

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-00-127

Applicant: Edward G. Lord, c/o
Invest West, Financial Corp.

Agent: Jeff Field, SGPA/Architecture
& Planning

Description: Construction of two new three-story, 30-ft. high buildings totaling 14,933 sq.ft. as additions to the existing 100-room Blue Sea Lodge hotel facility resulting in an increase of 29 new guest units, and new retail space cubicles at ground elevation. Also proposed is the demolition of four existing structures and reconstruction of an existing parking lot to provide 29 new parking spaces, removal of landscaping and retaining wall adjacent to boardwalk and reconstruction of same further inland and installation of new landscaping and fencing.

Lot Area	56,040 sq. ft.
Building Coverage	20,127 sq. ft. (37%)
Pavement Coverage	20,250 sq. ft. (35%)
Landscape Coverage	15,663 sq. ft. (28%)
Parking Spaces	157
Zoning	VCN
Plan Designation	Visitor Commercial North
Ht abv fin grade	30 feet

Site: 707 Pacific Beach Drive, Pacific Beach, San Diego, San Diego County. APNs 423-330-25 through -30, -34, and -59 through -61.

Summary of Staff's Preliminary Recommendation:

Staff recommends that the Commission approve the proposed project subject to special conditions. The proposal involves an expansion in the number of guest units provided in an existing hotel facility. Because the development involves the construction of new impervious

surfaces, including parking areas and driveways, impacts to water quality from runoff from this site is a concern. In addition, the provision of adequate landscaping is important to retain the visual quality of the area. However, as conditioned, the applicant is required to implement Best Management Practices (BMP's) to assure runoff from the proposed development is appropriately discharged and to submit a detailed landscape plan that includes substantial tree elements. In addition, the proposed project will also include removal of private encroachments from the public right-of-way which will allow for a future expansion of the existing public boardwalk. With the attached special conditions, the impacts of the proposed development will be minimized or mitigated, consistent with Chapter 3 policies of the Coastal Act.

Substantive File Documents: Certified Mission Beach LUP and Planned District Ordinance;
City of San Diego PCD Permit #99-1300; Mitigated Negative Declaration No.
99-1300; CDP #s 6-92-76 and 6-92-76 E1-E4

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-00-127 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final landscape plan. Said plans shall be in substantial conformance with the plans submitted with this application by SGPA Architecture and Planning dated 8/1/00, shall be subject to the review and written approval of the Executive Director and shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or non-invasive plant materials shall be utilized to the maximum extent feasible. Special emphasis shall be placed on the treatment of landscape tree elements along the Pacific Beach Drive frontage of the site to help visually buffer the proposed development. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without an approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Runoff Control/BMPs. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a drainage and runoff control plan prepared by a licensed engineer. The plan shall include the following requirements:

- a) Drainage from all parking lot areas susceptible to runoff, used for motor vehicle parking, shall be directed through structural BMPs (such as vegetative or other media filter devices) effective at removing and/or mitigating pollutants of concern including petroleum hydrocarbons, heavy metals, and particulates. Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the stormwater runoff from each runoff event up to and including the 85th percentile, 24-hour runoff event for volume based BMPs and/or the 85th percentile, 1 hour event, with an appropriate safety factor, for flow-based BMPs.
- b) Parking lots susceptible to stormwater should be swept with a vacuum regenerative sweeper on a regular basis
- c) The plan shall include provisions for maintaining the drainage and filtration systems, including BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) the

drainage and filtration system shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration or BMP structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

The water quality/BMP program shall be implemented in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No change in the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

II. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. Proposed is the expansion of an existing oceanfront hotel from 100 rooms to 129 rooms. The site is bounded by Oceanfront Walk to the west, Pacific Beach Drive to the north, and Strandway to the east in the community of Mission Beach in the City of San Diego. The proposed hotel expansion involves the demolition of an existing two-story structure used for hotel services (i.e; laundry, etc.), a one-story residence with detached garage and a one-story business and construction of two additional wings to the hotel in the area of the demolished structures. As part of the new development, the existing hotel lobby that is presently situated in the existing hotel facility will be converted to add three new guest units. A new hotel lobby will then be located in the new building located at the southeast corner of Pacific Beach Drive and Strandway.

The proposed new development will occur on two separate legal parcels. One parcel is bounded by Pacific Beach Drive to the north and Strandway to the west and the other is a pan-handle shaped lot which gains access off of Santa Rita Place and is bounded by Strandway to the east. The new three-story, 30-ft. high building (Building #1) proposed at the southeast corner of Pacific Beach Drive and Strandway will house 24 new guest units on the second and third levels over a ground-level area containing a parking garage, hotel lobby, office, maintenance room, laundry room and retail shops. Also proposed is eight 4' X 11' (44 sq.ft. each) retail spaces with doors that open out toward the sidewalk (refer to Exhibit No. 3). The new three-story, 30-ft. high building (Building #2) proposed at the Santa Rita frontage, which is also bounded by Strandway to the west, will contain a total of two, two-bedroom guest units on the second and third levels above a ground level parking garage. Both Building Nos. 1 and 2 will total to 14,933 sq.ft.

Between the main hotel buildings and Building #2, the applicant proposes to reconstruct an existing ground-level surface parking lot that is separated by Wavecrest Court which is an

east/west alley which connects Strandway to Mission Boulevard, such that 29 new spaces will be added for a total of 36 parking spaces in this lot. This alley will provide access to all of the parking areas associated with the proposed hotel facility. The alley is a public right-of-way and the proposed development will not encroach into the alley or alter it.

In addition, the applicant also proposes to remove an existing retaining wall and existing landscaping that encroach into the public boardwalk right-of-way seaward of the subject site. A new retaining wall is proposed to be constructed further inland on the western property line and existing landscaping inland of the proposed wall will be retained.

There has been a past coastal development permit approved for the subject site. CDP #6-92-76 was approved on 5/12/92 for an expansion to the existing hotel facility. The proposed improvements involved the addition of 44 new guest units to the existing 98-room hotel facility including demolition of existing structures, construction of a parking structure, retail shops and a multi-use facility and laundry room. The permit was subsequently extended four times but the owner never commenced with the permitted improvements and the permit expired on 5/12/98. The property was then sold to a new owner who wanted to expand the hotel in a different manner and on a reduced scale as compared to what had previously been approved for the subject site. The former permit expired because the City could no longer extend the Planned Commercial Development Permit.

Upon review of the subject permit application, it became apparent that the current proposal describes the existing hotel as containing 100 rooms. However, the previous coastal development permit referenced above, described the hotel as containing 98 rooms. The project plans contained in CDP#6-92-76 do not clearly show the floor plans of the existing hotel units but merely the outline of the existing building. Furthermore, the plans do not list the number of existing hotel units on the plans. However, the coastal development permit application and other correspondence contained in the file indicate that the existing hotel at that time contained 98 units. As noted above, the current owner purchased the hotel facility two years ago and at that time it contained 100 units. Therefore, it can be assumed that sometime over the course of the past eight years, existing space within the hotel facility was converted to two additional guest suites. As such, the project description has been revised to include the approval of these two additional units as after-the-fact approval.

The subject site is located within the community of Mission Beach in the City of San Diego. The entire subject site is located in an area of the Commission's original jurisdiction, therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Parking/Public Access. The California Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide low cost recreational facilities, particularly in new development projects. Applicable Coastal Act policies include, the following:

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

Section 30213

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

Neither the commission nor any regional commission shall either: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate-income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

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.

With respect to Section 30213, the Coastal Act requires the provision of lower cost visitor and recreational facilities in order to ensure a balanced mix of visitor and recreational facilities within the coastal zone, so as to provide recreational opportunities to all economic sectors of the public. In the subject case, the project proposal will result in a 25% increase in the number of overall units to the existing hotel. Presently there are 100 rooms and the subject permit application will result in the increase of 29 rooms. Also, the area of the proposed addition is small in size compared to the existing hotel facility. The existing hotel facility contains 50,429 sq.ft. and the proposed additions total to 14,933 sq.ft. In addition, the room rates are considered in this case to be moderate and competitive and do not serve to exclude a large segment of the population due to non-affordability. Furthermore, the proposed project will not result in the removal of an area that would otherwise be available for public access. The existing visitor-serving hotel facility is already providing public access and recreational opportunities to the general public; the project proposal will merely result in an expansion of the number of guest units provided.

The proposed addition to an existing beachfront hotel intends to welcome general public use, and by the provision of ocean-oriented overnight accommodations, will increase the number of such

units available on this part of the coast. In addition, by providing 29 additional guest units in the existing hotel facility, there will be an increase in visitor-serving commercial uses available for the general public. As a visitor-serving commercial recreational facility, it clearly qualifies as a priority use under Coastal Act Section 30222.

With respect to the provision of parking in relationship to public access, Section 30252 of the Act provides:

The location and amount of new development should maintain and enhance public access to the coast by...(3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

Presently there are a total of 128 parking spaces for the existing hotel facility. The applicant proposes the addition of 29 parking spaces for a total of 157 on-site parking spaces to serve the existing and proposed facilities. Although the proposed development is subject to the Commission's original jurisdiction and is therefore governed by Chapter 3, the Commission may look to the certified Mission Beach Planned District Ordinance for guidance regarding parking requirements for the project. The requirements of the Mission Beach Planned District Ordinance (PDO) specify that 1.2 spaces shall be provided for each guest room or suite. For units with kitchenettes, the PDO states 1.5 spaces shall be provided for each unit containing one bedroom or less and 2 spaces for each unit containing two or more bedrooms.

Altogether, the proposal will result in a total of:

127 guestrooms/suites @ 1.2 spaces = 152 spaces
2 two-bedroom guestrooms @ 2.0 spaces = 4 spaces

TOTAL = 156 spaces

The applicant is providing a total of 157 parking spaces, which will result in one more parking space than would be required under the Mission Beach PDO. In addition, as noted previously, the applicant proposes to include retail shops on the ground level of the hotel facility at its Pacific Beach Drive frontage. The retail spaces will consist of eight 4'X 11" (44 sq.ft. each) spaces with doors that open out toward the sidewalk. However, parking for such pedestrian-oriented retail uses is not required under the Mission Beach PDO. Looking to the PDO for guidance, the Commission finds that no additional parking for the retail use associated with this hotel facility is necessary in order to maintain public access to the coast.

Also proposed is a new approximately 17'8" curb cut along the Santa Rita Place frontage to provide an access driveway to the parcel that will contain two, two-bedroom guest units. An existing 20-foot wide curb cut on Pacific Beach Drive will be closed where Building #1 will be located. As such, there will be no net loss of on-street parking for beach visitors. In addition, retention of on-street parking at the Pacific Beach frontage of the site is preferable as this area presently contains a parking reservoir along the "median" area of the street between Mission

Boulevard and the Ocean Front Walk along with public restrooms, etc. Thus, the project design to close the curb cut on Pacific Beach Drive and open another one on Santa Rita Place will result in better traffic circulation and concentration of public street parking for beach visitors at this nearshore visitor recreation area.

The applicant is proposing to remove an existing retaining wall and landscaping presently situated landward of the western property line that presently encroaches onto the public right-of-way of the Ocean Front Walk boardwalk and to relocate it further inland on the western property line. The existing retaining wall currently encroaches beyond the western property line approximately 8 feet at its southern end to approximately 15 feet at its northern end. As such, this area will be returned to the public for use as part of the boardwalk. In other recent permits approved by the Commission, the City has long-term plans for the eventual expansion of the entire boardwalk that runs from its southern boundary at Asbury Court in Mission Beach all the way north to Thomas Avenue (three blocks north of the subject site) in Pacific Beach. The City has already begun expansion of the boardwalk for that area between Ventura Place and Santa Barbara Place in Mission Beach, several blocks south of the subject site. Therefore, by removing the encroachments associated with the existing hotel facility, this area will be available for the eventual expansion of the boardwalk seaward of the subject site.

In summary, the proposed hotel expansion will result in an increase in the number of guest units to the visiting public. In addition, the applicant is proposing to provide a total of 157 spaces to serve all proposed uses on site which is adequate to serve the proposed development. In addition, the applicant's proposal to remove the private accessory improvements (i.e., retaining wall and landscaping) that currently encroach into the public right-of-way of Ocean Front Walk is consistent with the public access and recreation policies of the Coastal Act. As such, no adverse impacts on coastal access should occur from project approval. As conditioned, the project can be found consistent with Sections 30210, 30213, 30222 and 30254 of the Act.

3. Community Character/Visual Impacts. Section 30251 of the Act provides:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

The proposed improvements will be visually compatible with the character of the surrounding area which includes a mix of hotel and retail establishments such as the Promenade, a commercial development to the north and the Catamaran Hotel to the east, as well as residential uses of varying scales and character. Due to the location of the existing hotel, no public view blockage should occur as a result of the new improvements which will be sited to the east of the existing hotel. Any public views which currently exist on the east/west access corridors will be preserved along Pacific Beach Drive to the north and Santa Rita Place to the south of the site. In addition, the proposed improvements will not result in any additional encroachment into the public right-of-way along Pacific Beach Drive or the Boardwalk.

In addition, the applicant proposes to plant several trees along the Pacific Beach Drive frontage north of the subject site both in front of the existing hotel as well as in surface parking lots to the south of the proposed structure on Pacific Beach Drive. Groundcover is also proposed throughout the area of the proposed hotel expansion. As noted earlier, several trees and other landscaping will be removed west of the existing hotel as these plant elements currently encroach onto the public right-of-way of the public boardwalk. Other existing landscaping through the existing hotel facility associated with the existing hotel will remain. Since the landscape plan submitted is conceptual only, Special Condition #1 has been attached requiring submittal of final landscape plans which utilize native species to the maximum extent possible and to help visually screen the proposed development.

With respect to signage, the applicant intends to install a series of wall signs that will be located on the various buildings and driveway entrances to the hotel facility. No tall or freestanding signs are proposed. Therefore, the Commission finds that the proposed improvements can be found consistent with Section 30251 of the Act.

4. Water Quality. Sections 30230 and 30231 of the Coastal Act state the following:

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.

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.

The proposed project involves improvements on a site that is located a half block from the ocean and includes the provision of ground level and surface parking areas and could result in adverse water quality impacts to the ocean. Stormwater is conveyed through the storm drain system and will be discharged to ocean waters. Polluted runoff entering the storm drain system can have harmful effects on marine life, and may pose a risk to human health which can result in beach closures, limiting public access and recreational opportunities if not controlled or managed properly. Therefore, in order to find the proposed development consistent with the water and

marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in Special Condition No. 2, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Special Condition No. 2 specifically requires the applicant to implement a drainage and runoff control plan which includes BMPs designed to treat, infiltrate, or filter stormwater runoff from each runoff event up to and including the 85th percentile, 24-hour runoff event and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs. At a minimum, these BMPs include directing drainage from all parking lot areas susceptible to runoff, used for motor vehicle parking, through structural BMPs such as vegetative or other media filter devices effective at removing and/or mitigating pollutants, sweeping the parking lots susceptible to stormwater with a vacuum regenerative sweeper on a regular basis, on-going maintenance of the drainage and filtration system and replacement and repair of such structures in event of failure.

Directing runoff through landscaping for filtration of on-site runoff in this fashion is a well established BMP for treating runoff from development such as the subject proposal. In these ways, potential problems are treated at the source such that most pollutants never enter the storm water system. The water quality/BMP program will be reviewed in consultation with the Regional Water Resources Control Board to assure that all requirements of both agencies are met in the program. With implementation of BMPs, the potential water quality impacts resulting from the proposed development will be reduced to the maximum extent feasible. Therefore, as conditioned, the Commission finds the proposed development consistent with the cited policies of the Coastal Act.

5. No Waiver of Violation. As part of the subject proposal, the applicant is proposing after-the-fact approval of two guest units within the hotel facility. It appears that two additional guest units were created within the hotel facility within the last eight

years without a permit.. The Commission notes that although development has taken place prior to submission this permit request, consideration of the request by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Commission action upon the permit does not constitute a waiver of any legal action with regard to the alleged violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The project site is zoned for Visitor-Commercial use in the certified Mission Beach Community Plan and the proposed expansion to an existing visitor-serving hotel facility is consistent with that zone designation. In addition, the proposed project is within the Commission's area of original jurisdiction and as conditioned, is consistent with the applicable Chapter 3 policies of the Act and the Commission certified Mission Beach LUP and Planned District Ordinance. Therefore, the Commission finds project approval will not prejudice the ability of the City of San Diego to continue to implement its certified Local Coastal Program.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access and water quality policies of the Coastal Act. Mitigation measures, including conditions addressing landscaping and water quality, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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.

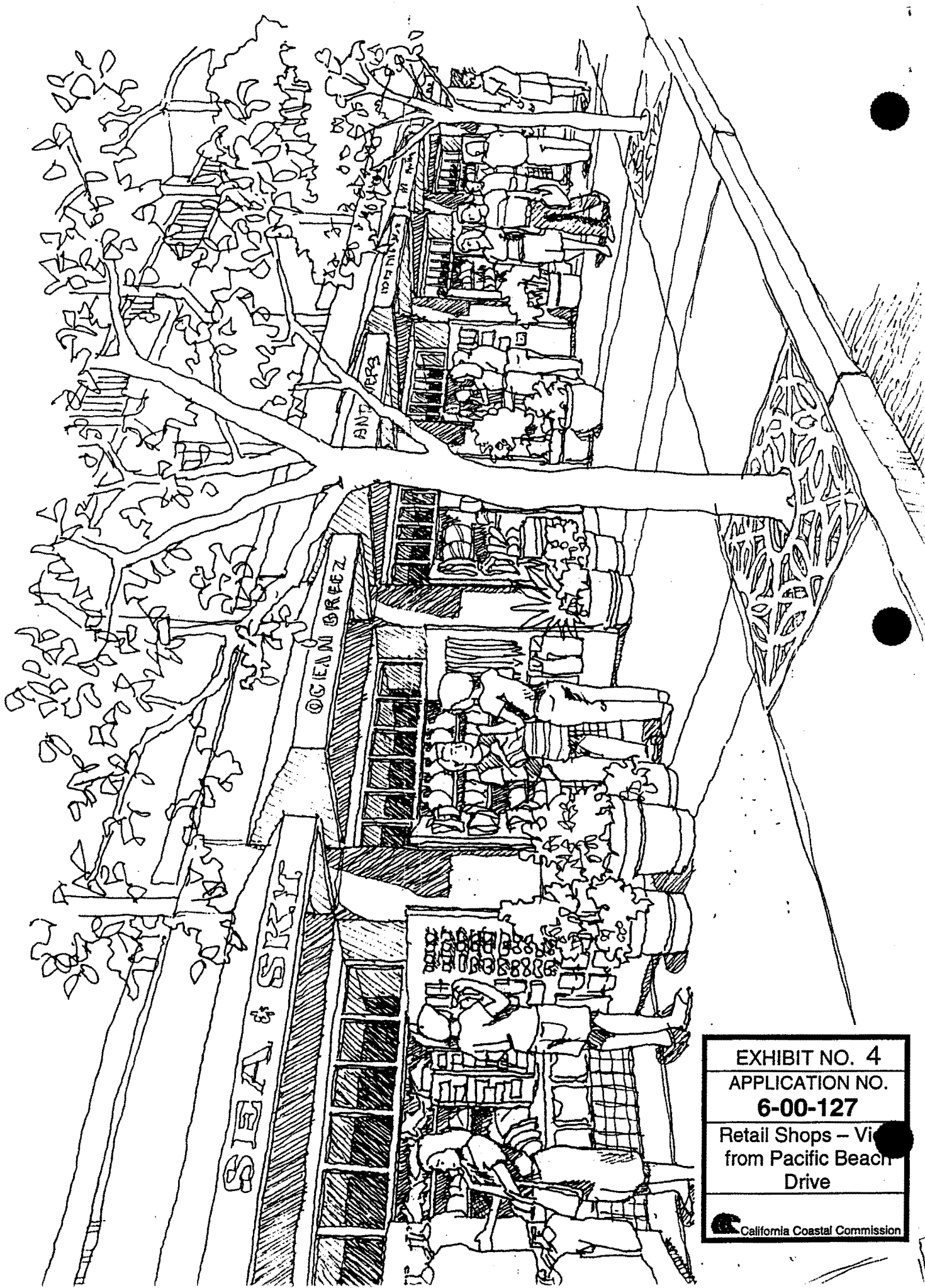


EXHIBIT NO. 4
APPLICATION NO.
6-00-127

Retail Shops - View
from Pacific Beach
Drive