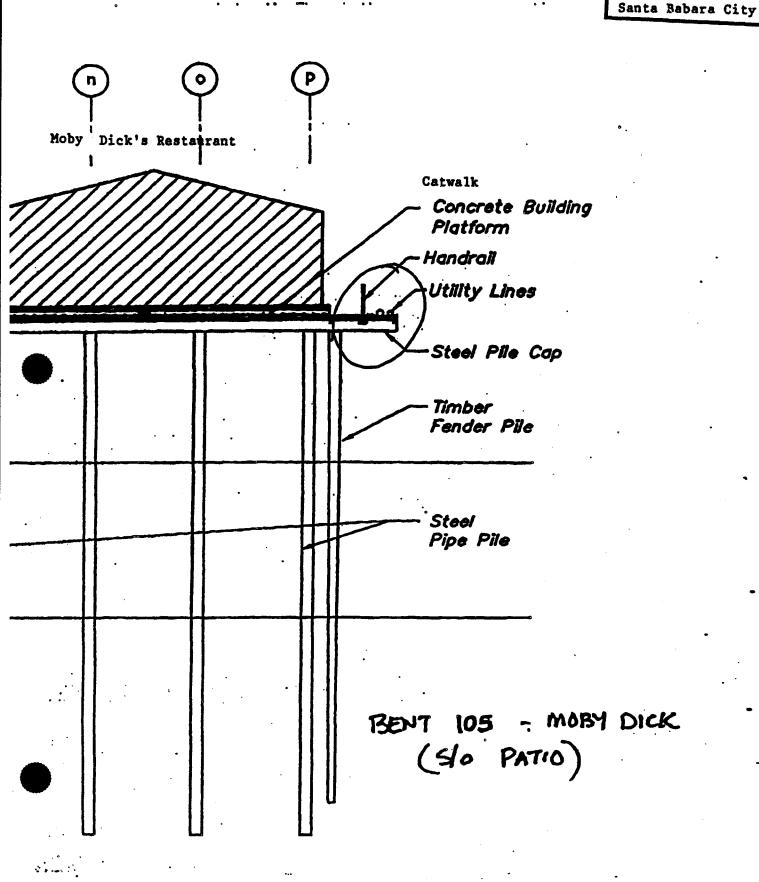


EXHIBIT NO.	6
APPLICATION NO.	
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Santa Barbara	City

