

## CALIFORNIA COASTAL COMMISSION

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**COASTAL DEVELOPMENT PERMIT APPLICATION**

Application number .....3-99-076

Applicant.....Monterey Plaza Hotel LP IMAX Theater

Project location.....270 and 284 Cannery Row, City of Monterey, Monterey County (APNs 001-031-004 and 001-031-005)

Project description .....Demolish existing abandoned cannery, except for building front wall along Cannery Row, and construct a new building with three levels (two-stories at and above grade and a lower level to accommodate bottom of theater screen), 48,070 square feet (total of all floors) to include a 500 seat large format theater, 1807 square feet of retail space, 2088 square feet of office space, and 2618 square feet of meeting space, with public coastal access.

Approvals Received .....City of Monterey: Permit Number 99-140, 10/05/99

File documents.....City of Monterey Cannery Row certified Land Use Plan.

Staff recommendation ...Approval with Conditions



California Coastal Commission  
January 12, 2000 Meeting in Santa Monica

Staff: S. Guiney, Approved by:

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## Staff Report Contents

I. Summary .....	2
II. Staff Recommendation on Coastal Development Permit .....	3
III. Conditions of Approval .....	3
A. Standard Conditions .....	3
B. Special Conditions .....	4
IV. Recommended Findings and Declarations .....	7
A. Project Location and Description .....	7
B. Standard of Review .....	8
C. Coastal Access .....	8
D. Recreation .....	10
E. Marine Environment and Environmental Sensitive Habitat .....	11
F. Development .....	14
1. Visual Resources .....	14
2. Parking and Traffic .....	15
a. Parking .....	16
b. Traffic .....	19
G. LCP Planning Process .....	20
H. California Environmental Quality Act (CEQA) .....	20
V. Exhibits	
1. Project Location	
2. Project Site Plan, Elevations, and Photos	
3. Public Access in vicinity of project site	
4. Proposed public access on site	
5. Cannery Row Parking Study Area	
6. New peak parking demand	
7. Levels of Service	
8. Correspondence	

## I. Summary

The applicant proposes to construct a commercial project in the City of Monterey near the southeast end of Cannery Row to include a large format theater, retail, office, and meeting space, with public coastal access. Coastal issues raised by the proposed development include potential impacts to nesting seabirds, non-coastal dependent uses on a site adjacent to the waters of Monterey bay, potential visual impacts, and potential impacts to availability of parking. Staff recommends conditions to require a detailed plan to address impacts to nesting seabirds during project construction, a debris containment and cleanup plan, stormwater pollution prevention plan, and a public coastal access dedication. As conditioned by the City use permit and this coastal development permit, the proposed use is consistent with the policies of Chapter 3 of the Coastal Act and won't prejudice the completion of the City's Local Coastal Program.

## II. 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 motion below. A yes vote results 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.

***Motion:** I move that the Commission approve Coastal Development Permit Number 3-99-076 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), will not prejudice the ability of the City of Monterey to prepare a local coastal program conforming to 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 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).*

## III. 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. Lateral Access Easement**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director the easement for lateral public access and passive recreational use along the shoreline proposed as part of the project (see Exhibit 4). The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The area of dedication shall conform to that required by the certified Land Use Plan. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

Any future development that is proposed to be located either in whole or in part within the area described in the recorded offer of dedication shall require a Commission amendment, approved pursuant to the provisions of 14 CCR § 13166, to this coastal development permit. This requirement shall be reflected in the provisions of the offer.

### **2. Vertical Access Easement**

**PRIOR TO ISUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director the easement for vertical public access and passive recreational use to the farthest bayward extension of the proposed development (see Exhibit 4). The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The area of dedication shall conform to that required by the certified Land Use Plan. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which

**Application 3-99-076 Staff Report**

Monterey Plaza Hotel LP IMAX Theater

Page 5

the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

Any future development that is proposed to be located either in whole or in part within the area described in the recorded offer of dedication shall require a Commission amendment, approved pursuant to the provisions of 14 CCR § 13166, to this coastal development permit. This requirement shall be reflected in the provisions of the offer.

**3. Nesting Seabird Exclusion Program**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, permittee shall submit to the Executive Director for review and approval a detailed program to preclude nesting seabirds from using the site during the construction period, consistent with the letter from Don Roberson dated October 29, 1999, stamped received in the Commission's Central Coast office on November 4, 1999. The program shall include, but not necessarily be limited to, the type of material to be used for excluding birds from the site during construction, the method of securing the exclusionary material to the work site and ensuring that it extends to sea level at all times, the proposed date of initial placement of the material, and measures to ensure that no nesting seabirds are disturbed by the installation of the material.

**4. Debris Containment and Cleanup Plan**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, permittee shall submit to the Executive Director for review and approval two copies of a debris containment plan, which shall provide details of proposed methods to ensure that no construction material, equipment fuel or oil, excavated material, or other matter harmful to the habitat of Monterey Bay shall be allowed to enter the waters of the bay. Construction will be staged, conducted, and completed in a manner that prevents any pollution of the adjacent marine environment. Such pollution includes, but is not limited to, concrete slurry, wood and metal debris, petroleum residues, siltation, and increased turbidity. Construction equipment shall not come into contact with bay waters. No uncured concrete shall be allowed to come into contact with Bay waters. A separate wash out area shall be provided for concrete trucks and for tools. The wash out area(s) shall be designed and located so that concrete slurry or contaminated water runoff shall not enter the bay, or flow into storm drains or gutters that empty into the bay.

**5. Storm Water Pollution Prevention Plan and Post-Construction Polluted Runoff Control**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit, for Executive Director review and approval, a detailed Storm Water Pollution Prevention Plan that identifies specific construction practices and controls that will be implemented in order to minimize erosion and polluted runoff during construction. The plan will be consistent with practices

identified in the Model Urban Runoff Program (MURP). Measures shall include, but may not be limited to:

- a. timing construction to avoid or minimize grading during the rainy season (November 1 – April 30)
- b. staging construction to minimize the area of bare soil exposed at one time
- c. installing temporary boundary fencing to define grading limits
- d. seeding and/or mulching of exposed soils
- e. maintaining construction access roads free of dirt and sediments
- f. implementing dust control measures
- g. use of filter fabric fences, straw bale barriers, sand bag barriers, and/or sediment traps to intercept and detain sediment contained in storm water runoff
- h. covering excavated materials and construction debris stockpiles on a daily basis;
- i. appropriately disposing of, at a licensed landfill, any excess construction or fill material.
- j. any permanent site plantings, structural controls, etc., necessary for the prevention, treatment and proper conveyance of storm water runoff through the life of the project.

#### **6. Post-Construction Control of Polluted Runoff**

**PRIOR TO OCCUPANCY**, permittee shall submit to the Executive Director for review and approval a post-construction polluted runoff control plan. The plan shall include measures that will ensure that runoff from the site is captured and treated on-site to applicable Regional Water Quality Control Board standards prior to release to the bay or is directed to the City's sanitary sewer for treatment at the City's wastewater treatment plant.

#### **7. Other Agency Approval**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, permittee shall submit to the Executive Director for review, written evidence of approval for the project from the Monterey Bay National Marine Sanctuary.

#### **8. Final Parking Management Plan**

**PRIOR TO OCCUPANCY**, permittee shall submit to the Executive Director for review and approval two copies of the final parking management plan including copies of all handouts and details of all signs proposed to convey parking information to theater patrons and Monterey Plaza Hotel guests. The plan shall include written evidence of the legal obligation of the Hotel to provide 56 parking spaces for the project in the Hotel garage for the life of project and shall provide details of parking for oversize vehicles, including the effect on public parking of parking such vehicles at the San Carlos Beach Parking Lot. No parking of oversize vehicles shall be allowed in public parking lots or on-street public parking spaces if such parking would adversely impact existing

public parking. The plan shall provide for monitoring of the parking situation during the peak weekday hour and the peak Saturday hour from Memorial Day through Labor Day. In the event that monitoring establishes any parking supply deficiencies, the permittee shall submit an application to amend the permit so as to modify the intensity of the approved development or otherwise address parking issues.

#### **9. Traffic Monitoring**

**BY OCTOBER 15 OF THE FIRST YEAR DURING WHICH THE THEATER HAS BEEN IN OPERATION FROM MEMORIAL DAY TO LABOR DAY**, permittee shall submit to the Executive Director for review the results of monitoring of effectiveness of the changeable message sign on Highway One, WAVE ridership, and traffic conditions at the Lighthouse/David, Lighthouse/Drake, Lighthouse/Reeside, Foam/Reeside, Foam/Drake, and Del Monte/Washington intersections during the peak weekday afternoon hour and the peak Saturday afternoon hour from Memorial Day through Labor Day. If the results show additional traffic impacts due to the operation of the development that are not accommodated by the required traffic improvements, the permittee shall submit an application to amend the permit so as to modify the intensity of the approved development or otherwise address traffic issues.

#### **10. Documentation of Priority Use**

**BY DECEMBER 31 OF EACH YEAR OF THEATER OPERATION**, permittee shall submit to the Executive Director for review a list of all films shown over the preceding calendar year and a list of all films proposed to be shown over the following calendar year. The list shall indicate the title of the film and the dates and times when it was/will be shown. The list shall indicate that at least 70 percent of the film showing time consists of marine educational films shown during the daytime, when tourist visitation is greatest.

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

The Commission finds and declares as follows:

#### **A. Project Location and Description**

The project site is on the Monterey Bay side of Cannery Row near its southeast end, at 270 and 284 Cannery Row, in the City of Monterey (See Exhibit 1). Currently, an abandoned cannery occupies the site. The proposed project would incorporate the existing historic façade.

The main element of the project is a 500 seat large format theater that uses special film and a large screen (here about 60 feet high and 80 feet wide) to make the viewer feel part of the film. The theater would occupy about 11,854 square feet generally in the center of the site. The technology is

such that the theater patron experiences the film almost as a real life experience. These theaters are also known as IMAX theaters, after the name of the Canadian company that pioneered the large format technology. According to the applicant, movies having an ocean theme and/or geared to the same audience that patronizes the Monterey Bay Aquarium would be shown 70 percent of the time. Some examples of these types of movies that would likely be shown include "Into the Deep," "The Living Sea," "Whales," and "Sharks." A second movie, the latest current IMAX release, would be shown the other 30 percent of the time. Some examples of these types of movies include "Fantasia 2000," "Cyberworld," and "Everest." Unlike a traditional movie theater, the IMAX theaters show the same movie or movies for several months or longer at a time. Movies do not change weekly to show the latest Hollywood offerings.

The building would also contain retail shops, office space, and meeting space, as well as provide public coastal access. Public access would be provided from Cannery Row to and along the bay side of the building and would physically connect with existing coastal access on the bay side of the existing hotel abutting the project site on the southeast (see Exhibit 4).

The 100 foot long and 33 foot tall façade of the existing building, an abandoned cannery built partly over the water, would be retained, although additional windows and doors would be installed to accommodate the retail businesses and coastal and theater access. Because of the height of the movie screen (approximately 60 feet) and the maximum allowed building height (45 feet) excavation of a roughly 55 by 105 foot portion of the site nearest the street would be necessary to a depth of about 20 feet. The deepest part of the excavation would be about 30 feet from the street; from there the excavation would slope upward and toward the bay (see Exhibit 2, p. 11). No excavation would be required in the water. The existing slab, including the part over the water, would be removed and replaced. It is possible that some repair work may have to occur on some of the existing concrete piers. However, no shoreline protective work or other alteration of natural shoreline processed is proposed.

## **B. Standard of Review**

This area of the City of Monterey falls within the coastal zone, but the City does not have a fully certified LCP, only a certified Land Use Plan (LUP) for the Cannery Row Segment. Therefore, the LUP at this stage of the certification process is advisory only, and the standard of review for the project is the Coastal Act.

## **C. Coastal Access**

Coastal Act Sections 30210 and 30212(a) address the issue of public coastal access:

*Section 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*



**Application 3-99-076 Staff Report**

Monterey Plaza Hotel LP IMAX Theater

Page 9

*public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Section 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.*

**LUP Access Policy 3.d (part).** 1. *Where new development is proposed for an existing structure or on slabs presently extending over the water, pedestrian access to viewpoints overlooking Monterey Bay. . . is to be provided as a condition of development. . . . Pedestrian access to the viewpoint if enclosed, is to be a minimum of 6 feet. If open. . . a minimum width of 10 feet. The viewpoint at the end of the pedestrian access is to consist of a minimum of 100 square feet of accessible viewing area.*

2. *Pedestrian movement parallel and adjacent to the water shall be required with unobstructed views of the water in the form of an open or enclosed walkway a minimum of 8 feet wide across the seaward sides of structure. . . .*

Currently, no public coastal access exists at the site. Public access to and along the shoreline is available at San Carlos Park, approximately 100 feet southeast of the project site, along the bay side of the hotel between the project site and San Carlos Park, and at the hotel to the northwest of the project site. However, there is no public access to or along the approximately 150 foot width of the project site (see Exhibit 3). The LUP calls for additional vertical and lateral access on this site and for Cannery Row in general. Ultimately, as new development occurs along Cannery Row, there would be lateral public access along the bay front of all of Cannery Row.

Consistent with the LUP, the proposed project includes a minimum 8 foot wide public vertical coastal access through a gallery on the south side of the project. The gallery is proposed to be approximately 24 feet wide and would also provide an area for theater patron queues. Lateral public access along the bay side of the project would be a minimum of 10 feet wide, with a public viewpoint of 100 square feet. Lateral access would connect with existing access along the bay side of the hotel immediately southeast of the project (see Exhibit 4). As proposed, these public access features are a significant contribution to the overall provision of vertical and lateral access in the Cannery Row area. To assure adequate implementation and to memorialize this aspect of the project, Conditions 1 and 2 require recordation of offers to dedicate vertical and lateral access consistent with that shown on the plans and as required by the certified LUP (the City of Monterey

conditioned its use permit to require that the applicant offer to dedicate access to the City). As proposed and as conditioned, the proposed access is consistent with Coastal Act Sections 30210 and 30212. It is also consistent with LUP Coastal Access Policy 3d, and therefore will not prejudice the City's ability to implement this part of its Cannery Row LUP.

#### **D. Recreation**

Coastal Act Sections 30221, 30222, and 30222.5 address coastal recreation and aquaculture.

*Section 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.*

*Section 30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

*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.*

The "historic" Cannery Row was an intensely developed industrial district. The last cannery closed in 1973. Today Cannery Row is a mix of visitor serving commercial and recreational uses, with some offices, and is a major tourist attraction. The proposed project is a microcosm of Cannery Row development patterns in that it is mostly visitor serving/recreational (theater) with some retail and office use.

The project site could conceivably be used for some type of coastal recreational use such as diving instruction and shops; or for some type of coastal dependent industrial use such as aquaculture. However, the site is zoned and designated for visitor-serving commercial use and has sat vacant for several years. While there is a scarcity of strictly coastal recreational developments on Cannery Row (e.g., one unmet need is a full service dive instruction and supply facility) those do exist elsewhere in the Monterey area. While there are no aquaculture projects in the area, this location is not conducive to such a use given the existing heavy tourist use of the area and the potential difficulties of large trucks bringing in supplies and taking out aquacultural products.

The largest part of the proposed development, the theater, is visitor serving and would enhance public opportunities for coastal recreation because, according to the applicant, 70 percent of the time it would show movies related to the marine world, such as "Into the Deep," and "The Living

Sea," thus encouraging more of the public to explore and engage in various types of coastal recreation. A development such as the one proposed would more than likely help introduce and/or continue public interest in the ocean and coastal recreation and resources. In order to ensure that the marine educational component of the project is not lost, condition 10 is applied to this permit to require that the applicant submit to the Executive Director for review during each year of operation, a list of the titles, dates, and times of all of the films shown at the theater for the previous year and a list of proposed films to be shown in the following year. The list shall indicate that the marine educational component constitutes a minimum of 70 percent of the films shown during the day, when tourist visitation is greatest on Cannery Row.

With the conditions, the proposed use is consistent with Coastal Act Sections 30221, 30222, and 30222.5.

### **E. Marine Environment and Environmentally Sensitive Habitat**

Coastal Act Sections 30230 and 30231 provide:

*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.*

Coastal Act Section 30240 states:

*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.*

**LUP Natural Marine Resources and Habitat Areas Policy 3 (part).** h. For any

*grading. . .or construction in conjunction with shoreline development, require. .  
.drainage improvements which will control. . .runoff in a manner that will not impair  
biological productivity. . . j. For any. . .construction. . .to existing over-water  
structures, require. . .control measures (e.g., . . .removal of debris from water within a  
specified amount of time. . . require catch nets. . .etc.). . . .*

Monterey Bay is an environmentally sensitive area. As defined in the Coastal Act, an environmentally sensitive area

means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The waters of Monterey Bay have been officially designated part of the Monterey Bay National Marine Sanctuary; less than a half mile away from the project site is the Hopkins Marine Life Refuge. In addition, the City has designated the waters adjacent to Cannery Row as an underwater park. These designations were given because of the special nature of the marine habitats these areas encompass. That they could be easily disturbed or degraded by human activities and developments is unquestioned.

### **1. Coastal Waters**

The waters of Monterey Bay are rich in marine life, including mammals, birds, and invertebrates. The waters of the bay are protected as part of the Monterey Bay National Marine Sanctuary. The Coastal Act requires that marine resources be protected and even enhanced, that the biological productivity of coastal waters be maintained and that environmentally sensitive habitat areas be protected. Thus, any work that might adversely affect the habitat and organisms of the bay waters must be carried out in a manner that will eliminate the possibility for adverse effects.

No work is proposed in the water, but work would occur over the water with the removal of the existing concrete slab that extends out over the water and construction of a new slab and the new building. Additionally, it may be that some maintenance or restoration work may be necessary on some of the existing concrete piers. Any such maintenance or restoration work would require an amendment to this permit, since the scope of such work is unknown at this time. These activities could result in uncured concrete entering the waters of Monterey Bay. The Department of Fish and Game has expressed concern over this latter possibility (see Exhibit 8). Further, various types of construction debris such as pieces of wood and metal, paint and other chemicals, and excavated dirt, could accidentally spill into the bay and harm the habitat and marine organisms, contrary to the Coastal Act.

Because there would be work over and adjacent to the waters of Monterey Bay, this permit is conditioned such that the permittee, before starting construction, must submit a debris containment plan detailing how construction debris is to be contained, and cleaned up if not contained, and a storm water pollution prevention plan to the Executive Director of the Coastal Commission for

review and approval (conditions 4 & 5). Potential disruption or degradation of the bay doesn't, unfortunately, stop with the end of construction. Runoff from the impervious surfaces of the development could carry pollutants into the water. To forestall such occurrences, this permit is conditioned to require that the applicant submit to the Executive Director for review and approval a plan for capture and treating polluted runoff or diverting such runoff to the City's sanitary sewer for transport to the City's wastewater treatment plant for treatment, prior to release to the bay (condition 6). With these conditions, the project is consistent with Coastal Act Sections 30230, 30231, and 30240. It is also consistent with LUP Natural Marine Resources and Habitat Areas Policy 3, and therefore will not prejudice the City's ability to implement this part of the Cannery Row LUP.

## **2. Seabird Impacts**

Besides the possible adverse effect of construction materials entering the bay, construction could adversely affect seabirds that nest on the site. Species possibly affected include the Pigeon Guillemot, *Cephus columba*, which nests under the building in spring and summer, and Pelagic Cormorants, *Phalacrocorax pelagicus*. Neither of these birds are listed species. Nevertheless, they are important in the coastal marine ecology of the area.

According to the applicant's ornithologist, the largest Pelagic Cormorant colony in Monterey County is along Cannery Row with 99 pairs of birds. According to the ornithologist, 20 to 25 pairs nest on the old pilings and girders at the project site, constituting about 25 percent of the Cannery Row colony. Their breeding season generally runs from February into August. Forty-four (44) pairs of Pigeon Guillemots nest along Cannery Row. The ornithologist estimates that about 10 to 11 (about 25 percent) nest on the project site. They have a breeding season similar in onset and end to that of the cormorants.

The ornithologist believes that the birds will be disturbed by construction, but should recolonize the area soon after construction is finished and that the project should not have any long-term negative effects on either the guillemots or the cormorants. According to the ornithologist, based on the nesting season, "(i)deally, then construction would be limited to September - December." He goes on to state that

Assuming such restriction [on construction] to be unworkable in this case, the next most important mitigation would be to assure that neither the cormorant nor the guillemot would undertake nesting activities on site during the winter/spring of the year of construction

The ornithologist does not state why restricting work to the period of September through December would be unworkable. However, it would not be economically feasible for the applicant because it would probably take at least two such periods, over at least two years, to complete the project. Weather conditions could cause additional delays.

The recommended method is to screen the seaward portion of the site down to sea level with a heavy duty netting dense enough and heavy enough to preclude birds getting through it yet still not

allow the birds to get entangled in it. The goal would be to "exclude birds from the site entirely, not simply deter perching once reached." The birds would be precluded from nesting on the site during construction only. Once the project is completed, the birds would resume their nesting activities. This would prevent accidental injury or death from construction activities, and the birds would recolonize the site after completion of construction. There would not be any significant adverse impact to the birds.

The ornithologist's letter and recommendations were reviewed by the Coastal Commission's staff biologist who concurred with the ornithologist's general recommendations. However, details of such a bird exclusion program are still needed. For example, there are no plans that show exactly how the exclusionary material would be attached to the site or kept in place in the water or that describe the proposed material to be used. Therefore, condition 3 is applied to require that the permittee submit for Executive Director review and approval, a detailed seabird exclusion program. With such a condition, the proposed development is consistent with Coastal Act section 30230.

## **F. Development**

### **1. Visual Resources**

Coastal Act Section 30251 states:

*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.*

*Section 30253. New development shall:*

- .....
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The existing abandoned cannery building is about 100 feet wide by 200 feet deep and 33 feet tall. It extends across the full width of the lot. Parts of it are visible from Cannery Row, parts of the recreation trail along the abandoned railroad right-of-way, parts of Wave Street, from some nearby buildings, and from offshore. The proposed development will include constructing a part of the building to a height of 45 feet, the maximum allowed. This section of the building would be set back from Cannery Row about 30 feet and from the bay side about 60 feet; it would be set back from the side property lines by a minimum of 10 feet to as much as 30 feet (see Exhibit 2, p 8 &

## Application 3-99-076 Staff Report

Monterey Plaza Hotel LP IMAX Theater

Page 15

11). It would be only partially visible from Cannery Row and other public viewing areas, such as the recreational trail, as much of it will be hidden behind the existing wall facing the street. This wall is the one wall that will be saved from demolition of the existing building. Existing private views from some other buildings would probably be more impacted. However, such private views are not protected by the Coastal Act.

The rear of the building, facing over the water, would look much different from the existing view or the view when the site held a working cannery. The current view from the water is one of an abandoned building that is in disrepair. The development is proposed to have mostly windows on the bay side (see Exhibit 2, p.10). Although much more glass would be visible from the water than now exists or would have existed in a cannery building, this section of the City's waterfront now has a number of hotels and other existing development that present more glass than would have been seen when the area was a working cannery district. The bay side of the building is not generally visible, and certainly not individually distinguishable to the naked eye, from public viewing areas on land across the bay waters such as Del Monte Beach Park east of the Naval Postgraduate School due to the distance across the water, about one and one-half miles (see Exhibit 1, p.2). Therefore, the proposal is consistent with Coastal Act Section 30251 regarding development in scenic areas.

More problematic is the proposed treatment of the existing front wall of the building facing Cannery Row (see Exhibit 2, pp.9 & 12). The existing wall has two large doors for truck use and three smaller doors and no windows, with block glass areas for letting in light. The proposed development would retain the block glass areas but would add several doors and windows to accommodate the proposed new uses and theater exit. This proposed treatment generated some controversy at the City. According to the project historical consultant, the structure would be rehabilitated under the Secretary of the Interior's Standards for rehabilitation. These standards are less rigorous than the Secretary of the Interior's Standards for *preservation*. Although the structure was designated by the City as one to be retained, the structure is not designated as a local, state, or national historic landmark. The LUP does not require that either set of standards be applied. Although the proposed development would result in some changes on the ground level of the Cannery Row wall (doors, windows, and horizontal awnings) that would change the appearance of the wall, there is nothing in the record to indicate that these changes are not allowed. Nor will the proposed changes detract from the attraction of Cannery Row for visitors as a special community or neighborhood with unique characteristics. Therefore, the proposed development is consistent with Coastal Act Section 30253 regarding special coastal communities or neighborhoods.

## 2. Parking and Traffic

Coastal Act Sections 30252 and 30253 address parking and traffic.

*Section 30252. The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3)*

*providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

**Section 30253. New development shall:**

....  
*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

**LUP Parking Policy 3. f.** *Within the . . . parking district where on-site parking requirements are not shown to be provided, require the payment of an in lieu fee for all required spaces not provided and granted a parking adjustment.*

**a. Parking**

**1) Current Parking Inventory and Zoning Requirements.** Average public parking occupancy at the Cannery Row 1 Parking Garage and On-Street Parking Area C (bounded by Foam Street, Monterey Bay, David Street, and Cannery Row; see Exhibit 6) for peak days (Friday, Saturday, and Sunday) in the peak month (August) in 1997 and 1998 was 100 percent at the garage at 1:00 pm, and 91 per cent at the on-street spaces. The figures show that garage occupancy at 11:00 am reached 75 percent and dropped to 61 percent at 5:00 pm and 24 percent at 9:00 pm. On-street parking occupancy was 77 percent at 11:00 am and 46 percent at 9:00 pm. In 1997 and 1998 there were 1003 spaces available in the parking garage. In 1997 there were 2152 on-street spaces and in 1998, there were 2168 on-street spaces. The total number of public parking spaces in 1998 was 3171.

The LUP discourages parking on the project site. The City Council several years ago passed a resolution that discourages parking on the bay side of Cannery Row and encourages parking inland if the property ownership crosses the street. Here, the project owner, Monterey Plaza Hotel, owns the garage across Cannery Row. Based on the City's parking requirements, all of the proposed uses in the project would require 168 spaces. The City's parking regulations allow a 20 percent reduction in number of spaces where there are shared uses. The shared uses here are the theater, retail, office, and meeting uses. The total number of spaces required for the proposed development is then 134 spaces ( $168 \times .2 = 34$ ;  $168 - 34 = 134$ ). The Monterey Plaza Hotel requires 527 parking spaces for the hotel and its associated uses. Taken together, the Hotel and the proposed theater require 661 spaces ( $527 + 134 = 661$ ). The Hotel has a total of 541 parking spaces (488 in the hotel garage, the remainder in several surface lots). The Hotel can therefore accommodate all of the



Hotel parking and 14 of the spaces required for the theater. This leaves 120 spaces not provided for. The City has required the project applicant to pay an in lieu fee for those 120 spaces.

Hotel garage parking occupancy surveys were conducted in 1995-1996, which encompassed the opening of the Monterey Bay Aquarium's Outer Bay wing and record hotel occupancy in the summer of 1996. According to those surveys, the maximum hotel garage occupancy occurred on Saturday, June 8, 1996, at noon when 326 spaces, or 67 percent of those available, were occupied. Thus it appears that the hotel garage has had a surplus of as many as 162 spaces ( $488 - 326 = 162$ ) at the time of the garage's historic maximum occupancy (which, according to hotel management, has been no greater since).

**2) Project Parking Demand Analysis.** The parking and traffic study for the project estimated a maximum net new peak parking demand of approximately 56 parking spaces on a Saturday with a social event in the meeting room in the afternoon (see Exhibit 7). The City has required that the hotel provide for this new parking demand in the hotel garage. This is estimated demand, which can be quite different from the number of spaces required for a use by the City's Zoning Ordinance. In this case it is very different since, as discussed above, the Zoning Ordinance requires 134 spaces for the project as a whole (116 for the theater and meeting room). Note that according to the parking and traffic study the total estimated parking demand generated by the theater is only 16. According to the study this "is primarily due to the expectation that 90% of theater-goers will be drawn from the Cannery Row visitor population and therefore will not create new parking demand." This assumption is critical to the finding of consistency with the Coastal Act.

If the theater in and of itself were a destination, then the parking needs would be greater. On the other hand, if people go to the theater because they are already at Cannery Row for the experience of Cannery Row (Monterey Bay Aquarium, etc.) then it seems reasonable that the new parking demand would be relatively low. Information submitted as part of the application supports the claim that most theater patrons would be drawn from the general Cannery Row visitor population. Appendix A of the traffic and parking study includes a survey of 212 patrons of the CINEMAX theater at Pier 39 in San Francisco (a large format theater similar to the IMAX theaters) conducted on a Friday and Saturday in April of 1999. That survey revealed that the primary purpose of 8 percent of the theater patrons was to view a movie at the large format theater. Ninety (90) percent were in the area primarily for sightseeing/tour purposes. According to information provided by the IMAX corporation,

The models of the Tennessee Aquarium and Aquarium of the Americas IMAX Theatres have demonstrated solid examples of how Aquariums and theatres work together. It is likely that up to 85% of the theatre's annual attendance will be captured from Aquarium visitors. . . .

From the remaining 15% most will be walk up visitors who are visiting Cannery Row and have not visited the aquarium.

It is our experience in the aquariums mentioned above that maybe as little as 5% of the IMAX Theatre attendance during peak hours are guests visiting without going to the aquarium.

In order to ensure that the estimated new parking demand for 56 spaces is met by existing spaces in the hotel parking garage, the City has required a parking management plan that will accomplish the following six things:

1. Allocate sufficient parking in the Hotel garage for the duration of Project operations.
2. Provide informative signs on parking location.
3. Provide personnel to monitor conditions and advise drivers of parking options.
4. Ensure marketing and promotional materials and social event invitations address parking and traffic access
5. Specify where oversized vehicles will be accommodated (they can't fit in the garage).
6. Monitoring after one year by the Planning Commission with possibility that the parking management plan may be revised as a result of monitoring.

In summary, the Zoning Ordinance requires 527 spaces for the hotel. The hotel has a total of 541 parking spaces, 488 in the garage, the remainder in several surface lots, for a surplus of 14 spaces. The highest actual occupancy of parking spaces in the hotel garage was 326. For the proposed theater development and its associated uses, the Zoning Ordinance requires 134 spaces, 14 of which can be accommodated by the hotel's surplus 14 spaces. This leaves the project with a 120 parking space deficit. However, projected peak parking demand is only 56 spaces for the project. Fifty-six spaces will be set aside in the hotel parking garage to accommodate this projected demand (because the historic maximum garage occupancy was 162 spaces less than the number of spaces available, there is room for the projected new peak demand of 56 spaces).

Staff has received a Draft Summary Parking Management Plan for Large Format Theater, dated December 1, 1999, from the applicant. As indicated by its title, the plan addresses parking supply, contingency parking and traffic control, parking and transit access information system, and monitoring in draft and summary form. While the plan appears to have all necessary elements, none are addressed in detail. For example, handouts and signs proposed as part of the information system are mentioned but details and/or samples are not provided. The draft summary plan states that the Hotel shall park oversize vehicles at a lot behind the Hotel garage which has been leased for that purpose and that an acceptable alternative is to park those vehicles in the San Carlos Beach Parking Lot "according to current City parking fee terms." What impact this may have on public parking at that parking lot is not stated nor is it stated to whom is that alternative acceptable. The Coastal Commission finds that without further information and verification that there will be no adverse impacts to public parking from parking oversize vehicles in the San Carlos Beach Parking Lot, such an alternative is not acceptable.

Additional information and details must be addressed in a final parking management plan to be

reviewed and approved by the Executive Director. Condition number 8 requires submittal of such a final plan to the Executive Director for review and approval before the project may be occupied and provides that monitoring results may require changes to the parking plan. The parking management plan may have to be modified after the initial year of monitoring (and perhaps subsequently, depending on subsequent monitoring results) to provide for some alternate parking system or other modifications to the parking plan, if monitoring shows that to be necessary. If parking deficiencies are identified, the permittee shall submit an application to amend the permit so as to modify the intensity of the approved development or otherwise ensure adequate parking. Accordingly, with Condition 8, the project is consistent with Coastal Act Sections 30252 and 30253 regarding parking.

**b. Traffic**

The traffic and parking study analyzed traffic impacts at five intersections near the project site (Lighthouse/Davie, Lighthouse/Drake, Lighthouse/Reeside, Foam/Reeside, and Foam/Drake) and at the main intersection in downtown Monterey leading to Cannery Row (Del Monte/Washington). According to the study, significant impacts, in terms of vehicle delay at intersections, would occur at Lighthouse/David during the weekday and Saturday afternoon peak hours, and at Lighthouse/Reeside, and Del Monte/Washington during the Saturday afternoon peak hour (see Exhibit 8). The City has required that the development pay its fair share for traffic improvements at Lighthouse/David and Lighthouse/Reeside. Relative to the Del Monte/Washington intersection, according to the study

Based on observations, findings of previous transportation studies, and discussions with City staff, there are no financially feasible capacity-increasing mitigations available at this location. However, the City has implemented a substantial program of traffic and parking management actions, and it is reasonable to expect the Project sponsor to contribute to those actions which will help reduce its peak hour traffic at this critical intersection.

Two management actions are directly relevant. These are 1), WAVE bus service, which allows tourists and visitors to park east of this intersection and ride a bus to and from Cannery Row, and 2), the installation of changeable-message signs (CMS) on Route 1, which will direct tourists and visitors to park at Del Monte Shopping Center and ride WAVE to and from Cannery Row.

Therefore, the Project should be responsible for a fair-share contribution to WAVE service and the CMS program.

The City has required that the project pay a fair share for increased WAVE shuttling of visitors to Cannery Row and a fair share of a changeable message sign on Highway 1 directing traffic to alternate parking.

These requirements for funding of intersection improvements, provision of additional transit

opportunities, informational signing, and alternate parking are appropriate and would be expected to ensure that the current level of access to the Cannery Row area would be maintained. This in turn would help to ensure that the special nature of Cannery Row would be maintained and not diminished by increased traffic congestion. However, the effectiveness of such funding cannot be fully known until after the improvements have occurred and the development is in operation. In order to ensure that the special character of Cannery Row will not be diminished by increased traffic congestion, Condition number 9 is required. This condition requires that for the peak weekday afternoon hour and the peak Saturday afternoon hour from Memorial Day through Labor Day of the first year of operation of the theater, the permittee monitor traffic conditions at the affected intersections and monitor the effectiveness of the changeable message sign and WAVE ridership, and report the results of such monitoring to the Executive Director for review. If the results indicate that there are additional traffic impacts due to the operation of the development that are not accommodated by the required traffic improvements, the permittee shall submit an application to amend the permit so as to modify the intensity of the approved development or otherwise address traffic issues. With this condition, the proposal is consistent with Coastal Act Sections 30252 and 30253 regarding traffic.

#### **G. LCP Planning Process**

Coastal Act Section 30604(a) states:

*Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.*

The Cannery Row area of the City of Monterey falls within the coastal zone, but the City does not have a fully certified LCP. The City's Cannery Row Land Use Plan (LUP) is certified. Currently, the City is working on preparing the implementation portion of its LCP, but there is no time frame for completion.

For the reasons discussed in this report, the Commission finds that, as conditioned: the proposed project would not prejudice Commission action on future coastal planning decisions regarding development in Monterey; and is consistent with Coastal Act requirements that development not prejudice LCP planning efforts that conform to the Coastal Act.

#### **H. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in

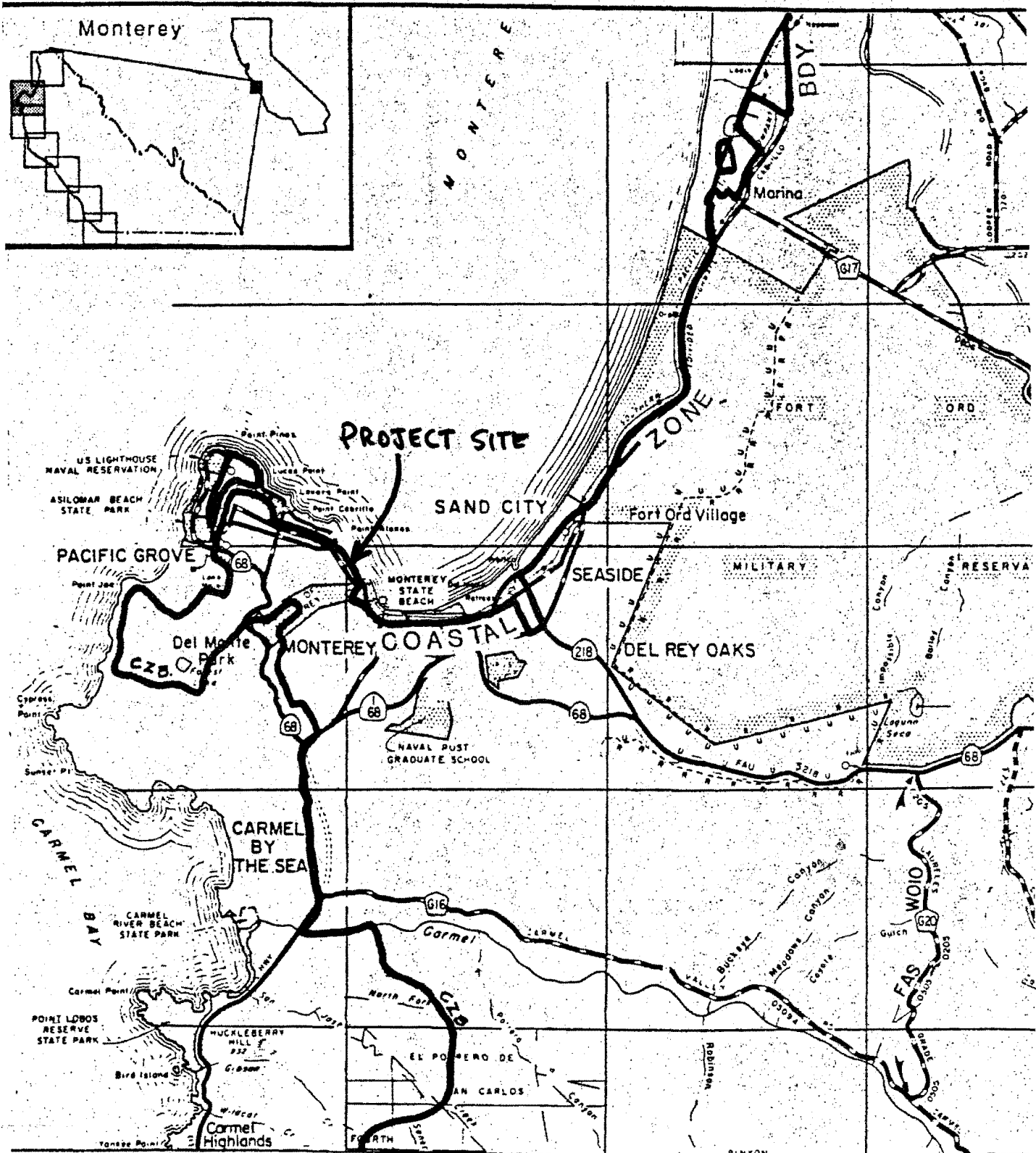
**Application 3-99-076 Staff Report**

Monterey Plaza Hotel LP IMAX Theater

Page 21

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 that the activity may have on the environment.

The City certified a negative declaration on October 5, 1999, finding that with required mitigations, the project would not have any adverse impacts on the environment. 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. The proposed project's coastal resource issues have been discussed in this staff report and appropriate mitigations have been developed to supplement the City's review of the proposed project. Accordingly, the project is being approved subject to conditions that implement the mitigating actions required of the Applicant by the Commission (see Special Conditions of Approval). As such, 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.



California Coastal Commission

## LOCATION MAP

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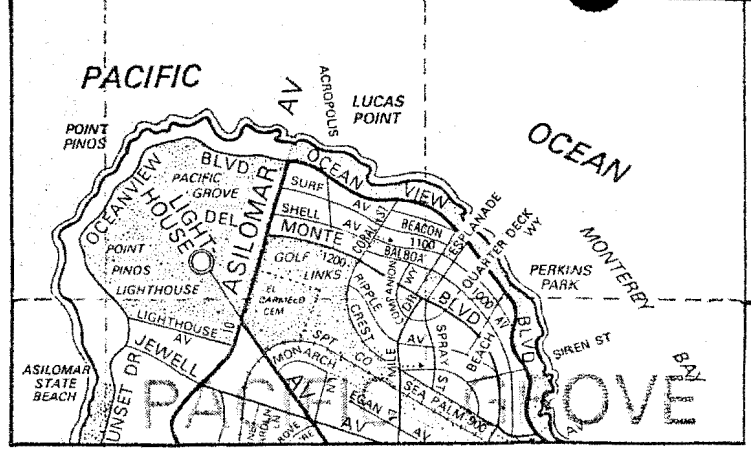
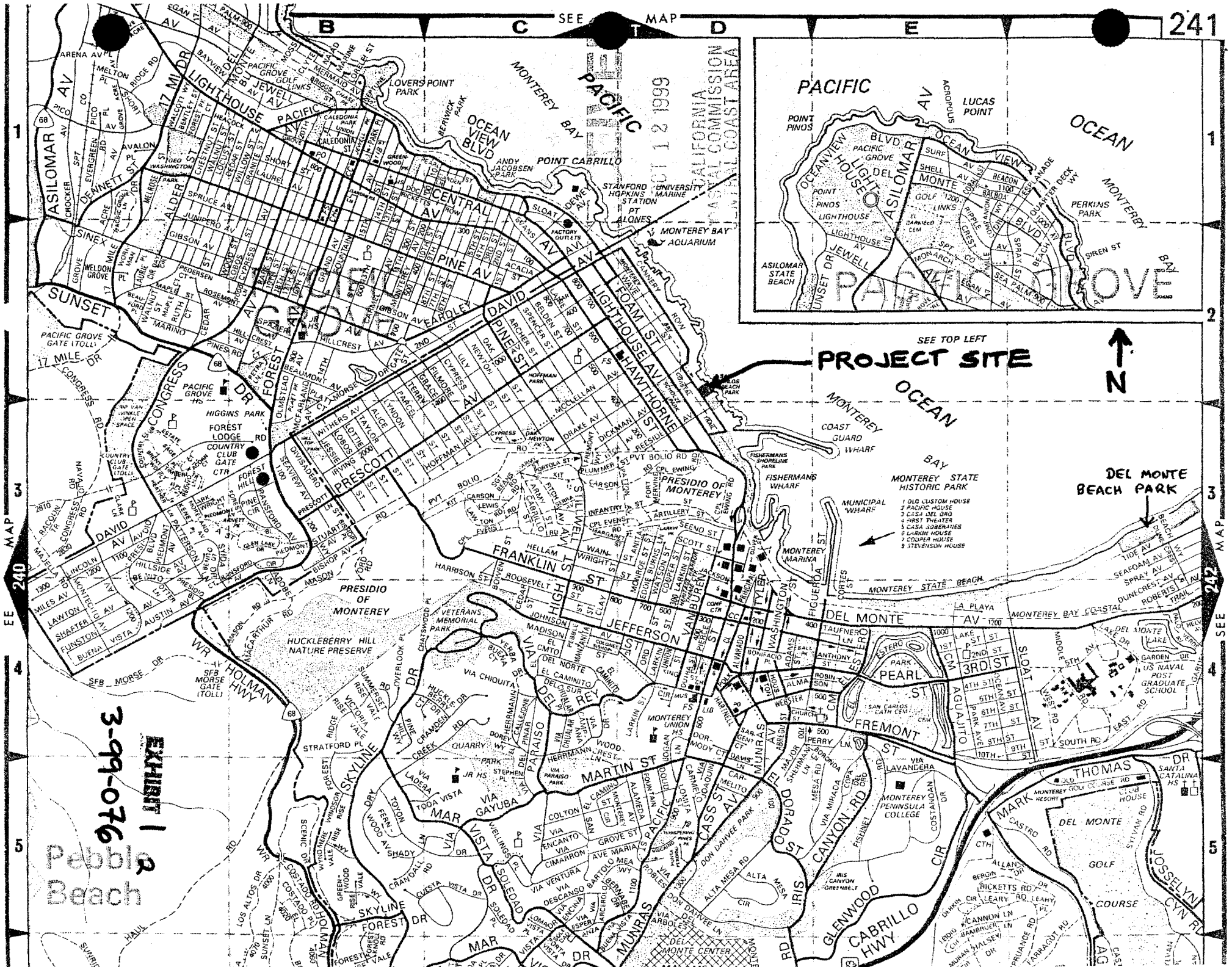


County of Monterey

EXHIBIT 1

Sheet 2 of 7

3-99-076



SEE TOP LEFT  
**PROJECT SITE**



**EXHIBIT 1**  
**3-99-076**

**Pebble Beach**

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

## SHEET INDEX

A-0	COVER SHEET
A-0.1	EXISTING SITE PLAN
A-0.2	DEMOLITION PLAN
A-0.3	EXISTING LOWER LEVEL PLAN
A-1	MAIN FLOOR PLAN
A-2	UPPER FLOOR PLAN
A-3	LOWER FLOOR PLAN
A-3.1	BOAT PLAN
A-4	FRONT ELEVATION
A-5	BAY ELEVATION
A-8	SECTION
H-1	PHOTOS OF SITE- PRESENT

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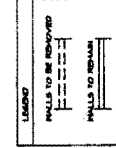
ERIC MILLER, ARCHITECT  
157 GRAND AVE #106 PACIFIC GROVE, CA 93950  
(831) 372-0410 FAX (831) 372-7840

LARGE FORMAT THEATER  
270284 CANNERY ROW  
MONTEREY, CA 93940

157 GRAND suite 108 PACIFIC GROVE, CA 93950 (831) 372-0410 FAX (831) 372-7840







DEMOLITION PLAN

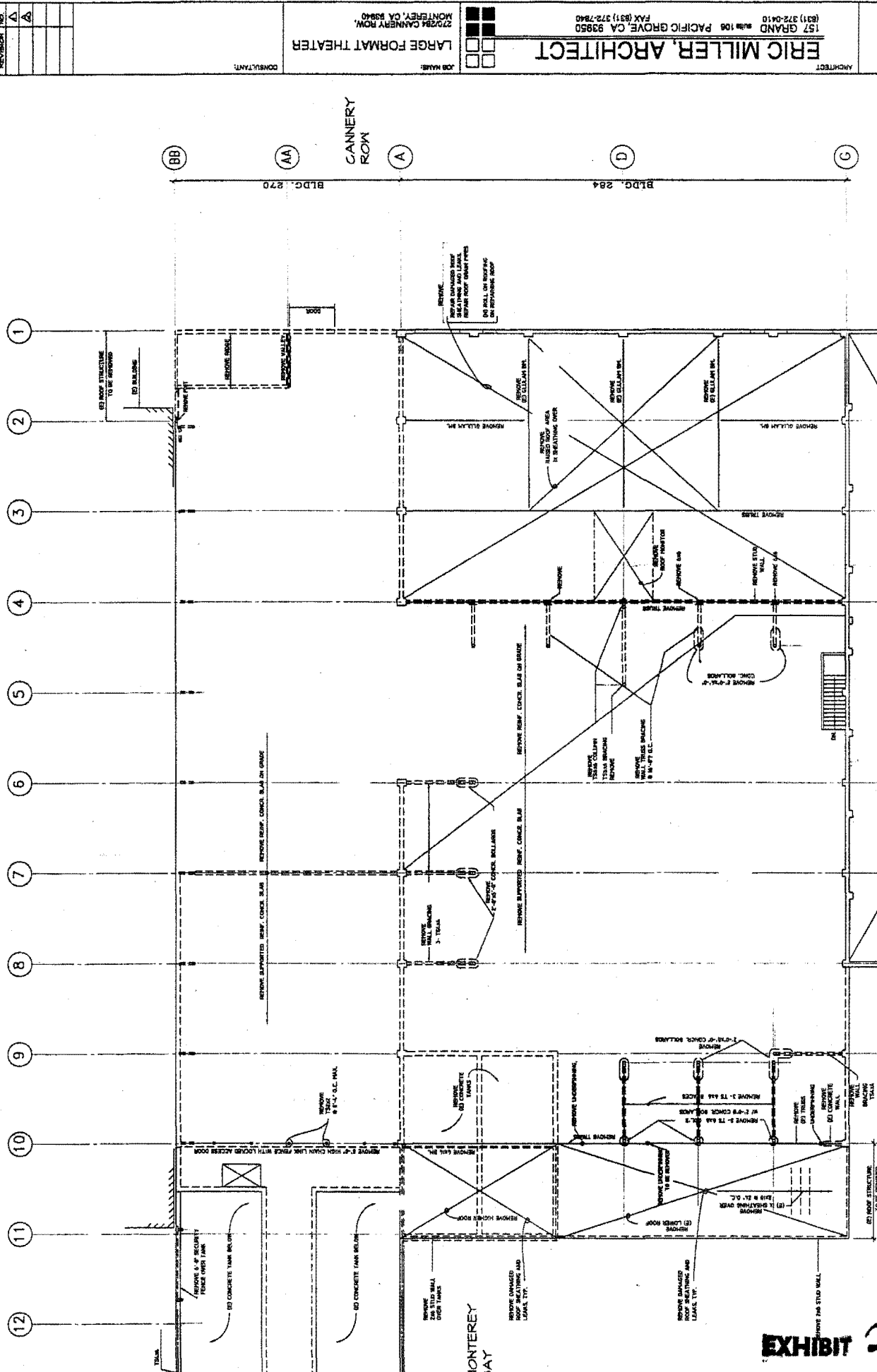
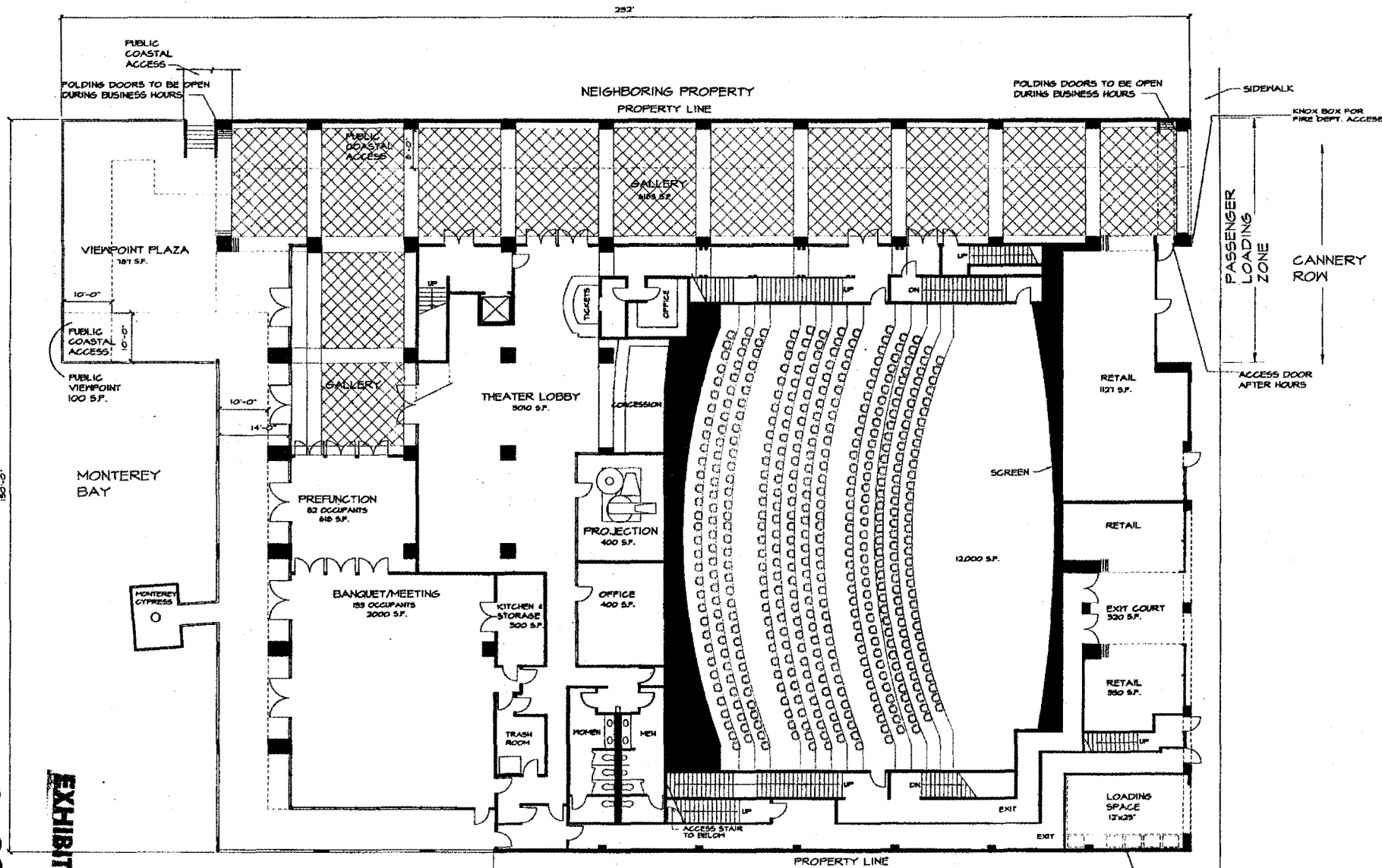


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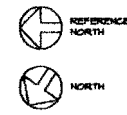


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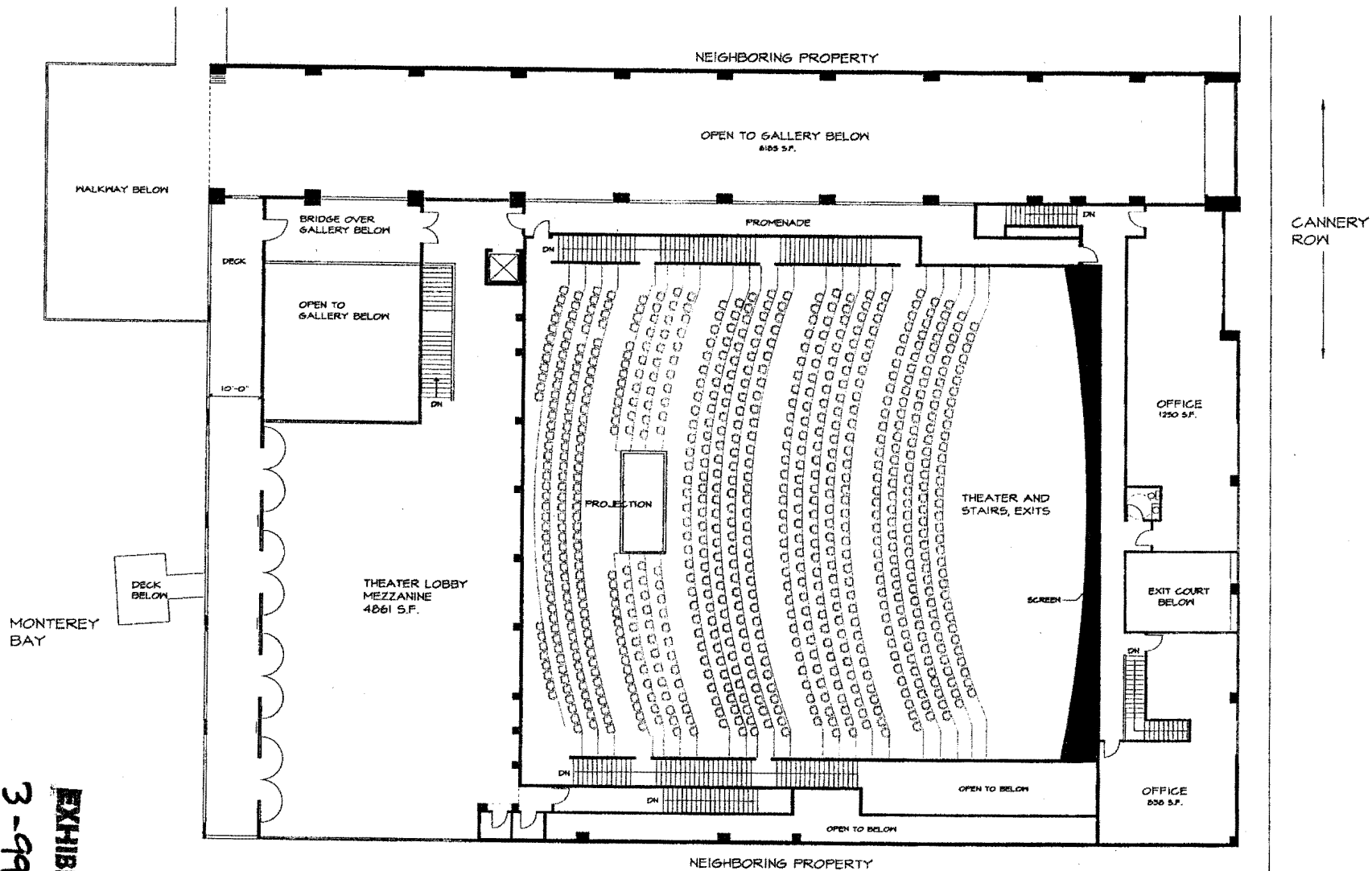


MAIN FLOOR PLAN

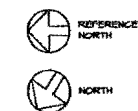


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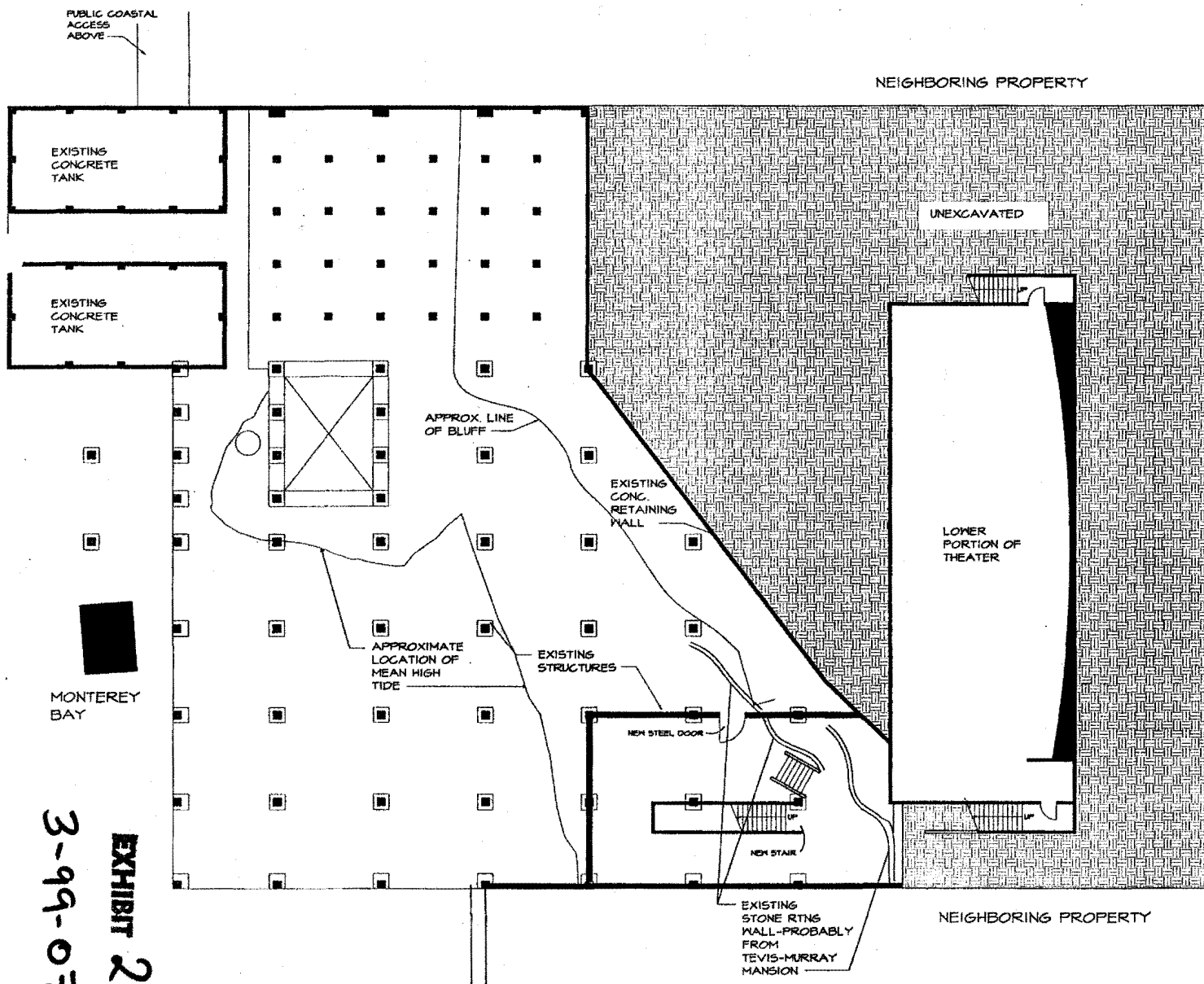
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CONSULTANT:  
JOB NAME:  
LARGE FORMAT THEATER  
270284 CANNERY ROW,  
MONTEREY, CA 93940

ARCHITECT:  
ERIC MILLER, ARCHITECT  
137 GRAND AVENUE 106 PACIFIC GROVE, CA 93950  
(831) 372-0410 FAX (831) 372-1940

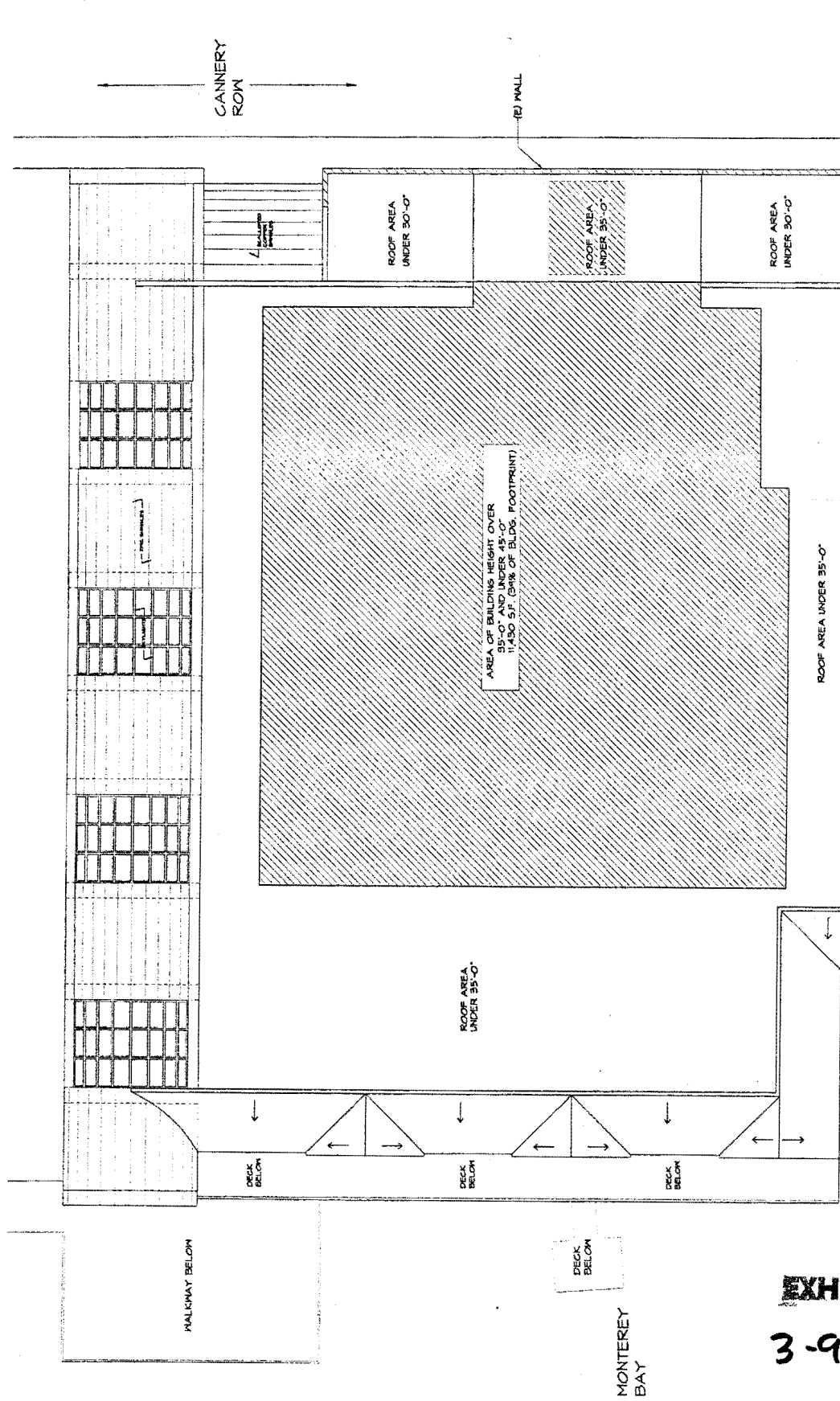
SHEET TITLE:  
UPPER LEVEL  
FLOOR PLAN  
DATE: 6-11-94  
SCALE: 1/8"=1'-0"  
DRAWN: J.P.  
CHKD: H.C.S.  
SHEET:  
A-2  
OF SHEETS

3-99-076  
EXHIBIT 2

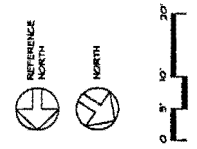


LOWER FLOOR PLAN

SHEET TITLE LOWER LEVEL FLOOR PLAN		ARCHITECT <b>ERIC MILLER, ARCHITECT</b> 157 GRAND AVE. #108 PACIFIC GROVE, CA. 93950 (831) 372-0410 FAX (831) 372-7440		JOB NAME: <b>LARGE FORMAT THEATER</b> 275284 CANNERY ROW, MONTEREY, CA. 95840		CONSULTANT:		REVISION		NO.	
DATE 8-8-94		DATE 8-8-94		DATE 8-8-94		DATE 8-8-94		DATE 8-8-94		DATE 8-8-94	
SCALE 1/8"=1'-0"		SCALE 1/8"=1'-0"		SCALE 1/8"=1'-0"		SCALE 1/8"=1'-0"		SCALE 1/8"=1'-0"		SCALE 1/8"=1'-0"	
DESIGNED A.P.		DESIGNED A.P.		DESIGNED A.P.		DESIGNED A.P.		DESIGNED A.P.		DESIGNED A.P.	
JUN 94-05		JUN 94-05		JUN 94-05		JUN 94-05		JUN 94-05		JUN 94-05	
SHEET		SHEET		SHEET		SHEET		SHEET		SHEET	
A-3		A-3		A-3		A-3		A-3		A-3	
OF SHEETS		OF SHEETS		OF SHEETS		OF SHEETS		OF SHEETS		OF SHEETS	



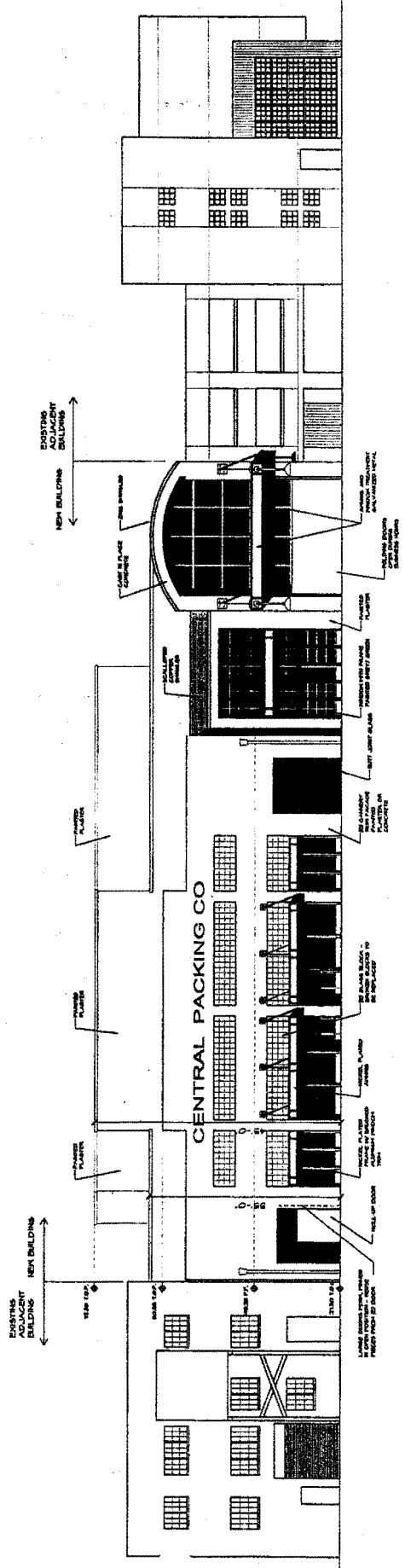
BUILDING FOOTPRINT : 29,544 S.F.  
 AREA BETWEEN 35' AND 45' HIGH: 11,430 S.F.  
 PERCENTAGE OF BUILDING ABOVE 35' HIGH: 34%



ROOF PLAN

**EXHIBIT 2**  
**3-99-076**

## CANNERY ROW ELEVATION



EXISTING CANNERY ROW ELEVATION

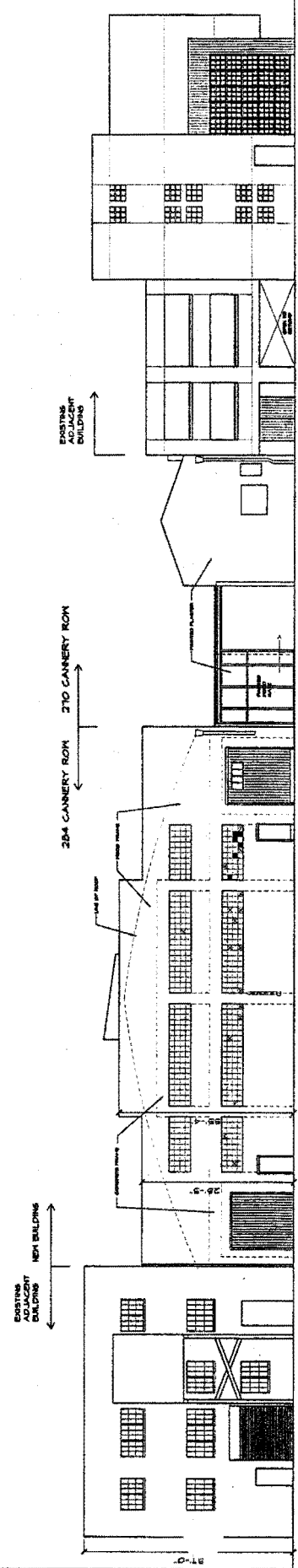


EXHIBIT 2  
3-99-076



3-99-076

EXHIBIT 2

EXISTING  
ADJACENT  
BUILDING  
NEW BUILDING

21' 0"

42' 0"

42' 0"

42' 0"

42' 0"

42' 0"

42' 0"

42' 0"

42' 0"

42' 0"

MONTEREY BAY ELEVATION

A-5

SHEET TITLE:  
ELEVATION

ARCHITECT

ERIC MILLER, ARCHITECT

157 GRAND Suite 108 PACIFIC GROVE, CA 93950  
(831) 372-0410 FAX (831) 372-7840

JOB NAME:

LARGE FORMAT THEATER

CONSULTANT:

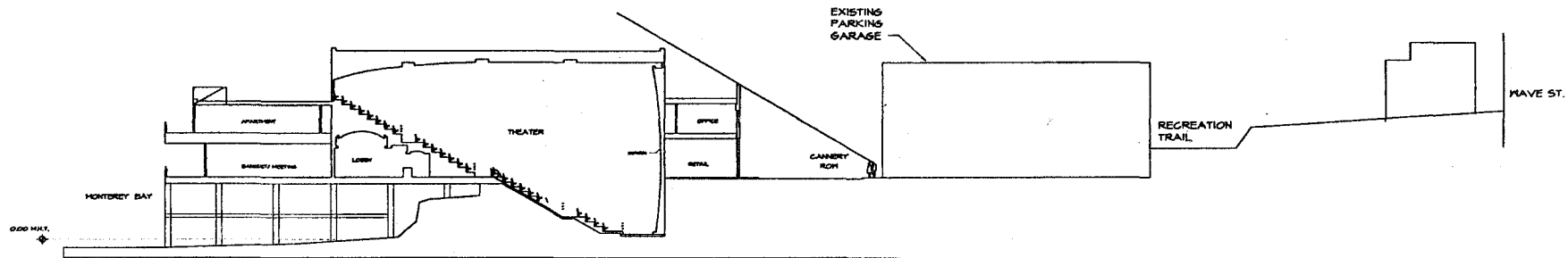
279284 CANNERY ROW,  
MONTEREY, CA 93940

REVISION

DATE

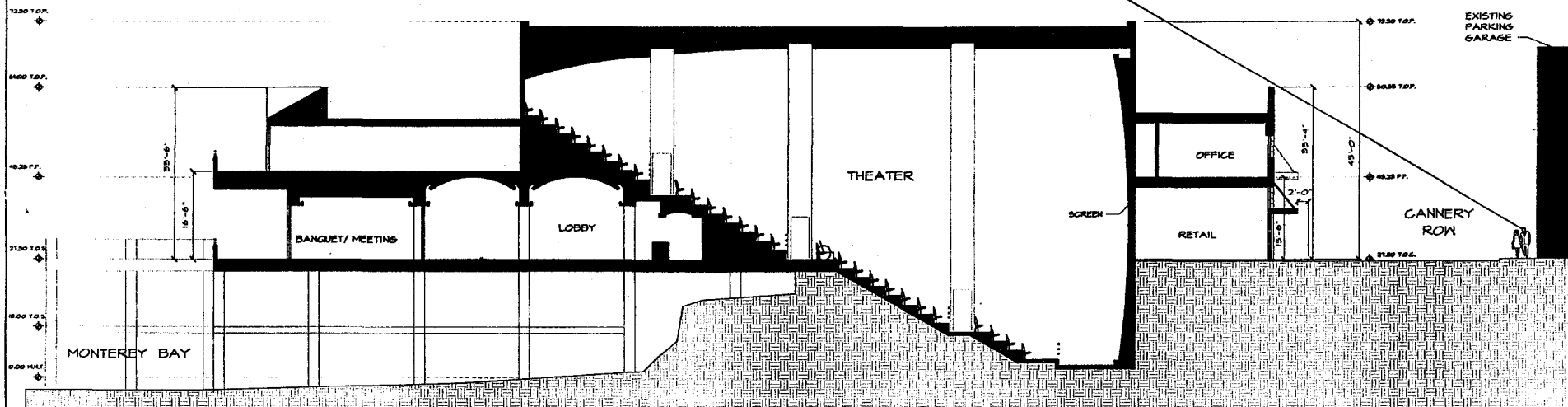
BY

NO.



SECTION

1/8" = 1'-0"



SECTION

HEIGHT LIMIT = 35'  
45' @ UP TO 40% OF PLAN  
40% OF 34,544 = 11,821 S.F.  
THEATER AREA = 100'x114' = 11,430 S.F.

3-99-075  
EXHIBIT 2

REVISION		NO.	
			▲
			▲
CONSULTANT:			
JOB NAME:		LARGE FORMAT THEATER	
		27028 CANNERY ROW, MONTEREY, CA 93940	
ARCHITECT		ERIC MILLER, ARCHITECT	
157 GRAND		157 GRAND	
(831) 372-0410		(831) 372-0410	
SUITE 106		SUITE 106	
PACIFIC GROVE, CA 93950		PACIFIC GROVE, CA 93950	
		FAX (831) 372-7840	
DATE 6-11-98		DATE 6-11-98	
SCALE 1/8"=1'-0"		SCALE 1/8"=1'-0"	
DRAWN A.P.		DRAWN A.P.	
JOB 98-03		JOB 98-03	
SHEET		SHEET	
A-6		A-6	

HISTORICAL AND PRESENT DAY PHOTOS OF 270/284 CANNERY ROW

CAJON 185-4  
PROPERTY OF THE PAUL MANNING COLLECTION



CAJON 185-4  
PROPERTY OF THE PAUL MANNING COLLECTION



PRESENT DAY  
PROPERTY OF ERIC MILLER, AIA ARCHITECT



PRESENT DAY  
PROPERTY OF ERIC MILLER, AIA ARCHITECT



EXHIBIT 2 12  
3-99-076

ARCHITECT  
**ERIC MILLER, ARCHITECT**  
SUITE 106 PACIFIC GROVE, CA 93950  
FAX (831) 372-7840

JOB NAME:  
**LARGE FORMAT THEATER**  
270/284 CANNERY ROW,  
MONTEREY, CA 93940

CONSULTANT:

REVISION

SHEET TITLE:  
PHOTOS OF SITE,  
PAST AND PRESENT

DATE: 5-20-99

SCALE: 1/8" = 1'-0"

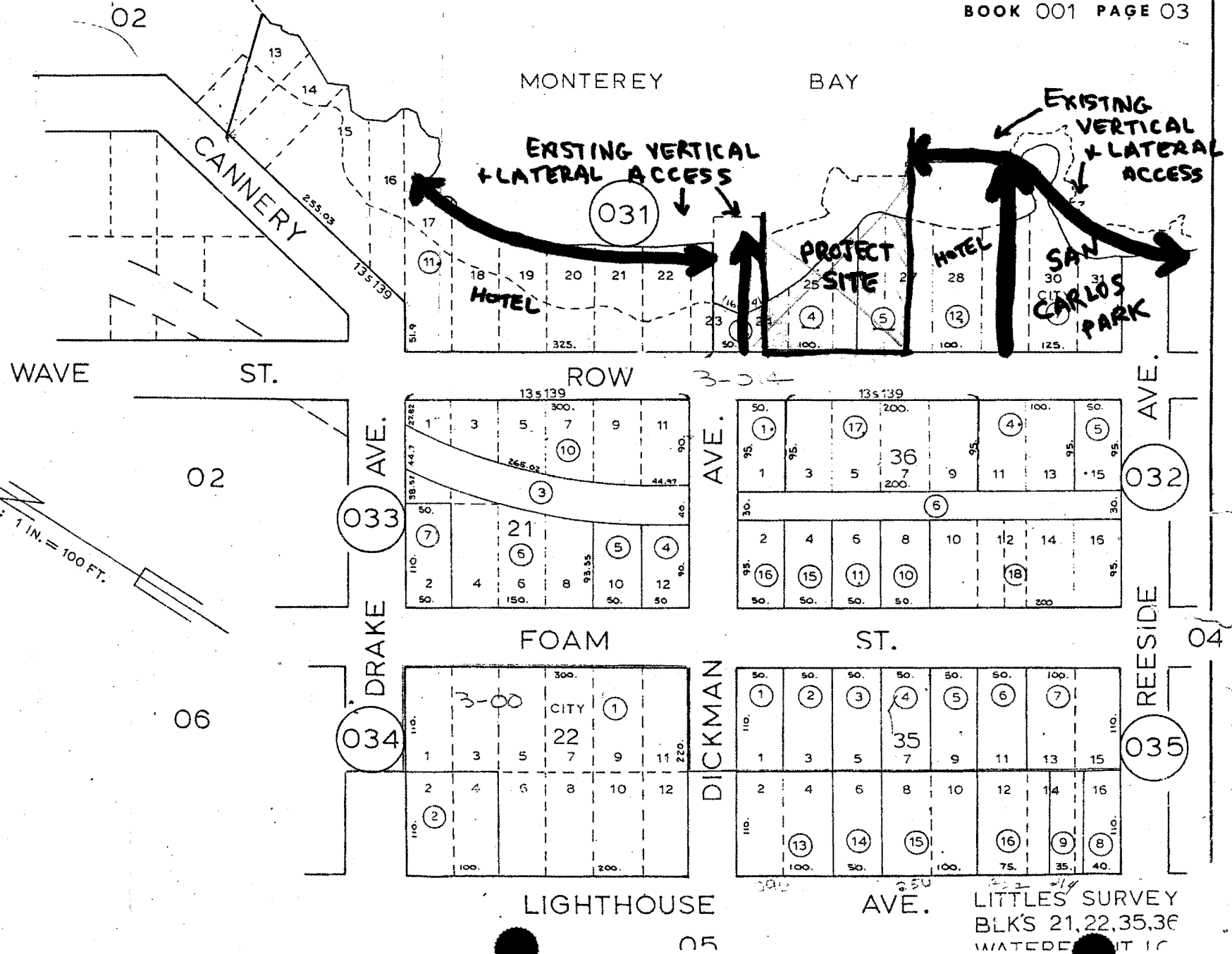
OWNER: PMB

DATE: 4-1-99

BY: H-1

TAX RATE AREA

COUNTY OF MONTEREY  
ASSESSOR'S MAP  
BOOK 001 PAGE 03



**EXISTING PUBLIC LATERAL COASTAL ACCESS**

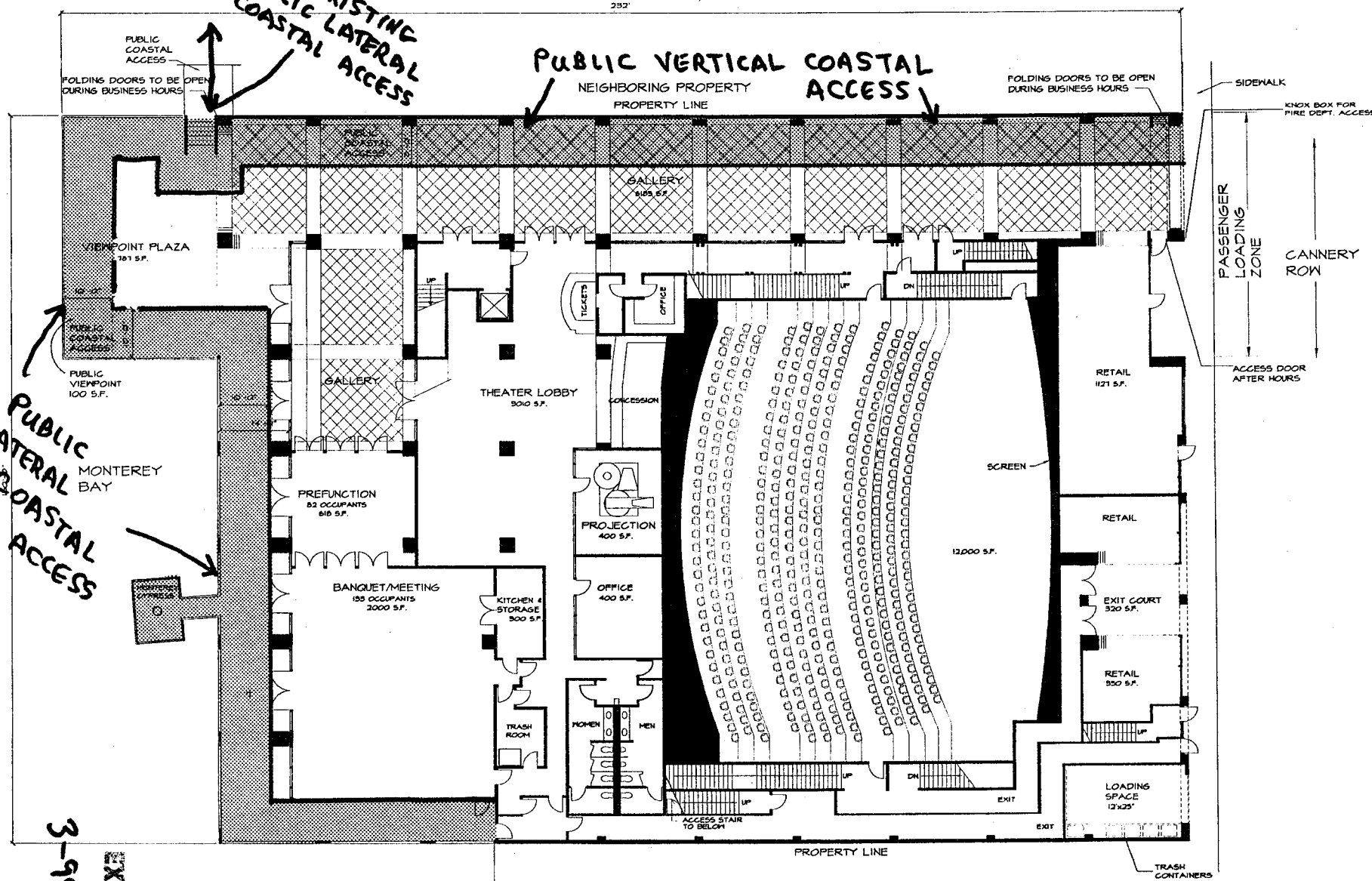
**PUBLIC VERTICAL COASTAL ACCESS**

**PUBLIC LATERAL COASTAL ACCESS**

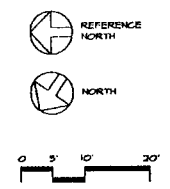
**MONTEREY BAY**

**3-99-076**

**EXHIBIT 4**



MAIN FLOOR PLAN

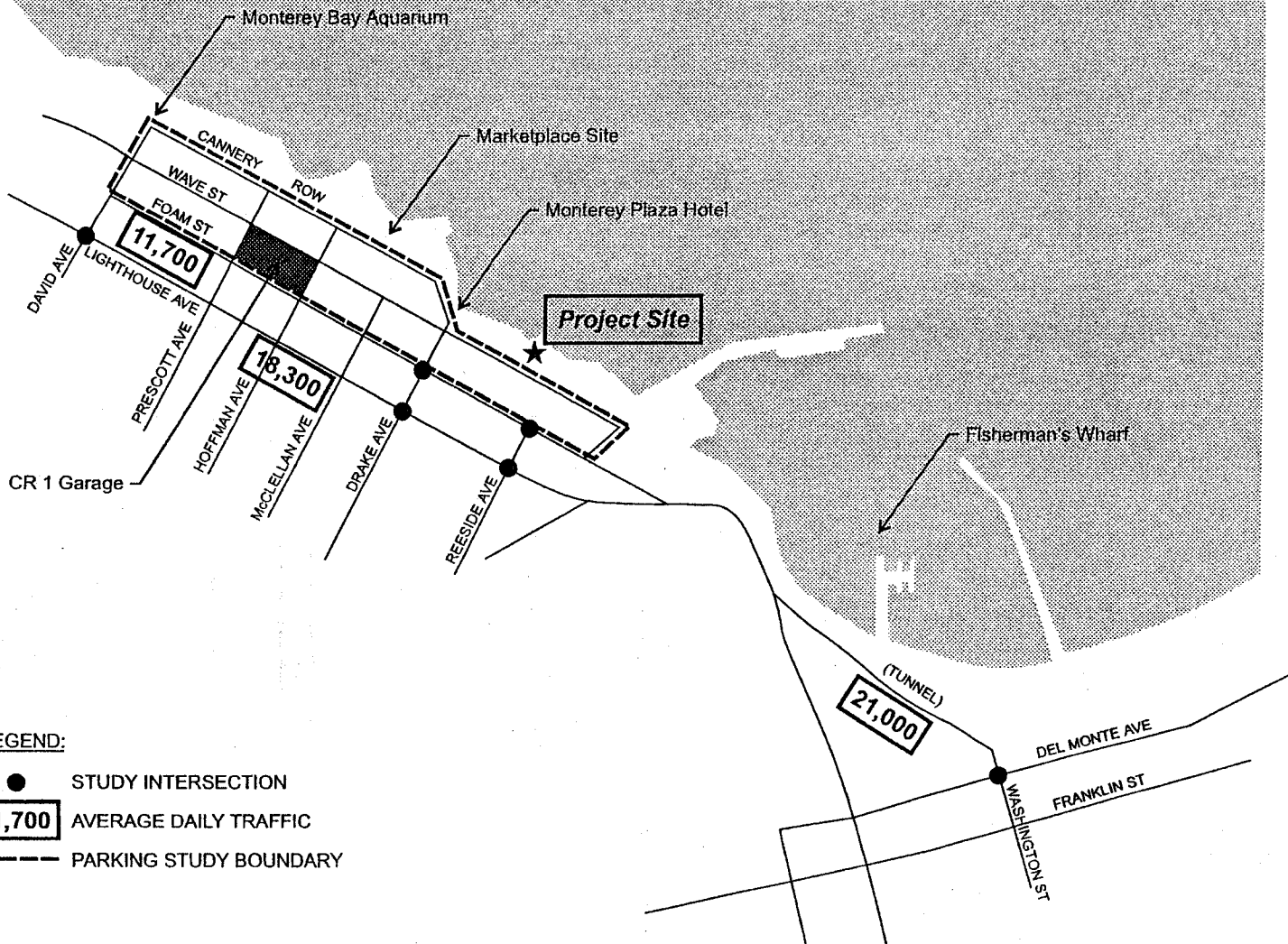


REVISION		NO.	
			Δ
			Δ

3-99-076  
EXHIBIT 5

LEGEND:

- STUDY INTERSECTION
- 11,700 AVERAGE DAILY TRAFFIC
- PARKING STUDY BOUNDARY



*Meyer, Mohaddes Associates, Inc.*

*An Odetics ITS Company*

**CANNERY ROW LARGE SCREEN  
THEATER TRAFFIC AND PARKING STUDY**

**FIGURE 1  
Study Area**



Mr. James McGillen  
Mr. William K. Hooper  
July 19, 1999  
Page 16

now and will continue to be available in the garage.

**Table 11**  
**ESTIMATED PEAK PROJECT PARKING DEMAND (NET NEW PARKING SPACES)**

USE	FRIDAY PEAK PERIOD			SATURDAY PEAK PERIOD		
	Total	Employee	Visitor	Total	Employee	Visitor
Theater	12	2	10	16	2	14
Retail	6	2	4	6	2	4
Office	0	0	0	0	0	0
Banquet/Meeting Room						
Social Event	34	4	30	34	4	30
Conference Event	0	0	0	0	0	0
<b>TOTAL</b>						
Social Event	52	8	44	56	8	48
Conference Event	18	4	14	22	5	17

It is recognized that parking demand associated with the theater will not likely use the Monterey Plaza Hotel garage given that 90% of theater patrons will be drawn from the Cannery Row visitor/tourist population. Similarly, some of the retail patrons will be walk-ins already parked in Cannery Row. On the other hand, Project employees and guests destined for social events will generally park in the Hotel garage. While this will technically reduce the peak Project parking demand actually experienced in the Hotel garage, the provision of sufficient spaces to meet the full demand will be necessary to accommodate upward fluctuations in Project demand during the few exceptionally high activity weekend days in the summer.

As presented above, the maximum parking occupancy recorded in 1996 in the Hotel garage was 326 spaces (on Saturday, June 8, 1996 at NOON), representing 67% of the total garage supply of 488 spaces. Average room occupancy during this period was 84%, which is above the typical occupancy level. (As reported by Hotel management, year-end (total for year) room occupancy ranged was approximately 78% in 1995, 1996, and 1997, 77% in 1998, and is projected to be approximately 78% in 1999.)

**EXHIBIT 6**

3-99-076

Table S.I.1

**ESTIMATED PROJECT LEVELS OF SERVICE**  
**SOCIAL EVENT**

INTERSECTION	WEEKDAY P.M. PEAK HOUR						SATURDAY P.M. PEAK HOUR					
	YEAR 2000 NO PROJECT		YEAR 2000 W / PROJECT		YEAR 2000 W / PROJECT MITIGATED		YEAR 2000 NO PROJECT		YEAR 2000 W / PROJECT		YEAR 2000 W / PROJECT MITIGATED	
	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)
Lighthouse/David	F	67.6	F	68.1	C	15.0	E	54.9	E	55.1	C	15.0
Lighthouse/Reeside	D	34.9	D	35.7	C	16.2	E	55.6	E	57.3	D	27.9

**ESTIMATED PROJECT LEVELS OF SERVICE**  
**CONFERENCE EVENT**

INTERSECTION	WEEKDAY P.M. PEAK HOUR						SATURDAY P.M. PEAK HOUR					
	YEAR 2000 NO PROJECT		YEAR 2000 W / PROJECT		YEAR 2000 W / PROJECT MITIGATED		YEAR 2000 NO PROJECT		YEAR 2000 W / PROJECT		YEAR 2000 W / PROJECT MITIGATED	
	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)	LOS	DELAY (Sec/Veh)
Lighthouse/David	F	67.6	F	68.1	C	15.0	E	54.9	E	54.9	B	14.9
Lighthouse/Reeside	D	34.9	D	35.5	C	16.1	E	55.6	E	56.9	D	27.7

Source: Meyer, Mohaddes Associates, 1999.

3-99-076  
EXHIBIT 7



## DEPARTMENT OF FISH AND GAME

MARINE REGION  
411 BURGESS DRIVE  
MONTEREY PARK, CA 94025  
(831) 688-6340



October 22, 1999

RECEIVED

Mr. Eric Miller  
157 Grand, Suite 106  
Pacific Grove, CA 93950

OCT 25 1999

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Mr. Miller:

The Department of Fish and Game (Department) has reviewed the California Coastal Commission's request (dated: 18 October 1999) for a "copy of approval from the Department of Fish and Game for work requiring Fish and Game approval." The proposed work consists of retrofitting an existing building (270 and 284 Cannery Row) for an IMAX theater which recently received approval from the Monterey City Council. As you indicated in a recent telephone conversation (21 October 1999), the existing structure extends out into the water and the main work would be the replacement of the slab on top of the existing piers. It is our understanding that the existing piers are structurally sound, although closer engineering review might necessitate repair of the concrete.

None of the proposed work appears to necessitate an authorization from the Department as the project does not "substantially change the bed, channel, or bank of any river, stream, or lake" as part of our Streambed Alteration Agreement (Fish and Game Code [FGC] Section 1603). Repair of the concrete pilings also does not require specific authorization from the Department; however, FGC Section 5650 states that "it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this State... any substance or material deleterious to fish, plant life, or bird life." Uncured concrete has been determined to be deleterious to the aforementioned aquatic life. Therefore, we recommend that all construction work requiring use of uncured concrete be conducted in such a manner as to prevent this material from entering the waters of Monterey Bay.

We appreciate the opportunity to provide comments and recommendations on this proposal. If you wish to discuss our comments or recommendations, or require additional information, please contact Deborah Johnston, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940, telephone (831) 649-7141.

Sincerely,

COPY ORIGINAL SIGNED BY  
ROBERT N. TASTO

Robert N. Tasto, Supervisor  
Project Review and Water Quality Program  
Marine Region

EXHIBIT 8

3-99-076

cc: Mr. Steven Guiney  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

Ms. Deborah Johnston  
Department of Fish and Game  
Monterey, California

EXHIBIT 8 2

3-99-076

# **NEW MONTEREY Neighborhood** | **ASSOCIATION**

## **RECEIVED**

NOV 04 1999

Steve Guiney  
California Coastal Commission  
725 Front Street  
Santa Cruz, CA 95060

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Opposition to the IMAX Theatre approved by the Monterey City Council

The Board of the New Monterey Neighborhood Association, at the meeting of September 12, reviewed the action of the City of Monterey Planning Commission approving the IMAX facility without an EIR. The board, by unanimous vote, sent a letter to the City Council stating IMAX is a commercial facility and as such should be held to city parking standards for a commercial facility. Parking is a major impact in New Monterey. It is unfair practice to require that other new commercial facilities provide parking in accordance with parking standards and not require the same for the IMAX facility.

The Board of the New Monterey Neighborhood Association, at its meeting of October 11, 1999 noted the Monterey City Council approved the facility. The use is being appealed to the California Coastal Commission for deficiency in meeting a requirement for an EIR especially as it pertains to traffic and parking. The construction of the IMAX facility would violate the New Monterey Neighborhood plan and have a significant impact on our neighborhood traffic and parking.

Please request the Coastal Commission take these comments into consideration when they hear the appeal of the City of Monterey City Council approval of the IMAX project with out an adequate environmental impact report.

Sincerely



Peter Williams  
President 1999

48 Lobos  
Monterey CA 93940

831-372-8962

EXHIBIT 8 3  
3-99-076

December 1, 1999

Mr. Steve Guiney,  
Coastal Program Analyst  
Central Coast Office  
California Coastal Commission  
725 Front Street, Suite #300  
Santa Cruz, CA 95060

Dear Mr. Guiney:

Our letter is in response to your letter dated November 15, 1999.

The California coast is a precious thing. It provides access to extraordinary stretches of the Pacific Ocean, something often taken for granted. Monterey Bay is one of the most outstanding of our state's coastal treasures. The Monterey Bay Aquarium has done much to educate about the Monterey Bay, its habitats and the dangers they face. The large format theatre (i.e. IMAX) will complement and further this coastal education on an on-going basis. Every school child who visits the Aquarium on a field trip will hopefully also see a large format film.

We have lived and worked on the Monterey Peninsula for more than twenty years. When we decided to bring a large format theater to the area, we knew it had to be on Cannery Row, as close to the Aquarium as possible, if it was to succeed. Large format theatres have traditionally been located in, or adjacent to, museums and aquariums. The films they show are entertaining, but truly educational, as well. The goal of the theater is to attract a sizeable percentage of the people attending the institution. These theatres are very different from traditional movie theatres whose films change every week or so. The large format theatre runs the same film for months, or even years, and a significant portion of each day's scheduled programming is a film complementary to the museum or aquarium. A large format theater could not exist in the Monterey Bay area without the benefit of a symbiotic relationship with an institution like the Aquarium. Such a theatre is very expensive to construct, equip, and operate. It must be built in the "footpath" of millions of people each year if it is to be commercially viable. We have spent the past three years researching every available piece of property in the Cannery Row area in our attempt to identify the best and most acceptable site for our theatre.

EXHIBIT 8 4

3-99-076

Some of the sites explored and subsequently rejected are:

1. Within the Aquarium:  
Although the Monterey Bay Aquarium fully appreciates the educational possibilities associated with the large format theater, they are unable to dedicate any of their remaining space to anything other than new exhibits.
2. Corner of Foam Street & Cannery Row:  
This site is owned by the Aquarium, and they must retain it for possible future exhibit construction.
3. Adjacent to site #2:  
There was insufficient space on this site to provide for the theatre building and queing without causing congestion and negative impact on the Rec Trail.
4. Carousel Building on Wave Str.:  
After meeting with several Monterey city representatives, Concerned citizens, and historians, we realized this building has far too much historical significance to be altered enough to house a large screen theatre.
5. Cannery Row between El Torito and the Spindrift Inn:  
Again, meetings with city officials and citizens made it apparent a large format theatre would be far too controversial on this site.

The 284/270 Cannery Row site is the best possible site for the following reasons:

1. The theatre will be within walking distance of the Aquarium and will be complementary to their mission.
2. The site is of sufficient size to accommodate a large format theatre.
3. The theatre will provide public access where there has previously been none.
4. The site has existing water and parking available.
5. The theatre will be constructed within the existing footprint.
6. Historic components of the site will be retained and enhanced by the theatre.

7. The theatre will be visitor serving and coastal related.
8. It will provide an excellent "anchor" for pedestrian visitors moving between downtown Monterey, Fisherman's Wharf and the Aquarium. Visitors will have one more thing to do before moving the car.
9. The theatre experience will be relevant and immediate. The viewer will see and "feel" things he might not ever otherwise experience, whether a flight above the California coast, a dive deep into Monterey Bay or a climb of Everest.

We have an extraordinary opportunity and responsibility to educate the public about our oceans... to make it understood the ocean is much, much more than just the beaches we enjoy with children and grandchildren. Oceans cover 71% of the earth at an average depth of 2½ miles. The large format theatre on Cannery Row will do much to further public education about our oceans. Just a few of the "water" movies that already exist in the large format are "Into the Deep", "The Living Sea", "Whales", "Sharks", and "Galapagos". Through use of the large screen, these films introduce the public to very extraordinary experiences. These relatively short, (usually 40 minutes or less), films have allowed us to travel in space, cruise Alaska, ride the rapids, explore Egypt, soar into the Grand Canyon, and dive deep into the ocean to experience, up close and personal, many wonders of the deep.

Specifically, the theater will be educational in the following ways:

1. Most films will be educational, and many will be water related.
2. We will have an on-going educational program in co-operation with the schools of Monterey, Santa Cruz and San Benito Counties. We will strive to have every student who visits the Monterey Bay Aquarium also visit our theatre. Student tickets will definitely be discounted, although the specific discount amount remains to be determined. We will be using a formula similar to that used by IMAX theatres. (A copy of an IMAX study guide is attached.)
3. Public access to the ocean will be provided where none has existed previously. More people, visitors and locals alike, will have the opportunity to "get close" to the water.
4. There will be a permanent display of the history of the site, probably along the public promenade. The display will be permanent, but the elements may change from time to time.

EXHIBIT 6

3-99-076

Mr. Steve Guiney  
December 1, 1999  
Page 4

5. National Marine Sanctuary brochures and information will be displayed and available in the lobby area.

In summary, the large format theatre on Cannery Row will do much to further public education. It is a unique project whose mission will be "to provide family entertainment that informs and educates." The ocean and the environment will be our focus. Our business plan calls for us to attract the Aquarium visitor during the day by providing complementary programming and to service the local community in evening and other off hours with a mix of entertaining and informative programming. The theatre will benefit the community, and it will enhance the visitor's experience. We have met with virtually every community group, shop owner and neighbor of our proposed project to get their input. Monterey is our home. We want our neighbors to be as proud of the theatre as we know we will be.

Sincerely,

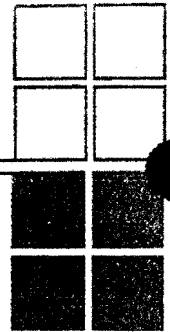
Jim and Cindy McGillen

EXHIBIT 8 7

3-99-076

# ERIC MILLER, AIA ARCHITECT

157 GRAND SUITE #106, PACIFIC GROVE, CA 93950 (831) 372-0410 FAX (831) 372-7840



December 1, 1999

Mr. Steve Guiney,  
Coastal Program Analyst  
Central Coast Office  
California Coastal Commission  
725 Front Street, Suite #300  
Santa Cruz, Ca 95060

Dear Mr. Guiney:

I am writing this letter in response to your letter of November 15, 1999.  
Below is a response to the items discussed in your letter.

1. The Parking Management Plan is attached. (Attachment #1)  
Please see the Parking Management Plan which was developed by Paul Krupka, Traffic Engineer with Meyer, Mohaddes Assoc., Inc. and reviewed by Rich Deal, Traffic Engineer with the City of Monterey.
2. Alternative Sites: Five alternative sites were considered.  
None was accepted as explained below.

- First, it is essential to note that the IMAX Theatre must be within walking distance to the Monterey Bay Aquarium in order to be commercial viable.

Within this Aquarium area, the first site considered was inside the Aquarium. After several meetings this site was rejected by the Aquarium because the Aquarium lacked sufficient space and the theatre would have eliminated a space for future new Aquarium exhibits.

**EXHIBIT 8** 8

**3-99-076**



- The second site considered was on the corner of Foam Street and Cannery Row. This site proved infeasible because the Aquarium needs this site for possible future exhibit space.
- The third site considered was adjacent to the second site described above. This site was too small and would have caused congestion and negative impacts on the Recreation Trail.
- The fourth site considered was the building on Wave Street which currently houses the carousel. The carousel building would have to be torn down to accommodate the theatre. The McGillen's met with a number of Monterey citizens and/or historical representatives and concluded that the removal of the Carousel building would not be acceptable.
- The fifth site considered was the site on Cannery Row between the El Torito Restaurant and the Spindrift Inn. This site is on the water, consists of open space and has no current buildings on it. The McGillen's met with several Monterey citizens groups and/or their representatives and concluded that a theatre on this site would be too controversial.
- The site at 284/270 Cannery Row is the best of the sites. It is within the walking area of the Aquarium. It would provide an excellent "anchor" location for pedestrian and other visitors moving between Fisherman's Wharf and the Aquarium. It consists of dense, existing building structures already constructed and blocking access to the water. It is a large enough site to accommodate the theatre and also accommodate new public access to the water where none currently exists. The site has parking and water available to it. Historic components of the site can be retained and, in fact, enhanced by the theatre.

EXHIBIT 8 9

3-99-076

3. Education Components: The theatre and buildings will have the following educational components.

- a. Films will be educational. For example films will consist of films such as Into The Deep, The Living Sea, Whales, Sharks and Galapagos Islands. These films by way of example are highly educational.
- b. There will be new public access (and therefore education) provided to the ocean where none currently exists.
- c. There will be exhibits of photos, or plaques of the history of the site and its relation to the Cannery Row era. These exhibits will be in the form of permanent or changing exhibits at the theatre entrance, Theatre lobby, public promenade or viewing plaza. There will be a permanent bronze relief or historical monument located at the promenade entrance, on the building, or at the public viewing plaza area. The sponsors of the project embrace the local history and educational components of the site and region and wish to incorporate such components where feasible.
- d. Brochures and information about the National Marine Sanctuary will be provided in the Theatre lobby for public use and information.
- e. There will be pamphlets and teachers guides distributed in the Theatre lobby in conjunction with each film. The pamphlets and guides are excellent resources and will provide additional educational information to supplement each film.
- f. The Theatre will conduct contests and/or programs with schools and classes.

EXHIBIT 8

10

3-99-076

4. Theatre Programming, Movies Shown, Schedule:

Theatre programming will be geared to the same audience as the Monterey Bay Aquarium. There will be at least two movies shown. The "A" movie will be shown during approximately 70% of the hours of theatre operation and will consist of an ocean related movie such as The Living Sea, Into the Deep, Whales, Sharks and Galapagos Islands. Every ocean related movie produced by IMAX will be shown in the "A" category. A second movie shall be shown during approximately 30% of the hours of theatre operation and will consist of whatever is the latest current IMAX release such as the film - Everest. Please note, virtually all the IMAX films are highly educational. These films of exceptionally specialty superior quality, superior imaging and sound quality, that are produced on 15/70 perforated film and designed to be shown in a theatre for 6 months or more at a time. These films are not the latest Hollywood releases shown for a week in your local theatre.

5. School Discounts:

School groups will be offered discounts. Although not fixed at this time, based on other IMAX pricing around the U.S., the discounts for school groups would be 30-40% below retail ticket prices. In addition, because the ownership and management of the Theatre would be controlled by a local "good citizen" owner it is expected that other special community relations programming and events would be scheduled.

6. Public View:

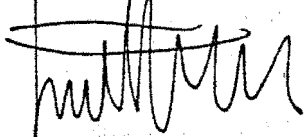
Currently, the site has a wall on the bay side that is approximately the same height and massing as our proposed building. The views from Monterey will be virtually the same,- please see our bay side elevation or Sheet A-5. (Previously submitted to your office) The site cannot be seen from the shoreline, northeast of the site, e.g. in the vicinity of the park at Del Monte Beach.

EXHIBIT 8 N  
3-99-076

Mr. Steve Guiney  
December 1, 1999  
Page 5

Please note the owner's of the theatre and the sponsor's of this project  
consider the California coast to be precious. (Please see Attachment #2)

Sincerely,



Eric Miller  
Eric Miller, Architect AIA

attach.

C: Mr. William Hooper  
Mr. & Mrs. Jim McGillin

EXHIBIT 8

12

3-99-076