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Filed: 08/23/99
49th day: 10/11/99
180th day: 2/19/00
Staff: LO/CKC
Staff report: 08/26/99
Hearing date: 09/15/99

STAFF REPORT: REGULAR CALENDAR

Application number 3-99-049

Applicant Moss Landing Harbor District

Agent James Stilwell, General Manager

Project location Site of former **Skipper's Restaurant**, at southern extremity of North Harbor complex, at confluence of Elkhorn Slough and harbor entrance, west side of Highway 1, Moss Landing, Monterey County (APN 413-022-003).

Project description Rebuild over-water restaurant destroyed by fire. Approximately the same location and general characteristics as the original except as follows: increase in floor area from 1655 sq.ft. to 1800 sq.ft. to accommodate ADA standards; height increase from previous approx. 17 ft. to 22 ft. (to conceal roof-top-mechanical equipment under a new gabled roofline); placement of fill to raise finished grade at landward edge by 5 ft. (for a net increase of roofline profile 10 ft. over previous height); addition of deck for outdoor dining; replacement of fire-damaged pilings as necessary; and attached floating dock (with access ramp from the public parking area) for public access from the water.

Approvals Received Corps of Engineers authorization letter (Nationwide Permit 3, Maintenance), 6/16/99; Monterey County Planning Commission design approval (DA990182), 6/30/99.

Staff recommendation ... Approval



California Coastal Commission
Sept. 15, 1999 Meeting in Eureka

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Summary of Staff Recommendation: The proposed rebuild of Skipper's Restaurant, including enhancements such as an outdoor deck and floating dock available to the public, will provide for restored and enhanced recreational boating and public access opportunities. The replacement of the original structure, destroyed by fire, requires a coastal permit because it exceeds the height of the original by more than 10%, and includes new elements such as the floating dock. Staff recommends **approval**, subject to conditions which will address the applicable resource protection issues and agency coordination needs.

This project raises a number of Coastal Act issues, including priority for use of harbor waters and shoreline, maintaining public views, avoiding impacts on an adjacent eelgrass bed, protection of water quality, and public access. These issues are summarized in the following table and discussed in greater detail in the recommended Findings which follow.

Table 1. Skipper's Restaurant Rebuild: Main Issues

Issue	Coastal Act Section(s)	Analysis: conclusions	Applicable Conditions	Related Findings
Coastal land use priorities	30001.5, 30221, 30223-24, 30234, 30255	Key site for visitor-serving. Not needed for other coastal dependent use. Will not prejudice North Harbor planning .	B.1 project limitations, inc. no expansion, bulkhead or backfill into harbor waters	D.1, D.7
Marine resources	30230, 30231, 30232, 30233, 30240	Concerns inc. possible shading of eelgrass bed, bulkhead/fill in harbor, construction runoff.	B.2(b) map eel grass before floating dock installation. B.1, B.2(c) revise bulkhead plan. B.3 overwater construction containment. B.4 runoff containment. B.5 RWQCB coordination.	D.2
Visual resources	30251	10 ft. net ht. gain impacts Hwy. 1, water-side views.	B.2(a) revise plans to reduce height by 5 ft.	D.3
Public access & recreation	30210, 30212(a), 30213, 30221, 30223-24	New overwater deck, floating dock enhance public access.	B.2(a) incentive for added public viewing deck. B.8 post deck and dock for public access	D.4



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1. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the following motion:

***Motion:** I move that the Commission approve Coastal Development Permit Number 3-99-049 subject to the conditions below and that the Commission adopt the following resolution:*

***Approval with Conditions.** The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976 (Coastal Act), and will not prejudice the ability of Monterey County] to implement its local coastal program in conformance to Chapter 3 of the Coastal Act. The project is located between the sea and the first public road nearest the shoreline, is in conformance with the public access and recreation policies of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).*

A yes vote would result in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

2. Conditions of Approval

A. 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 in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.



5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, 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.

B. Special Conditions

1. **Project Limitations.** This approval is for the reconstruction of an existing over-water restaurant building destroyed by fire. The reconstructed restaurant will incorporate several changes necessary to meet construction standards in areas subject to flood hazard, and to accommodate public access and to conform with ADA (Americans with Disabilities Act) standards. Replacement of the existing damaged pilings with new pilings manufactured from non-toxic materials is authorized. However, no portion of any bulkhead structure located beneath or adjacent to the restaurant shall extend seaward of the existing shoreline as defined by mean high tide. No seaward expansion of the existing shoreline rock slope protection structure (rip-rap) is authorized. No increase in over-water structural coverage is authorized, except for a possible floating dock and associated elements otherwise consistent with the conditions of this permit and requiring such a location in order to function. No other fill shall be placed within the marine environment. Approval of this replacement structure shall not be construed in any way to be a commitment or precedent for other over-water commercial structures, nor for any particular bulkhead or building height, seating density or site coverage with respect to any other development project, nor for any proposed future bulkhead project seaward of the existing shoreline.
2. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit final plans to the Executive Director for review and approval. The final plans shall include:
 - (a) **Site Plan and Elevations** substantially in conformance with the plans submitted to the Commission titled "Skipper's Restaurant" (by Fletcher+Hardon Architects, undated, received Aug.23, 1999) except that (1) the maximum height of the roofline shall be modified so that it does not exceed 18 ft. above finished grade (consistent with the height of the replaced structure plus 10%); (2) finished grade shall be at least 6 ft. above mean sea level in order to comply with County standards for development within the 100-year flood zone as mapped by FEMA; (3) finished grade for that portion of the restaurant landward of any bulkhead or retaining wall shall not exceed 9 ft. above mean sea level; (4) landward site coverage may be increased by up to 180 sq.ft. (10%) to accommodate mechanical equipment which would otherwise have been located on top of the restaurant; and (5) landward site coverage may be increased up to an additional



480 sq.ft. for the purpose of providing a public viewing deck on the seaward side of the restaurant (not to be occupied by restaurant seating). If the County determines that additional design review is needed for these revised plans, permittee's submittal shall be accompanied by a copy of the County's approval.

- (b) **Modification of Floating Dock Plans.** Installation of the floating dock will be postponed until the current extent of the adjacent eelgrass bed is accurately mapped by a qualified independent expert, and a note to this effect shall be placed on the revised plans. Such detailed habitat map shall be submitted for confirmation by the Executive Director. The plans for the floating dock shall be modified, if necessary, to avoid shading any portion of the adjacent eelgrass bed, and any such modified plans shall be submitted to the Executive Director for separate review and approval PRIOR TO INSTALLATION of the floating dock. Accordingly, depending on the current configuration of the eelgrass bed, the modified plans may show the floating dock reduced in size, shifted to an adjacent location, or (only if unavoidably necessary) deleted, as necessary to avoid the impact. Any alternative arrangements for offsetting impacts through eelgrass restoration or other mitigation measures shall be subject to separate coastal development permit, or amendment of this permit.
- (c) **Support Structure/Foundation Plans** that identify the height, materials and revised location of the bulkhead/retaining wall between the new fill and the existing shoreline (revised bulkhead and backfill must not extend seaward of the mean high tide line). In addition, the plans shall detail the location, type of material, and installation method for all new (replacement) piles and any additional piles needed to anchor the floating dock.

The Permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that the change is immaterial or that no amendment is necessary.

- 3. **Foreign Material Containment Requirements.** Particular care shall be exercised to prevent foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) from entering State waters. Unless an alternative containment plan is approved by the Executive Director, a floating containment boom shall be placed around all active portions of any over-water construction site where wood scraps or other floatable debris could enter the water. The floating boom shall be cleared daily or as often as necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieval or clean up of foreign materials not properly contained.
- 4. **Water Quality Protection Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, permittee shall submit, for review and approval by the Executive Director, a water quality



protection plan that clearly identifies all best management practices to be implemented during construction and their location. Such plans shall contain provisions, as applicable, for specifically identifying and protecting all nearby storm drain inlets and natural drainage areas (with sand bag barriers, filter fabric fences, straw bale filters, block and gravel filters, drop-inlet sediment traps, etc.) to prevent construction-related runoff and sediment from entering into these storm drains or natural drainage areas which ultimately deposit runoff into the adjacent marine environment. Silt fences, or equivalent apparatus, shall be installed (or where already in place, restored) at the perimeter of the construction site, between areas of bare earth and the bluff edge. At a minimum, such plans shall also include provisions for covering of stockpiled fill materials, temporary stormwater detention facilities, revegetation (as necessary), and restriction of grading and earthmoving during the rainy season (i.e., grading activities shall be limited in accordance with Monterey County LCP standards), Oct. 15 through April 15.

The water quality protection plan should make it clear that: (a) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff will be collected to settle out sediments prior to discharge from the site; all de-watering operations must require filtration mechanisms; (b) off-site equipment wash areas are preferred whenever possible; if equipment must be washed on-site, the use of soaps, solvents, degreasers, or steam cleaning equipment will not be allowed; in any event, this wash water will not be allowed to enter storm drains or the adjacent marine environment; (c) concrete rinsates will be collected and will not be allowed into storm drains or the adjacent marine environment; (d) good construction housekeeping will be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment off-site and/or in one designated location; keep exposed piles of soil and wastes covered and out of the rain; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather); and finally (e) all erosion and sediment controls will be in place prior to the commencement of grading and/or construction as well as at the end of each work day.

5. **Regional Water Quality Control Board.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit to the Executive Director for review evidence of Regional Water Quality Control Board (RWQCB) approval of the project, or an indication that such approval is not required. All materials and construction, including installation of new pilings, shall be in accordance with RWQCB recommendations for the protection of water quality and according to the method that results in the least disturbance of bottom sediments.
6. **United States Army Corps of Engineers (USACOE).** According to the USACOE Letter of Authorization dated June 16, 1999, this project is subject to the requirements of Nationwide Permit 3 (Maintenance). In event the project is altered in a way which affects this authorization, permittee shall submit to the Executive Director for review evidence of United States Army Corps of Engineers approval of the revised project or evidence that no Corps approval is necessary.



7. **United States Coast Guard.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall submit to the Executive Director for review evidence of United States Coast Guard approval of the project or evidence that no Coast Guard approval is necessary.
8. **Public Access.** The outdoor deck and floating dock areas shall be open to the public during all business hours, without obligation to purchase from the restaurant. Appropriate signage indicating availability to the public shall be posted (e.g., "Public Dock" on the water side, "Public Access" on the landward end of the access ramp).
9. **Coordination with County Permits.** The landward portion of this project falls within an area where the coastal permit jurisdiction has been delegated to the County of Monterey. Permittee is responsible for conformance with the County approval (DA990182, Monterey County Planning Commission, 6/30/99) and any amendments thereto, and for obtaining any other necessary permits or other approvals as may be required under such delegated authority, directly from the County.
10. **Additions.** This approval is for a 72-seat restaurant, as shown on project plans received August 23, 1999, and as approved by Monterey County (Design Approval DA990182, June 30, 1999), subject to the revisions required by Special Condition 2 above. Any increase in seating capacity, or other substantive changes, shall be submitted to the Executive Director for a determination of materiality; and, if determined to be material shall require an amendment to this permit or separate coastal development permit.

3. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Background & Project Description

Moss Landing Harbor is one of six developed harbors located along the Central Coast, and is one of the four harbor complexes bordering the Monterey Bay National Marine Sanctuary. The Harbor is centered at the mid-point of the arc of Monterey Bay, and shelters not only a substantial commercial fishing fleet but also recreational vessels and deep water research ships. The harbor serves as the departure point for Elkhorn Slough tours, and is a popular destination for kayakers and wildlife enthusiasts.

Several small-scale, informal, seafood-oriented eateries and fish markets enhance the visitor experience. Historically, three of these enterprises were located on the westerly side of Highway 1 on the point of land where Elkhorn Slough joins the north harbor. One of these, a former fish market and wharf, appears abandoned. Another is the existing Maloney's Harbor Inn restaurant. The third, Skipper's Restaurant, burned in the recent past. Supported on wooden pilings, this colorful over-water location is owned entirely by the Moss Landing Harbor District. The Harbor District proposes to rebuild Skipper's in the same location, but in a somewhat modified form (see Project Description on first page for summary of modifications).



See Exhibits A and the Exhibit F map attachment for project location. See Exhibits B through E for site plans, section, floor plan and architectural elevations of the project.

B. Standard of Review

All of the Moss Landing Harbor area falls within the coastal zone, and within the area covered by the North County segment of the certified Monterey County Local Coastal Program (LCP). The majority of the project site comprises harbor waters and former tidelands. The Coastal Act provides that, within such tidelands and former tidelands, the Coastal Commission shall retain "original" jurisdiction with respect to coastal development permits. For these areas, the standard of review is the Coastal Act, particularly the policies contained in Chapter 3. The LCP may be consulted as an advisory document, but is not the standard of review for new development.

C. Permit Requirement and Relationship to County-Approved Project

In general, new development in the original jurisdiction area must obtain a coastal development permit directly from the Coastal Commission. However, Coastal Act Section 30610(g) excludes the replacement of structures, other than public works facilities, destroyed by disasters. Certain limitations apply. In particular, the exclusion does not apply if there is an increase in height or other critical dimension by more than 10% from the original structure.

In this case the original building, destroyed by fire, extended 16.5 ft. above existing grade. The proposed replacement structure would be 21.7 ft. in height, and because of new fill, would extend 26.7 ft. above existing grade. However measured, this increased height is more than 10%. Therefore, the new design is not excluded from the requirement to obtain a coastal development permit. Significant components not part of the original structure, such as the floating dock addition, are in any case subject to coastal permit authority.

The landward extremity of the project, however, appears to fall within the upland area outside the Commission's retained jurisdiction. Here, the coastal permit authority has been delegated to Monterey County and the standard of review is the certified LCP. Therefore, the project is an example of split jurisdiction. For its part, the County determined that the replacement of its portion of the fire-destroyed structure did not require a coastal permit under its LCP, but was subject to the County's design review process under local ordinances. The County Planning Commission approved the design on June 30, 1999.



D. Issues Discussion

1. Land/Harbor Use Priorities

Coastal-dependent and coastal-related development are among the highest priority Coastal Act uses. Applicable Coastal Act policies include, in part:

Section 30001.5. The Legislature further finds and declares that the basic goals of the state for the coastal zone are to ... (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast...

Section 30222.5. Ocean front land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

Section 30255. Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The Coastal Act defines coastal-dependent and coastal-related as follows:

Section 30101. "Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

Section 30101.3. "Coastal-related development" means any use that is dependent on a coastal-dependent development or use.

For those locations not needed for coastal-dependent development, visitor serving recreational development is a high priority on suitable sites:

30221: 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.

30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.



Recreational fishing and boating facilities are particularly encouraged:

Section 30224: Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234: Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30234.5: The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

A substantial number of coastal-dependent and coastal-related uses are already established at Moss Landing. Examples include industrial facilities east of Highway 1, as well as research and marine laboratory facilities in the south harbor area, and various recreational facilities such as a boat launch ramp and a yacht club in the north harbor area. The Moss Landing Harbor District has identified the north harbor area, including the location of Skipper's Restaurant, as the primary visitor-serving zone for the harbor complex. This is consistent with the land use designations in the certified North County Land Use Plan, a segment of the Monterey County Local Coastal Program.

Non-recreational coastal dependent uses have in the past been considered for this site. For example, aquaculture activities were permitted nearby, but were eventually abandoned for water quality or other economic reasons. At present, the only known demand for which the Skipper's site is uniquely suitable, is visitor-serving recreational use.

Because of its location at the mouth of Elkhorn Slough, along with views directly through the harbor entrance to Monterey Bay and into both arms of the working harbor, this is one of the very best vantage points in the entire harbor area. It is also uniquely sited at the crossroads of recreational boating traffic, especially with respect to kayakers, Elkhorn Slough tours, privately owned boats launched or berthed nearby, and potentially party fishing boats and whale watching tours. Applicant proposes a development which will restore a previously-existing visitor-serving commercial use (Skipper's Restaurant), along with a coastally-dependent recreational boating improvement (floating dock).

The proposed project would result in an increase in recreational boating and fishing facilities available in the Harbor. The additional dock space would not be used for permanent berthing of boats but rather for transient berthing for recreational boaters, and possibly to pick-up/drop-off charter boat customers. As such, the floating dock portion of the project is consistent with Coastal Act Sections protecting and encouraging additional recreational boating opportunities (30224), upgraded facilities serving



commercial and recreational boating industries (30234), and fishing activities (30234.5). Further, because the floating dock portion of the proposed development is a coastal-dependent development, it has priority for shoreline siting under the Coastal Act. Accordingly, the Commission finds that this portion of the proposed development is a high priority coastal use that is consistent with the land use priorities of Coastal Act Sections 30001.5 and 30255.

Likewise, the rebuilt restaurant, with outdoor eating and viewing deck, will provide a recreational amenity consistent with Sections 30221 and 30223 regarding the use of oceanfront land and adjacent upland areas. And, because there is no apparent demand at this particular site for aquaculture or other non-recreational uses requiring a shoreline location, the restaurant portion of the project is consistent with Coastal Act Sections 30001.5, 30222.5 and 30255.

2. Marine Resources and Sensitive Habitat

Coastal Act Sections 30230 and 30231 requires that:

Section 30230. 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. 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.

Section 30232. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Section 30233. (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:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities. ...

(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. ...

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities. ...

Coastal Act Section 30240 requires that:

Section 30240(a). Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed development will be located in and over the coastal waters of Moss Landing Harbor, at a point where the waters of Elkhorn Slough empty into Monterey Bay. In such locations, the type and extent of development is strictly limited by Section 30233 of the Coastal Act. The proposed addition of (floating) dock space and placement of pilings is identified by the Coastal Act as "filling" of coastal waters. However, the placement of pilings for expanded boating facilities and recreational piers, such as is proposed by the Harbor District, is specifically listed as a Section 30233 allowable use. In this case, the pilings are all replacement pilings; and, because the added dock space will be in the form of a floating dock, harbor waters will not be displaced by earth, rock or other physical fill. In other words, the amount of water area covered by fixed structure on pilings will be exactly the same as the original Skipper's.

The water quality and biological productivity of the marine environment are specifically protected by Sections 30230 and 30231 of the Coastal Act. Furthermore, Section 30240 provides for the protection of environmentally sensitive habitat and Section 30232 provides for protection against spillage of hazardous substances. Because of the project's small scale, location in a previously developed and highly used boating area, and the limited amount of in-water work required, the proposed development has a limited potential to impact water quality and other marine resources. Nevertheless, increased turbidity, the potential for the use of toxic materials, and the introduction of any foreign materials or toxic substances into the marine environment are all potential impacts. See below for separate consideration of potential shading impacts on eelgrass habitat, and the extension of bulkhead structures into harbor waters.

Replacement pilings. The placement of piles is always a concern in the marine environment. This project may involve the replacement of up to about two dozen pilings, depending on the condition of the



burnt pilings and what can be salvaged. The process of installing the piles has the potential to stir up sediments on the harbor floor. This increase in turbidity adversely affects marine resources by reducing the amount of light penetration, diminishing water quality, and burying living organisms. In addition, any contaminants in harbor sediments become more bioavailable when suspended in the water column. In comparison to other projects with the potential to disturb harbor sediments, the water quality impacts from the project would be extremely minor. While some benthic sediments would be temporarily disturbed by pile installation, causing some localized turbidity increases, only minor temporary and localized impacts are expected. As conditioned for Regional Water Quality Control Board (RWQCB) approval, the lack of adverse water quality impacts will be confirmed prior to commencement of construction (Special Condition 5).

The most environmentally friendly composition for piles is an ongoing debate among marine biologists. Preservatives used to treat pilings (e.g., creosote) can leach into the surrounding waters adversely affecting water quality and marine life. In this case, the Harbor District proposes to install new piles composed of either recycled plastic or concrete. If concrete piles are used, the Harbor District will use pre-cast concrete piles – the concrete will not be poured in place. According to recent conversations between Commission staff and the Department of Fish and Game (DFG), both of these pile types are basically inert and do not leach significantly into the marine environment. As such, these piles are the least environmentally damaging alternative choice of building materials and they will not adversely affect the marine environment.

Eelgrass Habitat. An additional concern is the mapped presence of an adjacent eelgrass bed. Eelgrass beds are a special type of shallow water marine habitat, of considerable importance as fish nurseries and as habitat for other marine organisms. The location and context of this bed in the north Moss Landing Harbor area is detailed in Exhibit F, attached. However, because of ongoing erosion and scour, the mapped extent of the Skipper's eelgrass bed may be shifted or reduced since the 1998 survey.

Because of its special role in the ecosystem, this habitat can be treated appropriately as an environmentally sensitive habitat area within the meaning of the Coastal Act. Such areas, under Section 30240, shall be protected against any significant disruption of habitat values. Eelgrass is an unusual flowering plant, given its marine lifestyle. But like its terrestrial relatives, it needs sunlight to function. The proposed floating dock will potentially shade a portion of this mapped eelgrass habitat, interrupting photosynthesis and resulting in a significant habitat disruption within this remnant bed.

The appropriate environmental strategy in this case is avoidance. Nonetheless, the proposed floating dock represents a highly desirable, coastal-dependent recreational boating and public access improvement. Therefore, rather than simply deleting this portion of the project, alternative designs or locations may be considered as an acceptable approach to avoiding shading impacts on the eelgrass bed. Accordingly, the conditions of this permit require that the installation of the floating dock be postponed (indefinitely if need be). This will provide an opportunity to update the biologic survey, and if needed, to propose an alternative design, size or location for the floating dock. This approach will assure conformance with Section 30240, when (and if) avoidance can be demonstrated and the floating dock is



eventually installed.

Bulkhead. The proposed project involves the placement of fill to raise the finished grade of the site, in order to comply with geotechnical recommendations and to raise the floor level above the minimums specified for flood risk areas. The site plan and section submitted to the County (Exhibits B and C, attached) show this as backfill behind a foundation curtain wall or retaining wall extending into harbor waters. This wall is indicated as part of, or in alignment with a future bulkhead which has been proposed for a substantial amount of the north harbor shoreline. However, the proposed north harbor bulkhead has not yet completed the CEQA review process, and may have to be significantly modified in order to comply with Coastal Act policies regarding fill in the marine environment.

Specifically, Coastal Act Section 30233 allows fill in such coastal waters only for certain categories of use, where there is no feasible less environmentally damaging alternative, and the necessary mitigation measures are provided. The planning, design and environmental review process for the north harbor bulkhead has not yet been completed. Accordingly, there is at present no demonstration that the proposed north harbor bulkhead would meet the tests of Coastal Act Section 30233. The same applies to the proposed retaining wall/bulkhead structure beneath the rebuilt Skipper's Restaurant. Therefore, this approval is conditioned to revise the project plans so that no portion of such wall will extend seaward of the mean high tide line.

Conclusion. Two elements of the proposed development, the floating dock and the bulkhead/retaining wall extension into harbor waters, appear inconsistent with Coastal Act Section 30233. Special Condition 2 addresses this issue by requiring revised project plans which will bring these elements into Coastal Act compliance.

Apart from this, since the proposed development will take place in an area that is currently developed and actively used for boating activities, and no additional fixed structural coverage or wetland-displacing fill will result, no significant impacts are expected with respect to biological resources. Construction of the proposed project, nonetheless, has the potential to introduce an array of foreign materials into the marine environment. However, as conditioned to require submittal of a water quality protection plan for the implementation of Best Management Practices (BMP's) on the site, the potential for polluted runoff impacts will be minimized. In a similar manner, as conditioned to provide for containment of construction debris and precautionary requirements for contractors regarding accidental spills, the construction related impacts of the dock extension can be addressed (Special Conditions 3 and 4).

As conditioned for project redesign, impacts on an environmentally sensitive eelgrass bed will be avoided. No bulkhead wall or backfill will be placed in the marine environment. As conditioned for construction containment requirements (and RWQCB review), the risk of water quality degradation and impacts on marine resources in the harbor and in the adjacent environmentally sensitive habitat of the Monterey Bay National Marine Sanctuary are minimized. Therefore, as conditioned, the proposed development is consistent with the above-cited Marine Resource policies of Chapter 3 of the Coastal Act, and with Coastal Act Section 30240 which protects environmentally sensitive habitat areas.



3. Visual Resources

Coastal Act Section 30251 requires that:

Section 30251. 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.

Public Views. Coastal Act Section 30251 requires that the scenic and visual qualities of coastal areas be considered and protected. The project site is directly seaward of Highway 1, at the point where it bridges the entrance to Elkhorn Slough. In addition to public views from the highway, scenic harbor vistas are enjoyed by the large number of kayakers and other recreational boaters using the harbor waterway. Like its predecessor, the new restaurant building will be seen against the background of the low dunes within Moss Landing State Beach—another public vantage point, located on the seaward side of the north harbor area. And, from one particular location on Highway 1, the restaurant building will partially profile against the waters of Monterey Bay in the harbor entrance.

Historically, Skipper's has contributed to the informal nautical context of harbor development—including other restaurants and taverns, fish processing facilities, berthing areas, a marine lab, a PG & E (now Duke Energy) power plant, and a number of other industrial, commercial and research institutions. The submitted project plans show a building of nearly the same scale and location as the original Skipper's, except that it will have a gabled roof to hide the unsightly rooftop equipment that was characteristic of the old flat-roofed building it replaces. This will cause the rebuilt roofline to be about 5 feet higher (21.7 feet compared to the original estimated 16.5 feet). However, an additional 5 feet of fill is being placed to raise the finished grade, to 10 feet above mean sea level (compared with the present, geotechnically inadequate 5 feet). The total effect, therefore, is that the new roofline would be 10 feet above the elevation of the original Skipper's Restaurant.

For visual analysis purposes, this roofline profile has been identified with story poles and netting. The Harbor District submitted the proposed project to the County's architectural design review process; design approval, without added conditions, was granted by the Planning Commission on June 30, 1999. Although the roofline shape and exterior appearance will differ somewhat from the original establishment, no objections to the design were received.

Nonetheless, upon further review, significant concerns regarding the project's impacts on public views have been identified. Specifically, the substantial increase in roofline elevation will result in a pronounced blue-sky profile that was not characteristic of old Skipper's. This impact will likely also be evident from certain on-water vantage points. Views from the State Beach have not been evaluated, but could be potentially impacted as well.



If the potential precedent and cumulative effect is considered with respect to the entire north harbor peninsula, the impacts could be substantial. If the existing, scattered, low-profile structures in the north harbor area were eventually to be replaced with concentrations of higher profile buildings, the public awareness of ocean, dunes, and sky would be reduced. The character and visual context of Moss Landing would suffer. In other words, the proposed building is too tall, could set an undesirable precedent, and at its present height can not be found consistent with Coastal Act Section 30251.

Design Alternatives. In general, the rebuilt restaurant will need to be appropriate to its context of a hard-working industrial harbor which is also increasingly gaining recognition as a visitor destination. Several alternatives appear worthy of consideration for reducing visual impacts. More specifically, in order to reduce roofline elevation, the height of the structure could be reduced to that which would have not required a coastal permit (18 ft., i.e., the original height plus 10%). This may necessitate a slight increase in site coverage in order to accommodate certain mechanical equipment previously proposed for the roof.

In addition, a slight decrease (approx. 1 ft.) in finished grade appears feasible behind the (relocated) bulkhead/retaining wall, without compromising its technical integrity. Reduction of bulkhead height itself appears infeasible because its design height, at 10 ft. above mean sea level, is already the minimum recommended by geotechnical studies to preclude overtopping by storm waves. Hydrostatic forces at maximum flood plus storm wave stages make further reductions in finished grade behind the bulkhead more problematical (pers.comm., Gordon Fulton, Concept Marine consultants, 8/26/99). In any event, the finished floor elevation can not be dropped more than 4 ft. because of minimum required flood zone elevations. In summary, by reducing building height 4 ft. and finished grade by 1 ft., a total reduction of 5 ft. in roofline elevation could be achieved.

Conclusion. The proposed structure will have a roofline elevation 10 ft. higher than the original restaurant. This will result in a significant "sky profile" as seen from both Highway 1 and from certain points on the water. Therefore, the roofline elevation of the rebuilt restaurant must be reduced in order to find conformance with Coastal Act visual resource policies. A reduction of 5 ft. appears feasible. Accordingly, as conditioned for submittal of revised plans showing such reduction, and for review of any proposed additions, the scenic and visual qualities of the Moss Landing harbor area will be adequately protected, consistent with Coastal Act Section 30251.

4. Public Access and Recreation

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (Highway 1). Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

30210: 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.

30212(a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) adequate access exists nearby, or,*
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. ...*

30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

30214(a): The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity. ...*

Sections 30210-14 of the Coastal Act provide for maximizing public access to the coast. Additional applicable policies, previously cited above, include: Sections 30221 and 30223, which call for reservation of oceanfront and adjacent upland areas for supporting recreational uses; Section 30224, which encourages increased recreational boating by increasing launching and associated boating facilities; and Section 30234, which provides for protecting and upgrading commercial and recreational boating facilities. Also, Section 30234.5 recognizes and protects commercial and recreational fishing activities.

The proposed restaurant rebuild, together with the attached floating dock, would restore and enhance the facilities available for recreational and commercial boating and fishing. Public visitors would have additional dock area available in a convenient location near the existing launch and fuel dock areas. By shifting the restaurant about 10 ft. landward, an outdoor viewing deck and dining area will be added. The restaurant, including work areas, will be made wheelchair accessible (accounting for a 145 sq.ft. increase in floor area). As such, the project represents a coastal access and recreation enhancement to the services currently available to the public at the Harbor.

At present, most of the area adjacent to the restaurant site is available to the public as an informal parking area. Pedestrian access along the low bluffedge is essentially continuous, interrupted only when



the temporary safety fence around the burnt Skipper's restaurant hulk is reached. Before the fire, pedestrian bluffedge access was unimpeded, because the restaurant projected seaward from the bluffedge on pilings and did not block the ability of visitors to traverse along the harbor's shoreline. However, the old restaurant did not offer an outdoor seating area or public viewing deck, nor access to the water. As rebuilt, the restaurant will not only once again allow unimpeded access along the bluff edge, but will also provide the benefits of an overwater outdoor dining area/viewing platform and an attached floating dock for public access to and from the water.

The opportunity for the use of the outdoor deck as a prime public viewing platform could be further enhanced by providing more room, beyond that area already earmarked for tables and chairs. Accordingly, this approval is conditioned, as an incentive, to allow an increase in total site coverage if additional deck area is provided for the general public on the seaward (harbor) side of the redesigned building (but within the same general footprint as the original over-water restaurant building).

Because the rebuilt restaurant will be operated under contract with the Harbor District, the public availability of the site may not be readily apparent to visitors. Therefore, this permit is conditioned to make explicit, particularly through appropriate signage, the availability of public access to the outdoor deck area and floating dock. Accordingly, as conditioned, the proposed development will not have significant adverse impacts on pedestrian, vehicular, or boating access, and it will enhance both water-dependent and land-based public access opportunities. Maximum public access opportunities will be provided and conspicuously posted. Therefore, the Commission finds that the proposed rebuilt restaurant and floating dock extension is consistent with the above-cited public access and recreation policies of the Coastal Act, particularly Sections 30210 through 30214 and 30220 through 30224.

5. Public Services

Applicable Coastal Act sections include:

Section 30250(a). New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it...

Section 30252. The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities...

The site is located within the existing developed area of Moss Landing, an unincorporated community in northern Monterey County. As such, all utility services are available to the site (including sewer, by Moss Landing Community Sanitation District). In terms of the sewer line, this project represents a type of land use which, in the event of limited public works capacities, is a high priority for service. The restaurant seating capacity is not being increased beyond the 72 seat maximum capacity estimated for the original structure. Accordingly, applicant is not requesting any additional utilities for the proposed development and has determined that there is adequate water supply and adequate wastewater treatment capacity to satisfy any additional incremental demands that may be generated by the proposed development.



Automobile access to the site is provided by applicant from State Highway Route 1, across an existing unpaved parking area. This adjacent area has a capacity substantially in excess of 200 spaces. Applicant is not proposing any paving or street improvements, except possibly a pair of spaces in front of the restaurant as needed to provide handicap parking. While no specific parking study is available for this project, the existing parking area appears to have ample capacity for the proposed restaurant use, as well as all other existing and approved developments in the north harbor area.

Therefore, as conditioned to specify that increases above the 72-seat capacity will require a separate coastal permit determination, the Commission finds that the proposed project would not require public works capacities in excess of available supplies; would provide adequate parking; would not generate cumulative impacts that would be inconsistent with Chapter 3 of the Coastal Act; and would maintain the urban-rural boundary and, as such, is consistent with Coastal Act Sections 30250 and 30254 in terms of public services and parking capacity.

6. Hazards

With respect to hazards, the Coastal Act states:

Section 30253. 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 project is located on an exposed shoreline site, at the confluence of the old channel of the Salinas River and the mouth of Elkhorn Slough. Further exposure results from the entrance to Moss Landing Harbor, which was created directly seaward of the site and opens onto Monterey Bay. The site itself appears underlain by compacted marine sediments. Not surprisingly, this area is subject to flood hazards, storm surge and storm wave action, seismic shaking and possibly other geotechnical hazards. Substantial rock shoreline protection (rip-rap) has been placed here, apparently to combat shoreline erosion from a combination of ocean wave action and tidal scour at the entrance to Elkhorn Slough. No expansion of this existing shoreline protection structure is proposed.

Geologic and geotechnical studies have been performed for the north harbor area. These include test borings and liquefaction studies commenced after the 1989 Loma Prieta earthquake. The results are summarized in the *Moss Landing Western Salt Company Properties Marina Village Project Geologic Report* (Charles A. Fischer, CEEG, Inc., 5/12/90). This report contains recommendations for construction of improvements throughout the entire north harbor land area, and demonstrates the relative suitability of the Skipper's site with respect to liquefaction potential ("low to moderate").



Another significant study, a geotechnical analysis applicable to the proposed north harbor bulkhead, was performed by the consulting firm of Haro, Kusunich (*Geotechnical and Engineering Study, Shoreline Improvements, Moss Landing North Harbor, 6/22/98*). It concludes that a bulkhead height of 10 ft. above mean sea level (NVGD) is necessary to prevent overtopping by storm waves during expected storm/flood events. This report is the basis for the proposed finished grade height—see Visual Resources Finding above for further discussion of public view implications.

Finally, the Skipper's Restaurant site falls within the 100-year flood boundary as shown on the applicable FEMA Flood Insurance Rate Map. For the subject site, the expected flood depth is 5 ft. above mean sea level. To conform with County building construction standards, the finished grade/floor height must be at least one foot above this expected flood elevation (pers.comm., Monterey County Water Resources Agency, 8/26/99). Thus, the minimum required clearance for this site would be 6 ft. above Mean Sea Level datum.

As submitted, the project plans show a finished grade of 13 ft. above Mean Lower Low Water. Because the tidal range is 2.8 ft. here, this amounts to conformance with the minimum of 10 ft. above mean sea level as recommended by Haro, Kusunich to avoid overtopping by storm waves. This approval is conditioned for submittal of revised plans to lower the roofline elevation of the rebuilt restaurant building. However, the revised plans are not required lower the finished grade below that which can be safely tolerated behind the allowed 10 ft. bulkhead/retaining wall height. And, a minimum elevation of 6 ft. is required in conformance with the floodplain construction standard.

In conclusion, storm wave and flooding protection to an elevation of 10 ft. above mean sea level appears warranted for the project site. Accordingly, the proposed development, as revised in accordance with the conditions attached to this permit, will conform with the above-cited Coastal Act policies regarding development in areas subject to geologic and flood hazards. (However, further expert review would be appropriate before such a conclusion is applied elsewhere in the north harbor area.)

7. Relationship to LCP and Harbor District Planning Process

Except for the landward edge, the proposed project is within the Coastal Commission's original jurisdiction (Coastal Act Section 30519(b)) and the standard of review for the coastal development permit is the Coastal Act. However, the North County Land Use Plan (a component of the Monterey County Local Coastal Program certified by the Commission) provides area-specific interpretive guidance; the restaurant and floating dock are consistent with the allowable uses applicable to this site.

The Harbor District is currently engaged in a comprehensive plan for the future upgrading and development of the entire North Harbor area. Contemplated uses include, but are not limited to, new boat launch ramps, improved circulation and parking, a continuous Coastal Trail segment along the shoreline, dune restoration, kayak-specific boat launch, dune restoration, boat-in kayak campsites, and rehabilitation of existing commercial buildings for visitor-serving purposes. One alternative calls for a continuous backfilled bulkhead along much of the north harbor shoreline, topped by a Coastal Trail promenade. However, this specific planning process is still in the design revision and CEQA review



stages.

In any case, the proposed Skipper's Restaurant replacement, as conditioned and revised, will not interfere with any of these contemplated uses. And, as conditioned to relocate any bulkhead segment landward of the marine environment, construction of this project will not compromise or prejudice the ongoing planning process for the rest of the north harbor area. The proposed development acts to replace previously existing visitor-serving recreational development with improved structures. No new public services or utilities are proposed for the project.

Therefore, as conditioned for coordination with the coastal permit authority delegated to the County, and for review by the Coast Guard with respect to navigational considerations, the rebuilt restaurant and attached floating dock will be an appropriate use at this location and will be consistent with the Coastal Act policies discussed above. For the reasons discussed in this report, the Commission finds that, as conditioned, the proposed development would not prejudice Commission action on future decisions regarding development of Moss Landing, particularly the North Harbor area; and, would not compromise any necessary updates of the Monterey County LCP which may result from such a planning process.

8. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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.

Moss Landing Harbor District addressed the CEQA requirement by filing a Notice of Categorical Exemption on Nov. 19, 1999. Beyond this, the Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA.

In the course of application review, several potential environmental impacts were identified and are discussed in this staff report. These included, but are not limited to, the potential for visual impacts due to the increased height of the restaurant building, possible reduction of an environmentally sensitive habitat (an adjacent eelgrass bed), and potential water quality impacts. Appropriate measures have been identified to avoid or mitigate such impacts, and are incorporated in the conditions attached to this permit approval. Accordingly, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.



Rich Jenkins

From: Mike McKane [MMcKane@seton.org]
Sent: Friday, August 27, 1999 6:47 AM
To: rjenkins@coastal.ca.gov
Subject: RE: -Reply -Reply

I'm forwarding all these to Rick but try mailing rick the way I do (thru GROUPWISE) : internet:richard brown@ci.austin.tx.us....

now what we're doing is communicating....bad and good....I like it ... sometimes it's frustrating because there's little one can do for another person's life except listen....be there....hey some day I'll be ranting to you about my woes...if I haven't already...so don't even consider stopping these...things aren't real good right now for you..but hey look what you've been thru this past year...and I still think you're trying to stay above water....life is a gift..and then it's over....one needs to assess their situations and make good decisions for happiness...not easy sometimes but in relative human history terms we're doing pretty good....

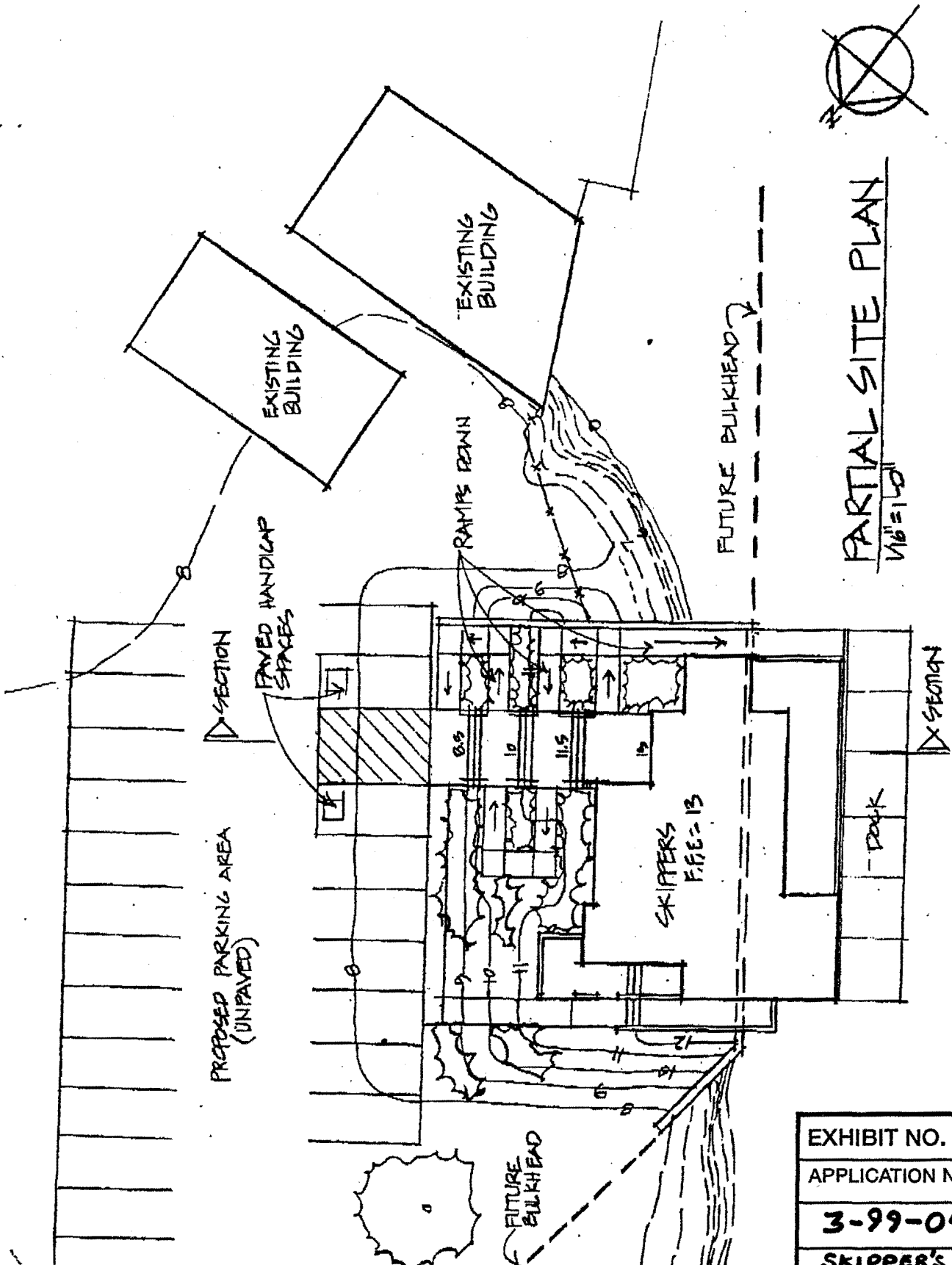
you know we're all getting older and some of these physical things are that...however, I don't see any stress handling in work - home -tv -sleep..I know in SFR there's a lot of walking going on or is there ? get some good walking/running shoes and head to the parks like the rest of of decrepit ones...you'd be surprised how it makes you feel...massive serotonin releases....it's incredible ..even Susie feels it now (swimming)...comes home a different person after exercise...course this is my bag..and I'm trying to pass it to you...I believe in it so much....it's the/a key to contentment..it's not just for body beautiful...

and yes you might have to work a little longer...set a goal and try to reach it...not sure how many years you have to have in your retirement system to have a decent monthly check ????....you know me...no debts...some constant retirement income...place to live...home free...

I still think you should milk your situation there for those reasons..then when you're a little better off ... retire...you don't want to be a ward of the state....but your health is number one!!!! mental - physical are so related....hell you know all this...i'm really not talking down to you...you're my bud..and we've always said what was on our minds together..all these plans you've been thinking about are great ...just do them in the right order...don't panic and rush into something...I can't/won't believe that you can't get a handle on some of these problems ... when you bravely headed out to the west coast many moons ago, you made many friends..and left many friends...still have some...don't cut yourself short..all my friends liked you...get a handle on this shit...life is too short to be unhappy..play your cards right and we'll coast for the last third of our lives ..if we're blessed with longevity...

please believe me...I know Michel is part of your family..great..you'll be with him again someday..go to france when your really ready..it might be now or whenever..but you got to take care of business first...these friendships are for life ..we hope..but you have to think about YOU and what is BEST for YOU..without putting yourself in future financial jeopardy...dammit force some confidence in yourself...you've got a life in you that people dig...give it a chance...blau blau blau....hope you don't take all this wrong ...just letting it flow...

EXHIBIT NO. B
APPLICATION NO.
3-99-049
SKIPPER'S RESTAURANT-SITE



PARTIAL SITE PLAN
1/8" = 1'-0"



HUTCHINSON
HARDON
ARCHITECTS

PROJECT
Skipper's
Restaurant

PROJECT NO. 9902
OWNER

DATE

SCALE

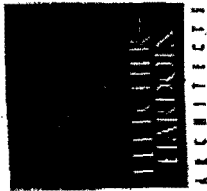
DATE

6/28/99

PROJECT NO. 9902
OWNER

DATE

SCALE



1000 NORTH 10TH AVENUE, SUITE 1000
DENVER, COLORADO 80202
TEL: 303.733.1111 FAX: 303.733.1112

**Skipper's
Restaurant**

PROJECT NO. 9902
DATE 6/28/99

SHEET TITLE

SCALE

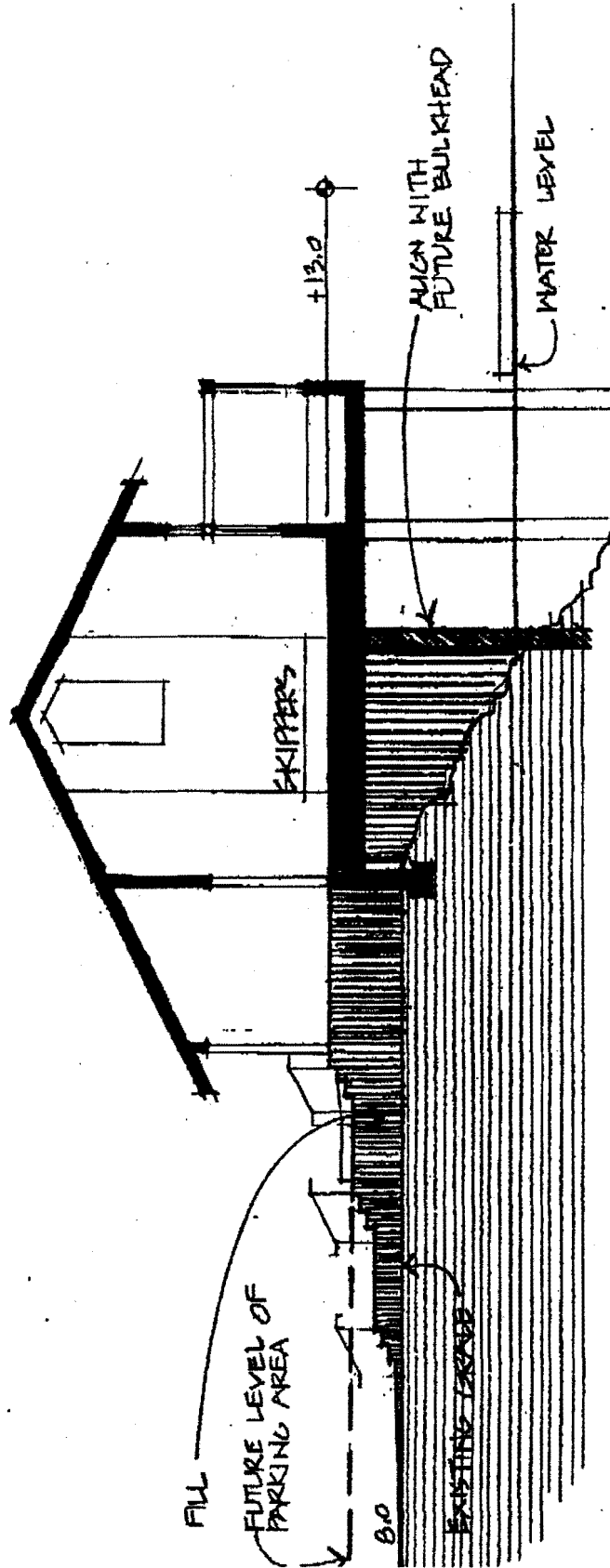
DESIGNED BY

CHECKED BY

DATE 6/28/99

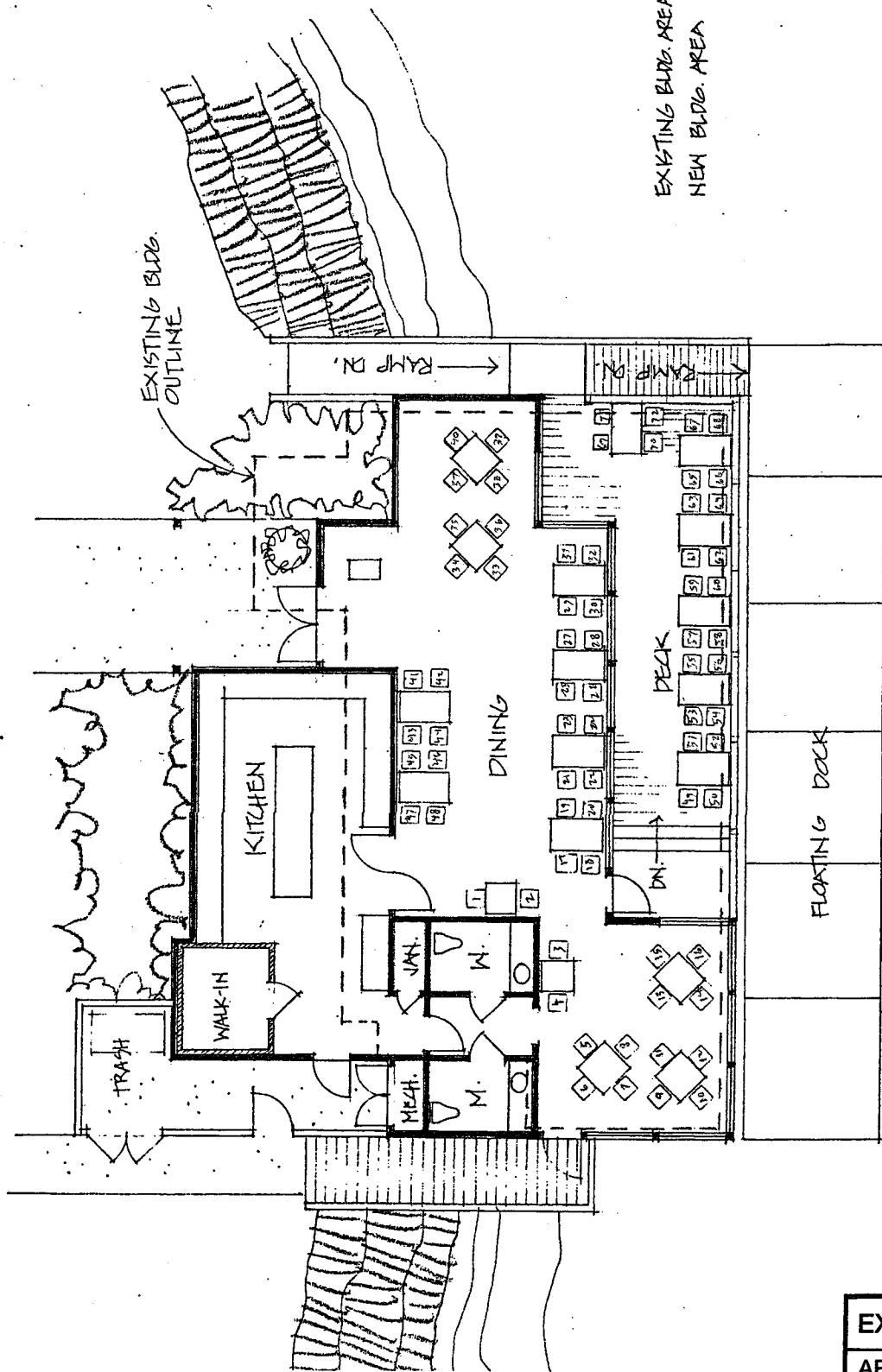
SHEET NUMBER

SHEET TOTAL



SECTION
1/8" = 1'-0"

EXHIBIT NO. C
APPLICATION NO.
3-99-049
SKIPPER'S REST. - SECTION



EXISTING BLDG. AREA = 1655 S.F.
NEW BLDG. AREA = 1800 S.F.



Floor Plan

EXHIBIT NO. D

APPLICATION NO.

3-99-049

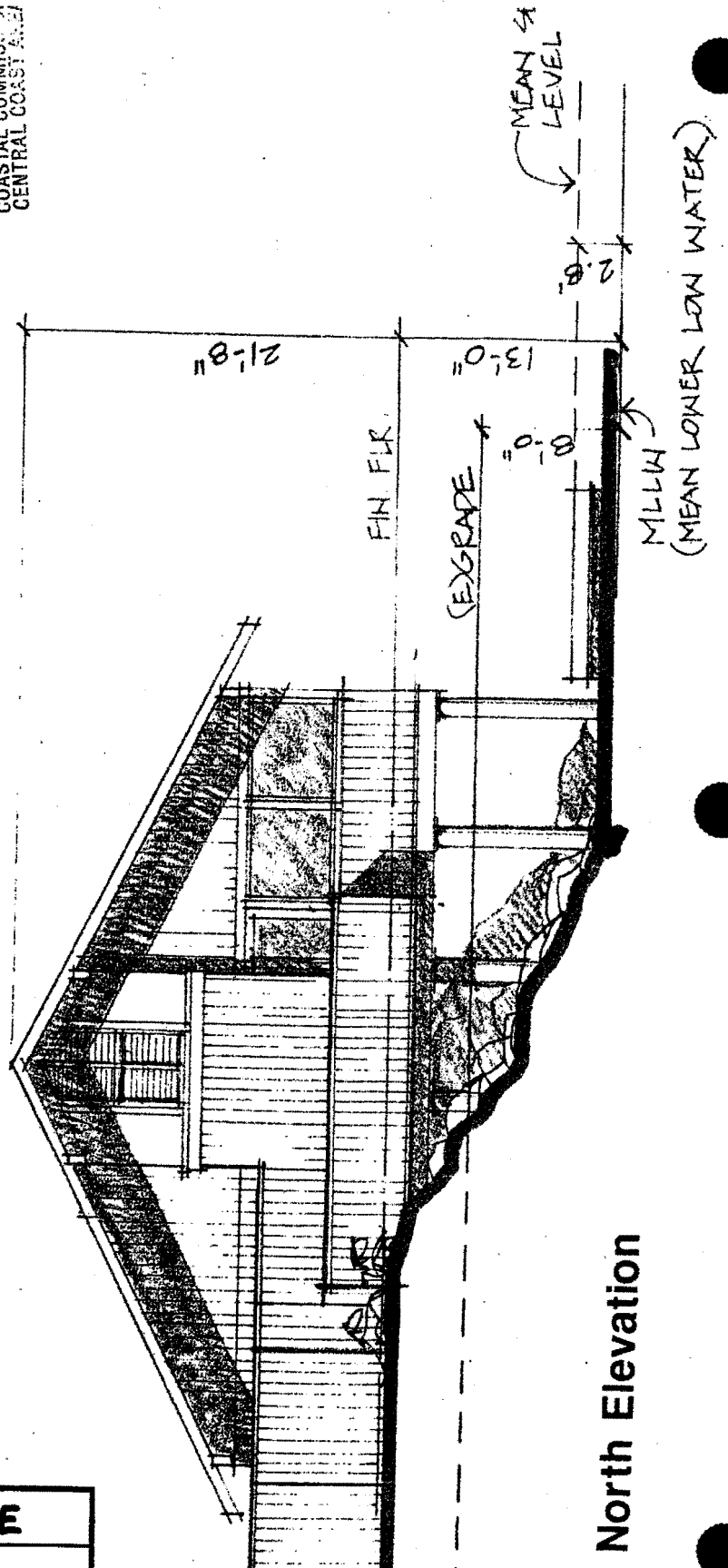
SKIPPER'S
REST. - FLOOR PLAN

4/9/99

RECEIVE

AUG 23 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA



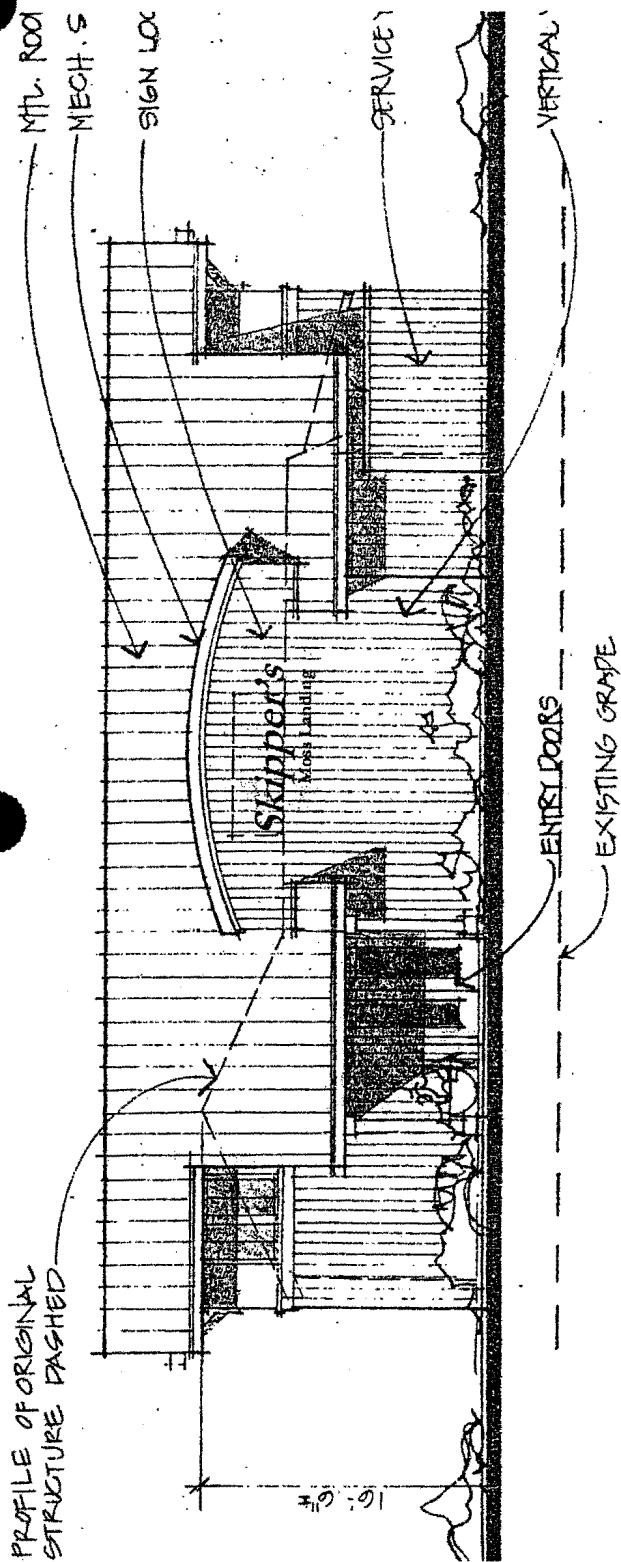
North Elevation

EXHIBIT NO. E

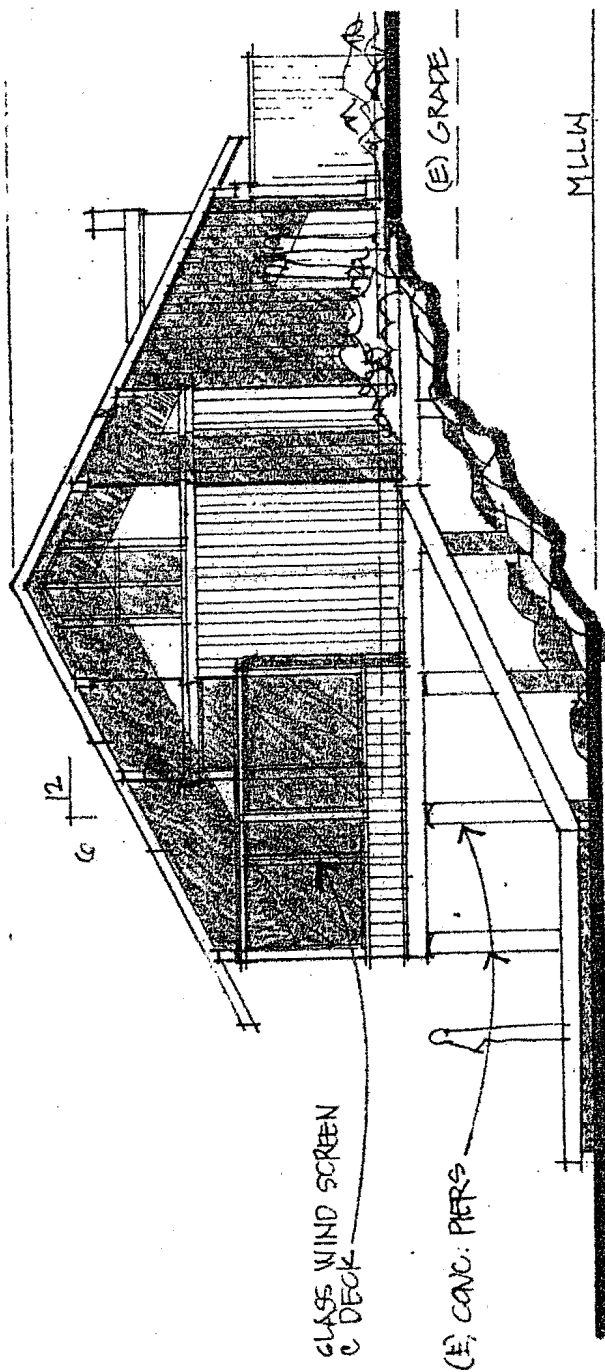
APPLICATION NO.

3-99-049

SKIPPER'S
RESTAURANT-ELEV.

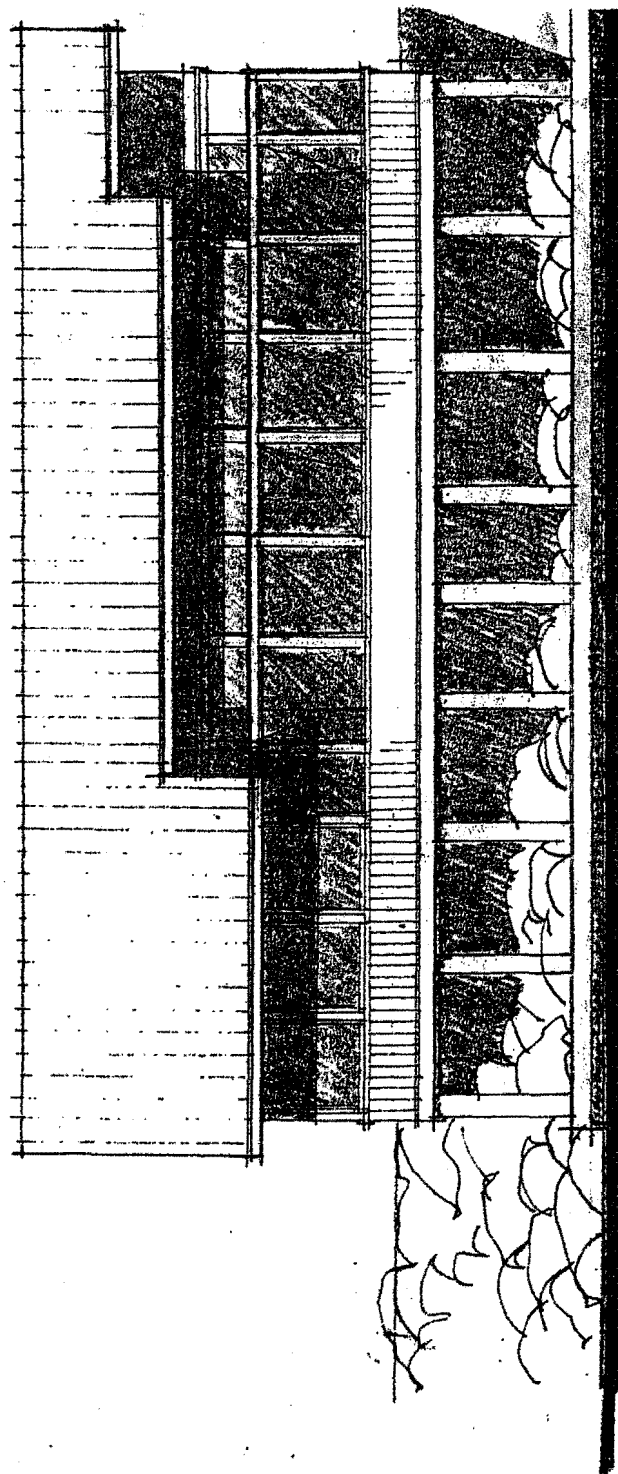


East Elevation



South Elevation

EXHIBIT NO. E (cont.)
APPLICATION NO.
3-99-049
ELEVATIONS



West Elevation

EXHIBIT NO. E (cont.)

APPLICATION NO.

3-99-049

ELEVATIONS

Harding Lawson Associates



February 4, 1999

California Coastal Commission
Mr. Lee Otter
Central Coast District
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Moss Landing Dredging Project
Impacts to Eelgrass Bed
Moss Landing Harbor District

Dear Mr. Otter,

Moss Landing Harbor District is proposing to dredge portions of the north harbor of Moss Landing Harbor. This is not an area designated for dredging under the current Coastal Commission permit. This letter requests a permit modification to allow dredging within a specified area of the north harbor. Dredging has occurred since March 1998 in various berths in the south harbor. Weekly and monthly reports have been issued presenting the areas dredged as well as all reporting requirements as specified in the US Army Corps of Engineers (USACE) Permit No. 22026S27 and Regional Water Quality Control Board (RWQCB) Order 90-21.

The proposed dredging footprint is presented in Plate 1. The footprint consists of a channel, some docking areas with berths, and a sand bar. This area is already permitted for dredging by the USACE under the existing permit. A remnant eelgrass bed lies east of the proposed dredging area at the junction of Elkhorn Slough and the north harbor. In order to evaluate whether the existing eelgrass bed may be potentially impacted by proposed dredging activities in the north harbor, an analysis of proposed impacts was performed and is presented in this letter.

Regulation of Eelgrass Beds

In the United States, regulation of direct disturbance to seagrasses (as well as planning for conservation of seagrass habitats) occurs under the Clean Water Act, Coastal Zone Management Act, and other federal, state and local mandates. Management of direct disturbance may also include issuance of guidelines for dredging, dock designs, and moorage and vessel operation in seagrass habitats.

Background

Eelgrass (*Zostera marina*) is a rooted flowering plant that can be found throughout the world's oceans and estuaries. It forms densely vegetated beds and constitutes one of the most structurally complex of lower littoral and sublittoral estuarine/marine habitats. Eelgrass beds support the fishing industry by providing important habitat for a variety of fish and other aquatic species. They also help to increase water clarity and reduce erosion by reducing wave energy and trapping loose sediments.

Historically, Elkhorn Slough was a shallow water embayment with extensive intertidal mudflats and eelgrass beds (ABA Consultants, 1989). Opening of the harbor mouth in 1947 substantially increased tidal activity, resulting in extensive tidal erosion in the slough that continues today (ABA Consultants, 1989). Habitat erosion and decreased water clarity from increased suspended sediment caused the decline of intertidal habitats, including eelgrass beds (ABA Consultants, 1998). Consolidated clay

banks in the vicinity of the former Skippers Restaurant have resisted erosion more effectively than sandier substrates in the Slough, resulting in the persistence of a small eelgrass bed just north of Skippers. Tufts of the rhizome system were still visible in the eroding clay during surveys conducted by ABA Consultants and Moss Landing Marine Lab faculty and staff in 1998 (*ABA Consultants, 1998*). According to the authors, a few of the tufts may resprout blades in the spring. Kvitek (1999) estimates that, based on the 1998 survey, the size of the remnant bed is approximately 20 by 30 meters and is exposed at a tide of -2 feet.

Impact Analysis

Eelgrass populations have specific requirements and may be limited by environmental factors such as temperature, salinity, current velocity, sediment type, oxygen, and solar radiation. Dredging near an eelgrass bed may impact one or more of these environmental factors. Temperature, salinity, and current velocity are not expected to change due to dredging processes. However, sediment type (i.e. grain size, due to settling of suspended particles), amount of dissolved oxygen, and solar radiation are likely to change in the vicinity of dredging processes. These physical parameters vary from baseline conditions when fine-grained particles of sediment are suspended during dredging and carried through the water column, settling in the vicinity of the dredge footprint. Suspended sediment or deposition can reduce the amount of solar radiation reaching the leaves, reducing photosynthesis and productivity. Sediment suspension patterns are difficult to model and depend heavily on localized conditions such as wind and wave action. A measure of sediment suspension is turbidity.

Weekly sampling has been conducted at various locations in Moss Landing Harbor and Elkhorn Slough to evaluate the effects of dredging on turbidity. The monitoring began on March 12, 1998, two weeks prior to the onset of dredging, and has continued through December 1998. Three to seven stations were monitored per week, depending on the designated disposal option for the material being dredged. Monitoring locations are shown on Plate 1. Monitoring Station D is the closest station to the current dredging operation, ranging from 100 feet to 2,000 feet north of dredging locations. Other monitoring stations are considered to be far enough away from the dredging operation that turbidity data represent background levels in Elkhorn Slough and the north and south harbors.

Turbidity was relatively high at Stations A through D during the first 6 weeks of monitoring following the onset of dredging. Turbidity at Station D ranged from 25 NTU to 102 NTU and averaged 52 NTU. Turbidity at Stations A, B, and C ranged from 2 NTU to 124 NTU and averaged 22 NTU. It is suspected that stormy weather conditions contributed to higher suspended sediment during this time period. In contrast, turbidity during the remainder of monitoring (July 2 through December 30) ranged from 0.6 to 9.3 NTU and averaged 2.2 NTU at Stations A, B, and C. Turbidity at Station D ranged from 1.5 to 18.3 and averaged 4.6 NTU. Dredging activities may have contributed to slightly higher turbidity levels at Station D compared to background levels at stations A through C. During most of the monitoring period, however, turbidity levels were only slightly higher at Station D. These results may indicate that turbidity increases from dredging tend to be localized to the immediate area unless other environmental factors, such as rain or wind, cause greater dispersion of suspended sediment. Higher turbidity readings at Station D may also be caused by sediment input from the Salinas River, the major contributor of sediment to the South Harbor.

The nearest monitoring to the eelgrass bed was conducted at stations B and G. Background turbidity levels measured at these stations averaged 12.0 NTU (Station B) and 3.9 NTU (Station G) during the monitoring period and ranged as high as 108 NTU at Station B. Based on these data, the eelgrass bed appears to be subject to a range of turbidity levels under existing conditions that is comparable to levels measured at Station D during dredging. The eelgrass bed is approximately 100 feet east of the

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nearest extent of proposed dredging, the same distance between monitoring Station D and the nearest extent of dredging in the South Harbor. Current patterns vary between the two locations, and turbidity levels measured during dredging at Station D are probably not directly representative of turbidity that would be generated at the eelgrass bed during dredging in the North Harbor. Nevertheless, the results of turbidity monitoring show that turbidity increases during dredging are largely localized to the immediate area of dredging. Consequently, it is not expected that the eelgrass bed would be subject to substantial increases in turbidity during dredging in the North Harbor. Further, any dredging-related increases in suspended sediment would be temporary. According to Kvitek (1999), the eelgrass bed has withstood the effects of periodic dredging in the harbor in the past. The most significant threat to this habitat appears to be the ongoing erosion of shallow water habitats that has continued since opening the mouth of the slough.

References

ABA Consultants, 1998. *Final Report, Marine Habitats and Bathymetry Around Skippers Restaurant and the North Harbor Visitor Serving Area*. Prepared for Moss Landing Harbor District. September.

ABA Consultants, 1989. *Elkhorn Slough Wetland Management Plan*. Prepared for California State Coastal Conservancy and Monterey County Planning Department. December.


Kvitek, R.G., 1999. California State University, Monterey Bay. Telephone conversation with Sally Bull, Harding Lawson Associates. January 6.

Summary


Based on the information provided in this letter, the permit application, as well as information previously provided to your office, MLHD requests a Coastal Development Permit (CDP) from the California Coastal Commission for dredging in Moss Landing Harbor. Thank you for your consideration of this matter. If you have any questions or require additional information, please do not hesitate to call William Keene at (415)-884-3171 or Sally Bull at (415)-884-3198.

Very truly yours,

HARDING LAWSON ASSOCIATES



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Senior Environmental Scientist



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Project Environmental Planner

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