ALIFORNIA COASTAL COMMISSION

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Staff:

S. Tilles C4 4/20/00

Staff Report: Hearing Date:

5/09/00

Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-87-132-A4

APPLICANT: 22601 Pacific Coast Highway Associates

AGENT: J. M. Nolan Architects, Inc.

PROJECT LOCATION: 22601 Pacific Coast Highway, Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a two story, 35,374 square foot (21,406 square feet excluding parking) retail shopping center with restaurant, septic system, 126 parking spaces, 16,612 cubic yards of grading, and provision of public beach parking on site pursuant to a parking management program.

DESCRIPTION OF AMENDMENT: Conversion of approximately 2,490 square feet of the existing covered parking garage, which serves the existing shopping center, into storage units. The conversion will result in the loss of 12 parking stalls, reducing the total number of spaces provided from 126 to 114. Tenants of the shopping center will have a priority use of the storage units, with unused units available for public storage. No grading is proposed.

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval In Concept, November 30, 1999.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 5-87-132 (Chimera Associates); Coastal Development Permit Amendment No. 5-87-132-A1 (Chimera Associates); Coastal Development Permit Amendment No. 5-87-132-A2 (Chimera Associates); and Coastal Development Permit Amendment No. 5-87-132-A3 (Chimera Associates) and the certified Malibu Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends that the Commission determine that the proposed amendment, subject to one revised and two new special conditions regarding a revised parking management program, revised project plans, and condition compliance, **is consistent** with the requirements of the Coastal Act.

The applicant is proposing to convert approximately 2,490 square feet of the existing covered parking garage, which serves the existing shopping center, into storage units. The conversion will result in the loss of 12 parking stalls, reducing the total number of spaces provided from 126 to 114. Tenants of the shopping center will have a priority use of the storage units, with unused units available for public storage. No grading is proposed.

The project site is located on an 80,730 square foot lot on the inland side of the Pacific Coast Highway, east of the Civic Center, in the Carbon Beach area of the City of Malibu. In 1987, the Commission approved a two story, 33,852 square foot (19,884 square feet excluding parking) retail shopping center with restaurant, septic system, 123 parking spaces, and 16,612 cubic yards of grading. The permit was amended in 1987 to add 1,522 gross square feet to the shopping center, resulting in a shopping center of 21,406 square feet, excluding parking. In 1989, the permit was amended to allow for a change in the access road required by the California Department of Transportation for maintenance of a debris basin adjacent to the northeast property line, near the parking ramp. In 1990, the permit was further amended to allow for poured in place concrete construction rather than concrete block construction, open a portion of the front parapet to create a viewing deck, partially enclose the area near the elevator with walls 48 inches in height, relocate the proposed food service areas from the second floor to the first and second floors, and modify the shape of the roof canopy.

In addition, Special Condition Number One (1) of the original permit required a parking management program to be submitted prior to transmittal of the permit. The parking management program was required to allow for the maximum feasible public use of the parking lot for beach parking on weekends and holidays, at least between May 15 and September 15. This parking management program, required pursuant to Special Condition Number One (1), was submitted in 1987. The parking management program, which was submitted, reflects the individual retail commercial and restaurant customer seating parking standards from Table 2 of the certified Malibu Santa Monica Mountains Land Use Plan (LUP), which were also the standards used to establish the number of parking stalls required for the development under the original permit. In other words, the parking standards were based on the individual requirements for each separate use.

Because each suite within the shopping center is leased to individual tenants and the use of each suite may change depending on the current tenant, the Commission finds that it is more appropriate to use the shopping center parking standards provided under Table 2 of the certified LUP, as opposed to the standards for each individual use of each suite. As a result, **Special Condition Number One (1)** of Coastal Development Permit No. 5-87-132 (Chimera Associates) must be revised to provide for the submittal of a revised parking management program which utilizes the shopping center parking standards from Table 2 of the certified LUP (five parking spaces per 1,000 square feet of gross floor area).

Furthermore, the applicant is proposing to eliminate 12 parking stalls in order to create the new storage units. However, based on the shopping center parking requirements of Table 2 of the certified LUP, there will not be an adequate number of parking stalls remaining to serve the development, if 12 parking stalls are converted into storage units. As a result, new **Special Condition Number Six (6)** requires the applicant to submit revised project plans which show that the proposed development will provide an adequate number of parking stalls, as required by Table 2 of the certified LUP for shopping centers (five parking stalls per 1,000 square feet of gross floor area).

In addition, the applicant has already converted parking stalls into a storage area without the benefit of an amendment to the coastal development permit. When staff visited the site on March 31, 2000, a fence had been erected in order to block off parking to this area and it was being utilized for storage. The applicant has, however, included this development under the current permit amendment application. Approval of this coastal development permit amendment will result in an after the fact approval of the conversion of parking into storage units. In order to ensure that the violation portion of this development project is resolved in a timely manner, new **Special Condition Number Seven (7)** requires that the applicant satisfy all conditions of this permit amendment, which are prerequisites to the issuance of this permit amendment, within 120 days of Commission action.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change;
- 2) Objection is made to the Executive Director's determination of immateriality; or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the proposed amendment will affect a permit condition required for the purpose of public access. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. I4 Cal. Admin. Code 13166.

I. STAFF RECOMMENDATION:

MOTION:

I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-87-132 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendments 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development, as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

<u>NOTE</u>: All standard and special conditions attached to the previously approved permit remain in effect to the extent not otherwise modified herein.

II. Special Conditions

1. Parking Management Program (Revised)

Special Condition Number One (1) of Coastal Development Permit 5-87-132 (Chimera Associates) regarding the submittal of a parking management program is modified as follows:

PRIOR TO TRANSMITTAL ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, AS AMENDED, the applicant shall submit, for review and approval of the Executive Director, a revised parking management program designed to allow maximum feasible public use of the parking lot for beach parking on weekends and holidays at least between May 15 and September 15. This revised parking management program shall utilize the parking standards for shopping centers (five spaces per 1,000 square feet of gross floor area) as set forth under Table 2 of the certified Malibu Santa Monica Mountains Land Use Plan. If a fee is charged for such parking, the fee shall not exceed that charged in nearby county beach parking lots. The revised program shall include the provision of appropriate signs, informing the public of the availability of such parking. The approved signage must be maintained at the site. Signs shall be placed

at both entrances to the shopping center, visible to traffic on the Pacific Coast Highway and at all entrances to the parking structure.

6. Revised Plans (New)

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, AS AMENDED, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which show that the proposed development will provide an adequate number of parking stalls, as set forth under Table 2 of the certified Malibu Santa Monica Mountains Land Use Plan for shopping centers (five spaces per 1,000 square feet of gross floor area).

7. Condition Compliance (New)

Within 120 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations

A. Project Description and Background

The applicant is requesting to convert approximately 2,490 square feet of the existing covered parking garage, which serves the existing shopping center, into storage units. The conversion will result in the loss of 12 parking stalls, reducing the total number of spaces provided from 126 to 114. Tenants of the shopping center will have a priority use of the storage units, with unused units available for public storage. No grading is proposed.

As stated previously, the project site is located on an 80,730 square foot lot, on the inland side of the Pacific Coast Highway, in the City of Malibu, Los Angeles County. The subject parcel is situated to the east of the Civic Center, in the area known as Carbon Beach, where other commercial developments are also located.

In 1987, the Commission approved Coastal Development Permit (CDP) 5-87-132 (Chimera Associates), which allowed a two story, 33,852 square foot (19,884 square feet excluding parking) retail shopping center with restaurant, septic system, 123 parking spaces, and 16,612 cubic yards of grading. Under the original permit, on site parking requirements were based on the individual retail commercial and restaurant customer seating area standards, set forth under Table 2 of the certified LUP. In

addition, the original permit was approved with a special condition that required a parking management program to be submitted prior to issuance of the permit. The parking management program was to be designed to allow for the maximum feasible public use of the parking lot for beach parking on weekends and holidays, at least between May 15 and September 15. In 1987, the parking management plan was submitted, as required under **Special Condition Number One (1)**, and provided for public beach parking on the site. The parking management program, which was previously submitted, reflects the retail commercial and restaurant customer seating area parking standards from Table 2 of the certified LUP.

Subsequently, in 1987 the permit was amended to add 1,522 gross square feet to the shopping center, which resulted in a 21,406 square foot shopping center, excluding parking. Due to the increase in area, the plans submitted pursuant to that amendment also increased the number of parking stalls provided to 126 from 123. The permit was again amended in 1989 to allow for a change in an access road, required by the California Department of Transportation for maintenance of a debris basin adjacent to the northeast property line, near the parking ramp. In 1990, the permit was further amended to allow for poured in place concrete construction rather than concrete block construction, open a portion of the front parapet to create a viewing deck, partially enclose the area near the elevator with walls 48 inches in height, relocate the proposed food service areas from the second floor to both the first and second floors, and modify the shape of the roof canopy.

As stated above, the applicant is now requesting to amend CDP 5-87-132 (Chimera Associates) to allow for the conversion of 2,490 square feet of the existing covered parking garage, which serves the existing shopping center, into storage units. This amendment proposal would result in a loss of 12 parking stalls, reducing the total number of stalls provided from 126 to 114. As of staff's site visit on March 31, 2000, a fence had already been erected to block off parking to this area and the area was being utilized for storage, without the benefit of an amendment to the coastal development permit.

B. Public Access and Recreation

Section 30252 of the Coastal Act addresses the provision of adequate parking in conjunction with new development. Section 30252 states that:

The location and amount of new development should maintain and enhance public access to the coast by . . . providing adequate parking facilities or providing substitute means of serving the development with public transportation . . .

Further, to assist in the determination of whether a project is consistent with Section 30252 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the previously certified LUP for guidance. The certified LUP has been found to be consistent with the Coastal Act and provides specific parking

standards along the Malibu coast and within the Santa Monica Mountains. Policy 216c of the certified LUP states that:

Adequate parking shall be provided for all new development according to the standards attached to this Land Use Plan (see Table 2).

Table 2 of the certified LUP, referenced in Policy 216c, sets forth stringent off-street parking standards for individualized categories of development. Under Table 2, shopping centers are listed as a category of development with particular parking standards. The following parking standards are listed for a shopping center under Table 2:

5 spaces for each 1000 square feet of gross floor area within the center; or spaces as required for each individual use within the center. To qualify for the "shopping center" criteria (5/1000) a well balanced mixture of uses within the center must be demonstrated. Where there is an imbalance of high intensity uses, restaurants, theaters, bowling alleys, billiard parlors, beauty schools and other such uses and/or long-term parking uses, parking calculations will be based totally or in part on an individual basis.

Under the original permit for this development, CDP 5-87-132 (Chimera Associates), the parking requirements were based on the Table 2 standards for general retail and restaurant service area, rather than a shopping center. Table 2 states that general retail stores must provide one space for each 225 square feet of gross floor area, while restaurants must provide one space for each 50 square feet of service area. Under CDP 5-87-132 (Chimera Associates), the gross square footage for retail stores was 15,181 square feet and for restaurant service area was 2,822 square feet. As a result, under the Table 2 standards of the certified LUP previously applied, 67 parking stalls were necessary for general retail use (15,181/225) and 56 parking stalls were necessary for the restaurant service area (2,822/50), for a total of 123 parking stalls.

When the original permit was amended in 1987 to add 1,522 square feet to the shopping center, however, the number of parking stalls required under the Table 2 standards of the certified LUP was raised to 126 from 123. Pursuant to that amendment, the restaurant service area was reduced from 2,822 to 2,518 square feet, which lessened the required parking spaces for that use to 50 (2,518/50) from 56. As the square footage for retail use was increased from 15,181 to 17,210 square feet, however, the retail use parking requirements were raised from 67 to 76 (17,210/225) parking stalls. As a result, based on the standards set forth under Table 2 of the certified LUP for retail stores and restaurant service area, pursuant to the first amendment 126, rather than 123, parking stalls were required to serve the development.

Currently, the applicant is proposing to convert 12 of those 126 required parking stalls into storage space. Since each suite within the shopping center is leased to individual tenants, however, there has been a turnover in tenants and changes in the use of the floor area of each suite. As a result, suites once characterized as restaurant use are

now retail use, suites once characterized as retail use are now restaurant use, and suites characterized as retail use are now office use. Under the Table 2 standards previously applied, the parking requirements would constantly need to be revised with each change in use. As a result, it is more appropriate and efficient to apply the shopping center use standards from Table 2 of the certified LUP, rather than each individual use of each suite within the shopping center, such as retail, restaurant, or office.

Under the Table 2 standards of the certified LUP, in order to qualify for the "shopping center" criteria, a well balanced mixture of uses within the center must be demonstrated. The current uses within the shopping center include the following: grocery store, investment group, restaurant, real estate office, chiropractor, pizza delivery franchise, magazine publisher, law offices, construction company, physical therapy, and massage studio. This diverse range of enterprises constitutes a "well balanced mixture of uses within the center," as required for a development to qualify for the "shopping center" parking standards under Table 2 of the certified LUP.

As a result, the Table 2 parking requirements for a "shopping center" use from the certified LUP are more appropriate to apply in analyzing the applicant's current amendment proposal. The applicant is proposing to convert 2,490 square feet of the parking garage into storage units, thereby eliminating 12 parking stalls and retaining 114 parking stalls. Following the conversion, the total gross floor area within the shopping center would be 23,906, including the additional 2,490 square feet of new storage area. Under the shopping center standards of Table 2, five parking stalls are required for each 1,000 square feet of gross floor area. With this formula, the current amendment proposal would require 119 parking stalls (five parking stalls per 1,000 square feet of gross floor or one parking stall per 200 square feet of gross floor area; 23,906/200=119.53 parking spaces).

Pursuant to this amendment application, however, the applicant is only proposing 114 parking stalls, providing five fewer than required under the shopping center standard of Table 2 of the certified LUP. As a result, prior to issuance of the coastal development permit, as amended, new **Special Condition Number Six (6)** requires the applicant to submit, for the review and approval of the Executive Director, revised project plans that show that the proposed development will provide an adequate number of parking stalls, as set forth under Table 2 of the certified LUP for shopping centers, at a ratio of five parking spaces per 1,000 square feet of gross floor area. This will necessitate a reduction in the area of the parking garage to be converted to storage.

Furthermore, Sections 30222 and 30223 of the Coastal Act require that visitor serving commercial and recreational facilities designed to enhance public opportunities for coastal recreation be given priority over private residential, commercial, or industrial development, and that upland areas necessary to support coastal recreational uses be reserved for such uses where feasible. The proposed development site is located on the inland side of the Pacific Coast Highway, across from Carbon Beach. Carbon

Beach is an area where the Commission has obtained numerous offers of lateral access dedications and is a high priority area for increasing public use of the beach. One constraint that is currently limiting the use of Carbon Beach is a lack of public parking.

To assist in the determination of whether a project is consistent with Section 30222 and 30223 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the previously certified LUP for guidance. The certified LUP has been found to be consistent with the Coastal Act and provides specific policies for development along the Malibu coast and within the Santa Monica Mountains. Policy 55c of the certified LUP states that:

Parking lots for general office buildings shall be designed with the goal of serving not only the office development during ordinary working hours, but also public beach parking during weekends and holidays, in conjunction with public transit of shuttle buses serving beach recreational areas.

Although the applicant is proposing a shopping center with a mixed use, including retail, restaurant, and office use (rather than strictly office use), the Commission notes that in numerous other permit decisions involving commercial development within such a close proximity to the beach (both retail and office), the Commission has required shared use of the parking lot during periods when the approved uses are not open for business as general public parking to enhance public access and coastal recreational opportunities. Although some of the retail, restaurant, and office uses within the shopping center may be open on the weekends, it is likely that some of them will not. This could result in a potential surplus of parking spaces, which could be used for public beach parking during peak periods of the year.

As a result, **Special Condition Number One (1)** of the original permit, 5-87-132 (Chimera Associates), required the submission of a parking management program designed to maximize public use of the parking lot, consistent with the need of the building's tenants to have access to their allocated spaces. The Commission found that such a condition was necessary to ensure that coastal recreational opportunities be maximized and that upland areas be used to support coastal recreational opportunities, consistent with Sections 30222 and 30223 of the Coastal Act.

As stated previously, a parking management program was submitted on August 31, 1987, in compliance with **Special Condition Number One (1)** of the original permit, to provide for the maximum feasible amount of public beach parking. The parking management program, which was formerly submitted, provides for public beach parking on site under the following terms and conditions:

1) An on site parking attendant shall be provided on weekends and holidays during the hours corresponding to the nearby county beach parking lot hours of operation.

- 2) The number of parking spaces available for beach parking will be calculated daily by the parking attendant based on the ratio of one car per 225 square feet of retail or office space not used and one car per 50 square feet of restaurant seating space not being used on that day.
- 3) Public beach parking shall be available on the premises on weekends and holidays between May 15 and September 15.
- 4) The fee charged for beach parking shall be equal to fees charged in nearby county beach parking lots.
- 5) On days when public beach parking is available, a sign with letters not less than four inches high, shall be posted on the parking attendant's booth.

The submitted parking management program also illustrated that the sign, which would be posted on the parking attendant's booth, would measure approximately 16 inches in height.

Although the parking management plan was previously submitted, the Commission finds it necessary for the applicant to submit a revised parking management program. The parking management program previously submitted utilized the parking criteria of one parking space per 225 square feet of retail area and one parking space per 50 square feet of restaurant service area. Under the current amendment to the permit, however, the shopping center parking standard, as set forth under Table 2 of the certified LUP, is being applied. The shopping center ratio under Table 2 is five parking spaces per 1,000 square feet of gross floor area. As a result, revised **Special Condition Number One (1)** requires the applicant to submit a revised parking management program which implements this shopping center parking standard, prior to issuance of the coastal development permit, as amended.

Therefore, for the reasons stated above, the Commission finds that the proposed amendment, as conditioned, will not lessen the intent of any of the special conditions required by Coastal Development Permit 5-87-132 (Chimera Associates) as originally required, and is consistent with Sections 30252, 30222, and 30223 of the Coastal Act and Policies 216c and 55c of the certified Malibu Santa Monica Mountains Land Use Plan.

C. Local Coastal Program

Section 30604 of the Coastal Act states that:

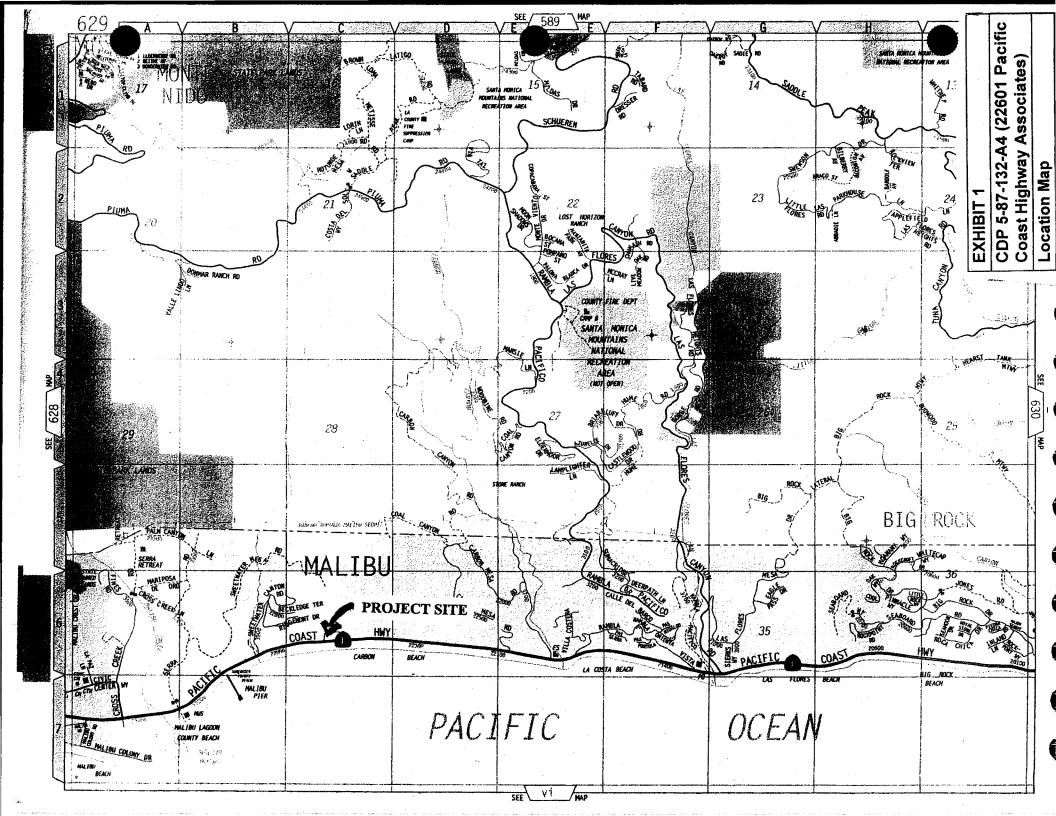
(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice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

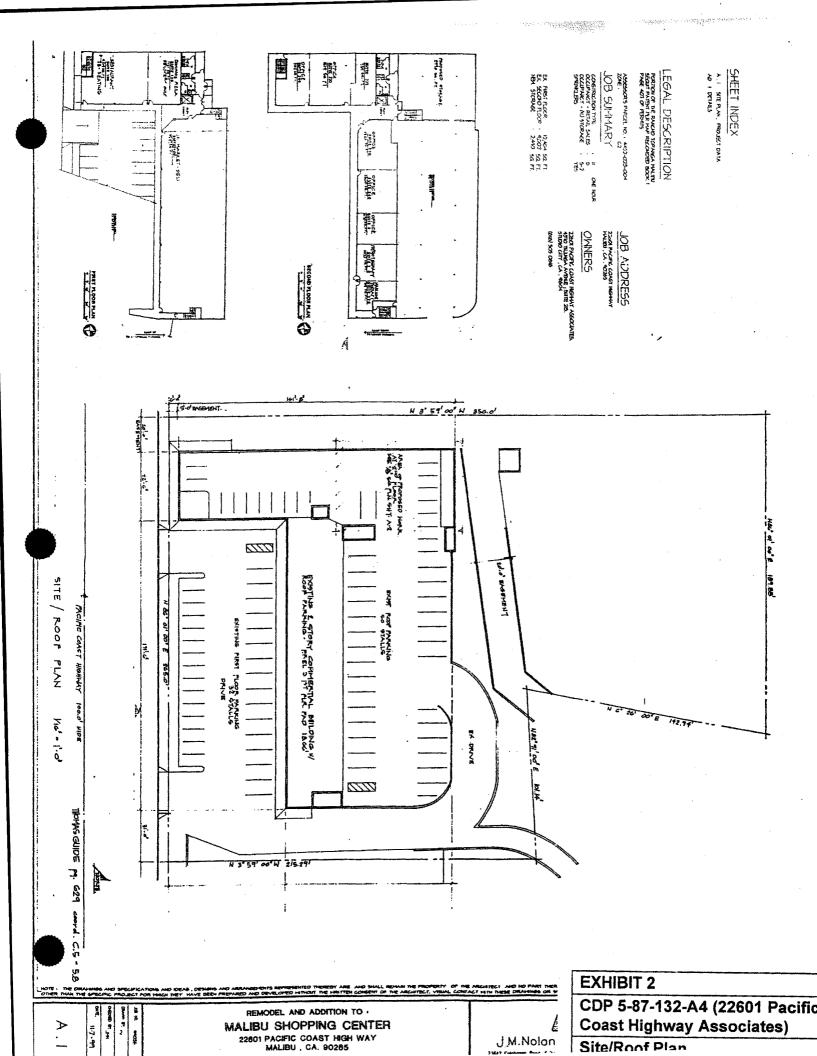
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

D. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed amendment, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed amendment, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.





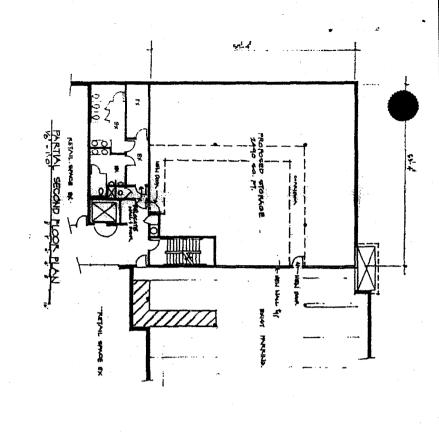


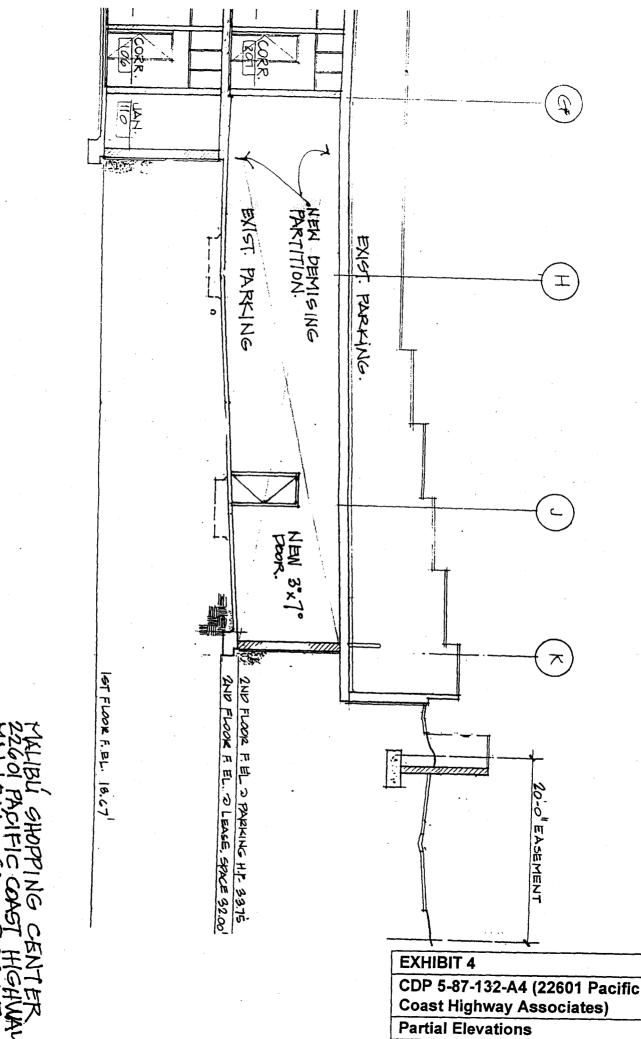
EXHIBIT 3

CDP 5-87-132-A4 (22601 Pacific Coast Highway Associates)

Partial Second Floor Plan

REMODEL AND ADDITION TO MALIBU SHOPPING CENTER 22801 PACIFIC COAST HIGH WAY MALIBU , CA, 90285

J.M.Nolan



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