

**CALIFORNIA COASTAL COMMISSION**

SOUTHERN CENTRAL COAST AREA  
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**RECORD PACKET COPY**

Filed: 10/06/00  
49th Day: 11/12/00  
180th Day: 4/4/01  
Staff: AAV *MA*  
Staff Report: 1/25/01  
Hearing Date: 2/13-16/01  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-00-198

**APPLICANT:** Moby Dick Restaurant

**AGENT:** Gil Barry

**PROJECT LOCATION:** 220 Stearns Wharf, Santa Barbara, Santa Barbara County

**PROJECT DESCRIPTION:** Enclose an existing 418 sq. ft. roofed sun porch, construct 5 ft. high wood trash enclosure around outside service area, install two public benches, five bike hitching posts, and additional public displays. The proposed project also includes a request for after-the-fact approval to increase restaurant seating by 74 seats (from 148 to 222 seats) and allow dining seating on an existing 784 sq. ft. observation deck.

<b>Zoning</b>	Harbor Commercial/Coastal Overlay
<b>Plan Designation</b>	Harbor Commercial
<b>Building square footage:</b>	6,161 sq. ft.
<b>Outside deck coverage:</b>	899 sq. ft.

**LOCAL APPROVALS RECEIVED:** City of Santa Barbara Resolution No. 033-00

**SUBSTANTIVE FILE DOCUMENTS:** City of Santa Barbara Coastal Plan, May 1981; City of Santa Barbara Harbor Master Plan, June 1996; City of Santa Barbara, Planning Commission Staff Report, July 7, 2000; Coastal Development Permit 4-98-336 and 4-98-336-A1 (City of Santa Barbara, Waterfront Department), 4-99-279 (Harbor Restaurant), 4-98-181 (Santa Barbara Shellfish Company).

Staff recommends that the Commission take one vote adopting the following two-part resolution for the proposed project:

**Part One:** To **approve** the request for a permit to enclose an existing 418 sq. ft. roofed sun porch, construct 5 ft. high wood enclosure around outside service area, install two public benches, five bike hitching posts, and additional public displays.

**Part Two:** To **deny** the request for an after-the-fact permit to increase restaurant seating by 74 seats (from 148 to 222 seats) and allow dining seating on an existing 784 sq. ft. observation deck.

## **I. STAFF RECOMMENDATION**

**MOTION:**      *I move that the Commission **deny** the increase in restaurant seating of 74 seats (from 148 to 222 seats) and dining seating on an existing 784 sq. ft. observation deck, and **approve** enclosure of an existing 418 sq. ft. roofed sun porch, construction of a 5 ft. high wood enclosure around outside service area, installation of two public benches, five bike hitching posts, and additional public displays proposed in Coastal Development Permit No. 4-00-198, pursuant to the staff recommendation.*

### **A. STAFF RECOMMENDATION OF APPROVAL IN PART AND DENIAL IN PART:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the development proposed, as conditioned, except for the increase in restaurant seating by 74 seats (from 148 to 222 seats) and dining seating on an existing 784 sq. ft. observation deck, which is denied, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **B. TWO PART RESOLUTION FOR APPROVAL IN PART AND DENIAL IN PART:**

#### **Part 1: Approval with Conditions of a Portion of the Development:**

The Commission hereby **approves** a Coastal Development Permit for the portion of the proposed project consisting of: enclose existing 418 sq. ft. roofed sun porch, construction of a 5 ft. high wood enclosure around outside service area, installation of two public benches, five bike hitching posts, and additional public displays, on the grounds that as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreational policies of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

#### **Part 2: Denial of the Remainder of the Development:**

The Commission hereby **denies** a Coastal Development Permit for the portion of the proposed development consisting of: after-the-fact approval to increase restaurant seating by 74 seats (from 148 to 222 seats) and allow dining seating on an existing 784 sq. ft. observation deck on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and the first public road nearest the shoreline and is not in conformance with the Chapter 3 policies of the Coastal Act and would prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act; and would result in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

## II. 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. Interpretation. Any questions of intent or interpretation of any term or 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.

## III. Special Conditions

### 1. Revised Plans

Prior to issuance of Coastal Development Permit 4-00-198, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which illustrate that the proposed additional 74 restaurant seats have been deleted from the plans and that the total number of permitted seats for the Moby Dick Restaurant is no more than 148 seats.

### 2. Condition Compliance

Within 90 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all the 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 with respect to the development approved in this permit under the provisions of Chapter 9 of the Coastal Act.

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

The Commission hereby finds and declares:

##### **A. Background**

Stearns Wharf is one of the most popular visitor destination points within the City of Santa Barbara. Stearns Wharf supports a variety of coastal dependent, related and visitor serving, commercial uses including site seeing, picnicking, commercial and recreational fishing, ocean boat tours, educational facilities, retail and food and beverage establishments. Physical development on Stearns Wharf is governed by a master Coastal Development Permit #305-03 granted to the City of Santa Barbara on March 21, 1980. The coastal permit was a product of a collaborative planning process with participation by City of Santa Barbara, the California Coastal Conservancy, and the California Coastal Commission. The permit provided a comprehensive plan for the rehabilitation of Stearns Wharf limiting the number and types of businesses and buildings to be constructed on the Wharf. The intent of the original coastal development permit issued for the Wharf was to establish an appropriate balance of public open space, ocean related and dependent uses, recreational opportunities, visitor serving retail, and restaurants. The Coastal Commission's approval of CDP #305-03 stressed the importance of small scale, low intensity commercial development and the maintenance of public open space and recreational areas. In total, the permit provided for the construction of 28,410 sq. ft. of building area and 126 parking spaces on the Wharf. Uses permitted under the original coastal permit were predominantly visitor-serving uses and included two restaurants, a fast food outlet, fish market, bait and tackle shop, retail shops, and supporting office space. Approval for the rehabilitation project for Stearns Wharf was contingent upon the now constructed public parking lot at the corner of Cabrillo Boulevard and Santa Barbara Street, and implementation of a Wharf Parking Management Plan with parking fees.

Subsequent to the issuance of Coastal Development Permit #305-03 a number of coastal development permits have been granted for relatively minor additions and alterations to the originally approved buildings, for the addition of a Sea Center operated by the Santa Barbara Museum of Natural History, and administrative offices to support The Nature Conservancy's Santa Cruz Preserve.

In 1984 the Coastal Commission granted Coastal Development Permit 4-84-016 which permitted a 1,516 sq. ft. addition to the existing 4,078 sq. ft. Moby Dick Restaurant and a 1,350 sq. ft. addition of wharf to Stearns Wharf. The 1,516 sq. ft. building addition included a waiting room, restrooms, manager's office, a banquet room with in-door seating, and an outdoor 784 sq. ft. observation deck with no out-door seating. Coastal Permit 4-84-016 was approved with a total of 148 seats for the restaurant and was conditioned to provide public access around the north and west side of the new structural addition for viewing and other passive recreational activities.

In November 1998 Stearns Wharf caught fire and approximately 27% of the middle reaches of the Wharf, including the Moby Dick Restaurant, Santa Barbara Shell Fish Company, Mike's Bait and Tackle Shop, and other small facilities permitted under the original coastal permit

were destroyed. In December 1998 the Coastal Commission granted Coastal Development Permit 4-98-336 for the reconstruction of those portions of Stearns Wharf and related buildings destroyed in the fire. After receiving approval for the Commission's approval to reconstruct the Wharf, the City identified a number of minor changes which would improve maintenance, safety and circulation on the Wharf without significantly changing the basic design and configuration of the Wharf. The minor changes were approved pursuant to Coastal Development Permit 4-98-336-A1.

Following the approval of Coastal Development Permits 4-98-336 and 4-98-336-A1 to reconstruct the fire damaged portions of the Wharf, the Commission granted Coastal Development Permit 4-98-181 to the Santa Barbara Shell Fish Company in August 1998, which permitted a small, 28 sq. ft. exterior addition and other improvements, construction of a public restroom, installation of seven public picnic tables, and the addition of a 26 bar-stool interior dining area (no interior dining area originally existed). In approving this addition the Commission found that by limiting the 26 seats to barstools (reduced from a 41 seat dining addition originally proposed) and limiting the serving menu to shellfish only, the addition would not generate significant new use and increased parking demands, but would serve the existing pedestrian traffic on Stearns Wharf. In March 2000, the Commission granted Coastal Development Permit 4-99-279 to the Harbor Restaurant permitting a number of minor additions to the structure, interior modifications, and an increase of the restaurant seating capacity by 39 seats.

## **B. Project Description**

The applicant is proposing to enclose an existing 418 sq. ft. roofed sun porch, construct a 5 ft. high wood enclosure around an outside service area, install two public benches, five bike hitching posts, and additional public displays for the Moby Dick Restaurant located on Stearns Wharf in the City of Santa Barbara (Exhibit 3). The proposed project also includes a request for after-the-fact approval to increase the restaurant seating by 74 seats (from 148 to 222 seats) and allow dining seating on an existing 784 sq. ft. observation deck (Exhibits 4,5). No new parking is proposed. The project site is located on the southwest portion of Stearns Wharf, adjacent to the Santa Barbara Shellfish Company (Exhibit 2).

As mentioned above, the applicant is proposing to enclose an existing 418 sq. ft. sun porch and construct a 5 ft. high wood enclosure around an existing outside service area. These physical improvements and additions of the proposed project will occur within the footprint of the existing building or deck area currently occupied by restaurant operations. The 418 sq. ft. roofed sun porch to be enclosed is currently partially enclosed up to 9 ft. in height by a transparent windscreen. The applicant is proposing to extend the transparent windscreen to fully enclose the sun porch with no increase in square footage of the porch. The proposed outside service area enclosure will be located in an area currently occupied by restaurant operations and in an area containing similar enclosures for dumpsters and City equipment. As such, the proposed project will not result in an expansion of restaurant square footage which would displace the public open space or access points on Stearns Wharf.

The applicant is also proposing to increase the number of seats for the Moby Dick Restaurant from 148 seats previously approved by Coastal Development Permit 4-84-016, to 222 seats. Of the additional 74 seats proposed, 34 seats would occupy the 784 sq. ft. observation deck permitted under Coastal Permit 4-84-016, for which no dining seating was permitted. The applicant has indicated that 222 seats existed at the restaurant prior to the 1998 fire, however, the increase of the additional 74 restaurant seats was done without the benefit of a coastal development permit or local approval. The applicant is now requesting after-the-fact approval to permit the additional 74 seats which would consist of 40 indoor seats and 34 outdoor seats on the observation deck.

The staff report prepared for Coastal Development Permit 4-84-016 does not specify a designated use for the permitted observation deck, however, the staff report findings do indicate that the deck was not proposed to be used for restaurant seating, nor was the deck to be maintained as public open space. The representative for the applicant has indicated that the observation deck was to be utilized as a waiting and cocktail area without formal seating, however, the observation deck was converted into a formal dining area prior to the 1998 fire.

As mentioned, the applicant is proposing to fully enclose an existing roofed sun porch with transparent panels, which will not increase the size of the porch, and construction of a 5 ft. high wood service area enclosure which will occur within the existing footprint of the developed area. The proposed project does not involve an increase in height of the structure or an exterior expansion into open space or visual corridors on the Wharf, therefore, the project will not have a significant adverse impact on visual resources.

### **C. Public Access and Recreation**

Coastal Act Section 30210 states that:

***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.***

Coastal Act Section 30211 states:

***Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, 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 access 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.*

Coastal Act Section 30213 states:

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

Coastal Act Section 30221 provides that:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already provided for in the area.*

Finally, Coastal Act Section 30255 states in part:

*Coastal dependent developments shall have priority over other developments on or near the shoreline...When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.*

Coastal Act Sections 30210, 30211, and 30212 mandate that maximum public access and recreational opportunities be provided to the ocean and that development not interfere with the public's right to access the sea, consistent with the need to protect public safety, private property and natural resources. In addition, Coastal Act Sections 30213 and 30221 provide that lower cost visitor serving and recreational facilities be protected, encouraged, and where feasible, provided, that developments providing such recreational opportunities are preferred, and that oceanfront land suitable for recreational use be protected for such use. Finally, Coastal Act Section 30255 mandates that coastal-dependent developments have priority over other development types near the ocean. All projects requiring a coastal development permit must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act.

As previously discussed, the design and configuration of Stearns Wharf and associated buildings and businesses were the subject of Coastal Development Permit #305-03, which permitted the rehabilitation of Stearns Wharf in 1980. The permit approved by the Commission provided a comprehensive plan for the rehabilitation of Stearns Wharf, which limited the number and types of businesses and buildings to be constructed on the Wharf. The intent of the original coastal development permit issued for the Wharf was to establish an appropriate balance of public open space, ocean related and dependent uses, recreational opportunities, visitor serving retail, and restaurants. Realizing that the Wharf supported a variety of coastal dependent and related uses, and recreational uses in an area expected to experience continuing demand for expansion of development, the Coastal Commission's approval of

Coastal Development Permit #305-03 stressed the importance of small scale, low intensity commercial development and the maintenance of public open space and recreational areas, consistent with the public access and recreational provisions of the Coastal Act.

#### Public Open Space

The applicant is proposing to enclose an existing 418 sq. ft. roofed sun porch, construction of a wood enclosure around an existing outside service area, and installation of two public benches, five bike hitching posts, and additional public displays on Stearns Wharf. The applicant is also requesting after-the-fact approval to increase the restaurant seating by 74 seats (from 148 to 222 seats) and allow formal dining seating on a 784 sq. ft. observation deck previously approved as an addition to the restaurant without formal seating.

As previously mentioned, the proposed project includes minor additions and improvements which will not encroach onto the designated public open space and access areas of Stearns Wharf. The applicant is proposing to enclose an existing 418 sq. ft. roofed sun porch that is currently partially enclosed with a transparent windscreen up to 9 ft. in height. The current proposal is to extend the existing transparent windscreen to fully enclose the sun porch without any square footage expansion of the porch. Installation of the proposed wood enclosure around an existing outside service area will be contained in an area currently occupied by restaurant operations, and will be located adjacent to similar enclosures for the restaurant dumpsters and City equipment. Finally, the applicant is also proposing to install two public benches, five bike hitching posts, and additional public interpretative displays on Stearns Wharf which will not interfere with pedestrian traffic flow but will serve to enhance public access opportunities to the Wharf.

The Commission finds that the minor structural additions and improvements proposed by the applicant will not extend beyond the existing footprint of the development previously approved by the Commission, and therefore will not extend onto any open space designated for public access and viewing on the Wharf. The Commission also finds that the minor structural additions and improvements, as conditioned by **Special Condition 1** to delete the proposed increase of seating capacity by 74 seats, will not intensify the use of the Moby Dick Restaurant and therefore will not significantly impact the availability of public parking, access, or recreational opportunities. As such, the Commission finds that, as conditioned, the proposed enclosure of an existing 418 sq. ft. roofed sun porch, construction of a wood enclosure around the existing outside service area, and installation of two public benches, five bike hitching posts, and additional public interpretive displays on Stearns Wharf will not have a adverse impact on public access or recreation, and is therefore consistent with the public access and recreation policies of the Coastal Act.

#### Parking, Access, and Recreation

The Commission finds that the proposed project, as conditioned, involving the minor structural additions and improvements as described above, except the proposed increase in restaurant



seating, will not intensify the use or extend the resultant structure beyond the existing footprint of the development, or interfere with existing patterns of pedestrian use on the Wharf, and therefore will not have an adverse impact on public open space, access and recreation opportunities on Stearns Wharf. However, the Commission notes that the proposed increase of restaurant seating capacity by 74 seats will intensify the use of the development both onsite and at associated nearby parking areas. Therefore, the proposed project raises public access and recreation issues relative to the maintenance of the established mix of uses on the Wharf and the adequacy of existing public parking to accommodate the increased parking demand associated with intensifying the use of the restaurant.

Parking for Stearns Wharf is currently provided by the 126 spaces located on the Wharf, approved under the original coastal permit, and existing parking lots located along Cabrillo Boulevard in the Waterfront area. The original coastal development permit approved the existing parking on the Wharf principally to serve the Moby Dick Restaurant and the Harbor Restaurant. In approving the limited on-site wharf parking the Coastal Commission concurred with the City's intent to provide an essentially pedestrian environment on the Wharf. Consequently, neither the City nor the Coastal Commission has required additional on-site parking on Stearns Wharf to accommodate the additions and increased uses on the Wharf since 1980. As such, parking for Stearns Wharf is provided solely by the existing public parking on the Wharf, and those public lots located within the Waterfront area.

The project site is located entirely on Stearns Wharf seaward of the mean high tideline, therefore the project falls within the area of the Coastal Commission's retained original permit jurisdiction. As such the standard of review for the project is the Coastal Act, however, the Commission may look to the certified Local Coastal Plan for guidance in its review. The City's Local Coastal Plan states that all new development in the Waterfront area, except Stearns Wharf, must provide adequate off-street parking to satisfy peak parking demand, and that parking requirements at a minimum be consistent with City Ordinance requirements. The City's Municipal Ordinance generally requires that one parking space be provided for every three indoor restaurant seats (SBMC Section 28.90.100). Parking for outdoor restaurant seating is normally not required under the zoning ordinance if the amount of outdoor seating is less than one-half of the total seating area. Pursuant to the City's zoning ordinance, the proposed increase of 34 outdoor seats would not require that additional parking be provided and the proposed increase in restaurant seating by 40 new indoor seats would require 13 additional parking spaces. However, the City's Municipal Ordinance also provides that parking requirements may be waived if the project is determined to be consistent with the purposes of the zoning ordinance and will not cause an increase in demand for parking spaces in the immediate area. The City's Transportation Staff has estimated that should the project result in an increased parking demand, it would be no more than three parking spaces and that the demand will be met by reserve parking in the Waterfront area. The City Planning Commission Staff Report notes the availability of a trolley service to shuttle people from the Waterfront parking lots to and from the Wharf and the City has required the applicant provide bicycle parking, transit passes for employees and shuttle tokens to patrons, and contribute to the operation of the shuttle service.

The applicant is not proposing to provide additional parking to accommodate an increased parking demand associated with intensification of use of the restaurant. The applicant and City Transportation Staff have stated that because the additional 74 seats proposed with this pending coastal permit were previously existing prior to the 1998 fire, the project proposal to increase the seating for the restaurant will not result in a new parking demand than that which has previously existed (Exhibit 6). However, the Commission must consider the additional 74 restaurant seats as new development because they were installed without authorization under the Coastal Act. Thus, the Commission must consider any potential adverse effects of permitting the intensification of use for the development on public coastal access, where there is limited parking available to serve as a means of access for the variety of coastal uses supported by Stearns Wharf.

The Commission notes that Stearns Wharf is a popular visitor destination point placing a high demand on public recreational, visitor serving, and commercial uses supported by the Wharf, and that as permitted the Wharf itself can not provide additional parking to accommodate an increase in parking demand. The Commission also notes that existing public parking within the Waterfront area is limited and there are minimal parking expansion opportunities to serve intensified uses and increased parking demand. The Harbor Master Plan approved as an amendment to the City's certified Local Coastal Plan in June 1996 includes a Traffic and Parking Study which concludes that public parking spaces available within the Waterfront area provide adequate reserve parking capacity in the Waterfront west of Stearns Wharf to serve existing demand, except for peak summer weekends. Thus, the LCP recognizes that available parking is already periodically deficient for existing parking demand during peak summer weekends. Therefore, new projects that increase the parking demand for visitor serving commercial uses on the Wharf will displace the limited available parking during peak summer weekends and preclude public coastal access opportunities.

The Commission has previously addressed the issues of parking availability and the balance of public access and recreational uses with visitor serving and commercial uses in similar past coastal permit actions. In August 1998 the Commission granted Coastal Development Permit 4-98-181 to the Santa Barbara Shell Fish Company, which permitted minor additions and improvement to the development and an addition of a 26 bar-stool interior dining area. In approving this addition the Commission found that by limiting the 26 seats to barstools and limiting the serving menu to shellfish only, the addition would not generate significant new parking demands, but would serve the pedestrian traffic on Stearns Wharf. In March 2000, the Commission granted Coastal Development Permit 4-99-279 to the Harbor Restaurant permitting a number of additions and improvements and an increase of the restaurant seating capacity by 39 formal dining seats. The Commission indicated that the addition of 39 seats to the Harbor Restaurant would not substantially increase visitation to the Wharf.

In the case of the proposed project, the project involves an increase in restaurant seating by almost twice as many seats approved for the Harbor Restaurant. The applicant is requesting after-the-fact approval to increase the restaurant seating by 74 seats (from 148 to 222), and allow 34 of the proposed seats to be located outdoor on a 784 sq. ft. observation deck previously approved as an addition to the restaurant without formal seating. The Commission finds that the proposed increase of restaurant seating by 74 seats will increase the restaurant

capacity by 50%, which represents a significant intensification of use of the development. The Commission notes that no new parking will be provided to accommodate an increase in parking demand associated with the intensified use, but that the applicant is proposing a number of measures (shuttle tokens for customers, employee bus passes, contributions to shuttle service) to enhance access to the Wharf. However, providing a shuttle service does not address the shortage of available parking in nearby lots on summer weekends. The Commission finds that the proposed measures do not fully and substantially mitigate or offset the increase in parking demand expected to accompany the intensified use of the development.

As mentioned, Stearns Wharf was designed and constructed with an established balance of uses to support and maintain public open space and recreational opportunities, ocean dependent/related uses, visitor serving retail, and restaurants. The proposed increase in restaurant seating for the Moby Dick Restaurant represents a significant intensified use of the development in an area where higher priority coastal dependent/related and recreational uses compete with visitor serving and commercial uses for limited available space and parking serving the Wharf and Waterfront. The proposed increase in restaurant seating would not be consistent with the intent of the original coastal permit issued for the Wharf, which established a balance of uses for the Wharf emphasizing small scale, low intensity commercial development.

The certified Harbor Master Plan provides some guidance relative to new development and improvements for Stearns Wharf and does state that improvements which could enhance the Wharf's visitor serving function include new public restrooms, more seating with views of the Harbor (including restaurant seating), addition of a small visitor's center and kiosk for tour boat operations, and minor increases in existing building area to further serve the public. Though the Harbor Master Plan allows for some unspecified expansion of restaurant seating, the HMP also reiterates in several policies the need to protect, provide, and encourage ocean dependent/related, and recreational uses over lower priority uses in the Harbor. The HMP discusses the need to balance the established uses in the Harbor area and states:

*The need to provide space and facilities for high priority ocean dependent and ocean related uses must be balanced with the need to generate revenue to pay for the services and facilities within the area. Typically the highest revenue generating services are visitor serving uses whereas ocean dependent uses sometimes generate little or no direct revenue...The question is whether the addition of space and new activities in the study area will maintain the appropriate mix of uses and continue to give priority to ocean dependent uses.*

The Commission notes that Stearns Wharf is a unique area within the Waterfront in that the opportunity for expansion for the variety of uses supported by the Wharf is extremely constrained by the limited amount of space and available on-site parking, and by the balance of uses established under the original coastal permit issued for the Wharf. The Coastal Act and certified Harbor Master Plan mandate that priority be given to ocean dependent/related and recreational uses on oceanfront land and that new projects not preclude high priority uses. As discussed above, parking and access opportunities to Stearns Wharf is an already taxed situation, therefore project proposals which increase the intensity of use of low priority uses without the ability to provide adequate parking may preclude access opportunities for high

priority uses. Permitting significant intensification of restaurant use on the Wharf would encourage development types that compete with higher priority coastal uses for available parking and other means of limited access to the Wharf, would offset the appropriate mix of uses established on the Wharf, and would therefore be inconsistent with the intent of the original coastal permit granted for the design and construction of Stearns Wharf and the public access and recreation policies of the Coastal Act. As such, the Commission imposes **Special Condition 1** on the subject coastal development permit, which requires the applicant to submit revised plans, for the review and approval of the Executive Director, which illustrate that the proposed additional 74 restaurant seats have been deleted from the plans and the total number of restaurant seating for the Moby Dick Restaurant is no more than 148 seats. Therefore, the Commission finds that the proposed project components consisting of after-the-fact approval to increase the restaurant seating by 74 seats and to permit outdoor dining seating on a 784 sq. ft. observation deck are inconsistent with Sections 30210, 30211, 30212, 30213, 30221, and 30255 of the Coastal Act.

#### **D. Violations**

Unpermitted development has taken place prior to submission of this permit application, including an increase in the seating capacity of the restaurant by 74 seats and establishment of a formal dining area on an observation deck previously approved as an addition to the restaurant without dining. The applicant requests after-the-fact approval for the increase in the seating capacity of the restaurant by 74 seats and establishment of a formal dining area on an observation deck as well as approval to enclose an existing 418 sq. ft. roofed sun porch, construct wood enclosure around outside service area, install two public benches, five bike hitching posts, and additional public displays. In order to ensure that the unpermitted development is resolved in a timely manner, **Special Condition 2** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

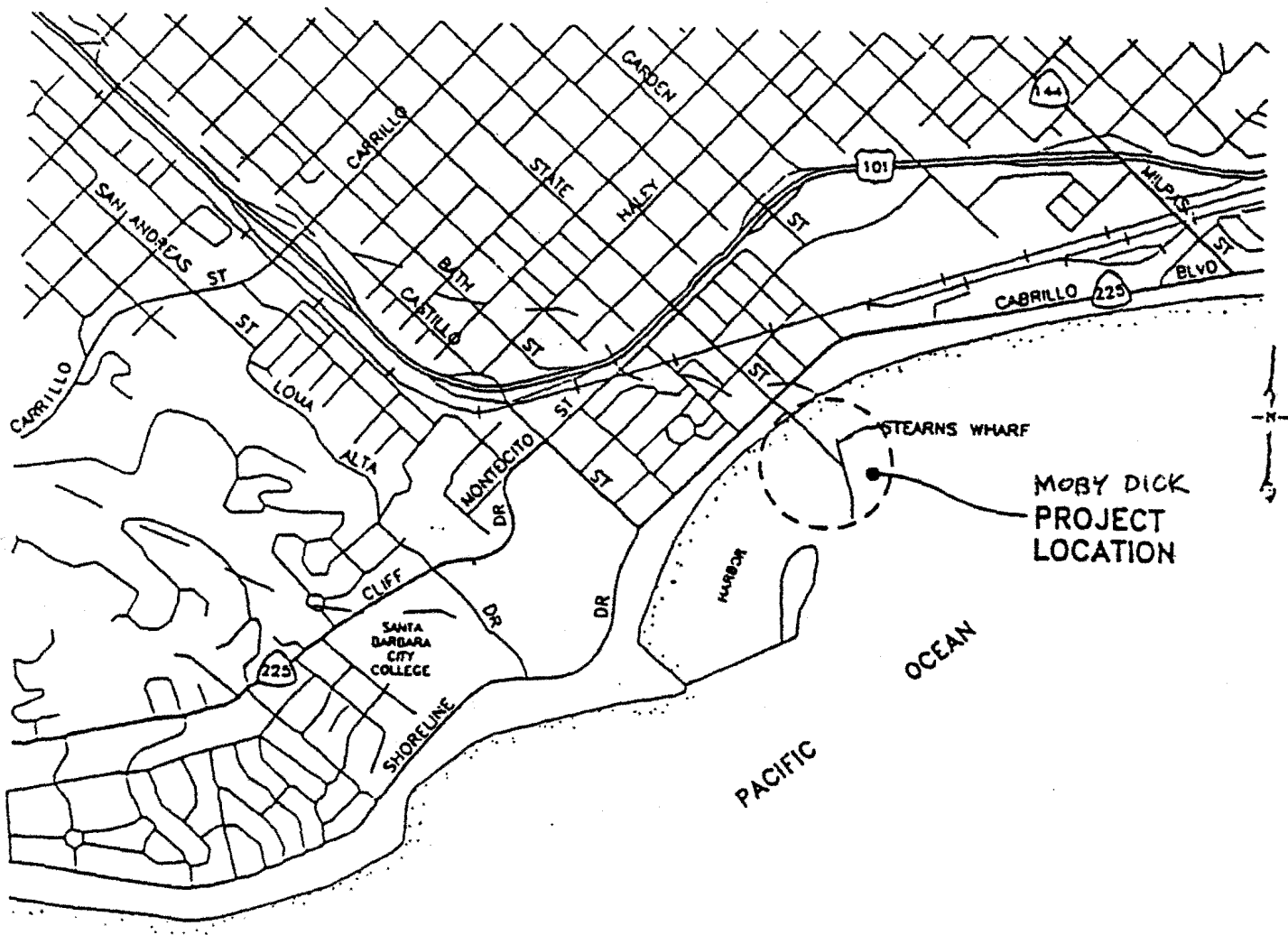
#### **E. Local Coastal Plan and CEQA**

The proposed site lies within the City of Santa Barbara, but falls within the Commission's area of retained original permit jurisdiction because it is located on state tidelands or is below the mean high-tide. The Commission has certified the Local Coastal Program for the City of Santa Barbara (Land Use Plan and Implementation Ordinances) which contains policies for regulating development and protection of coastal resources, including the protection of environmentally sensitive habitats, recreational and visitor serving facilities, coastal hazards, and public access.

Section 13096 of the Commission's Code of Regulations requires the 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 effects, which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. The mitigation measures, which are part of the project description, as well as those contained in the special conditions, will minimize any adverse environmental effects. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse effects, which the activity may have on the environment.

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



**VICINITY MAP**

N.T.S.

**EXHIBIT 1**

**CDP #4-00-198**

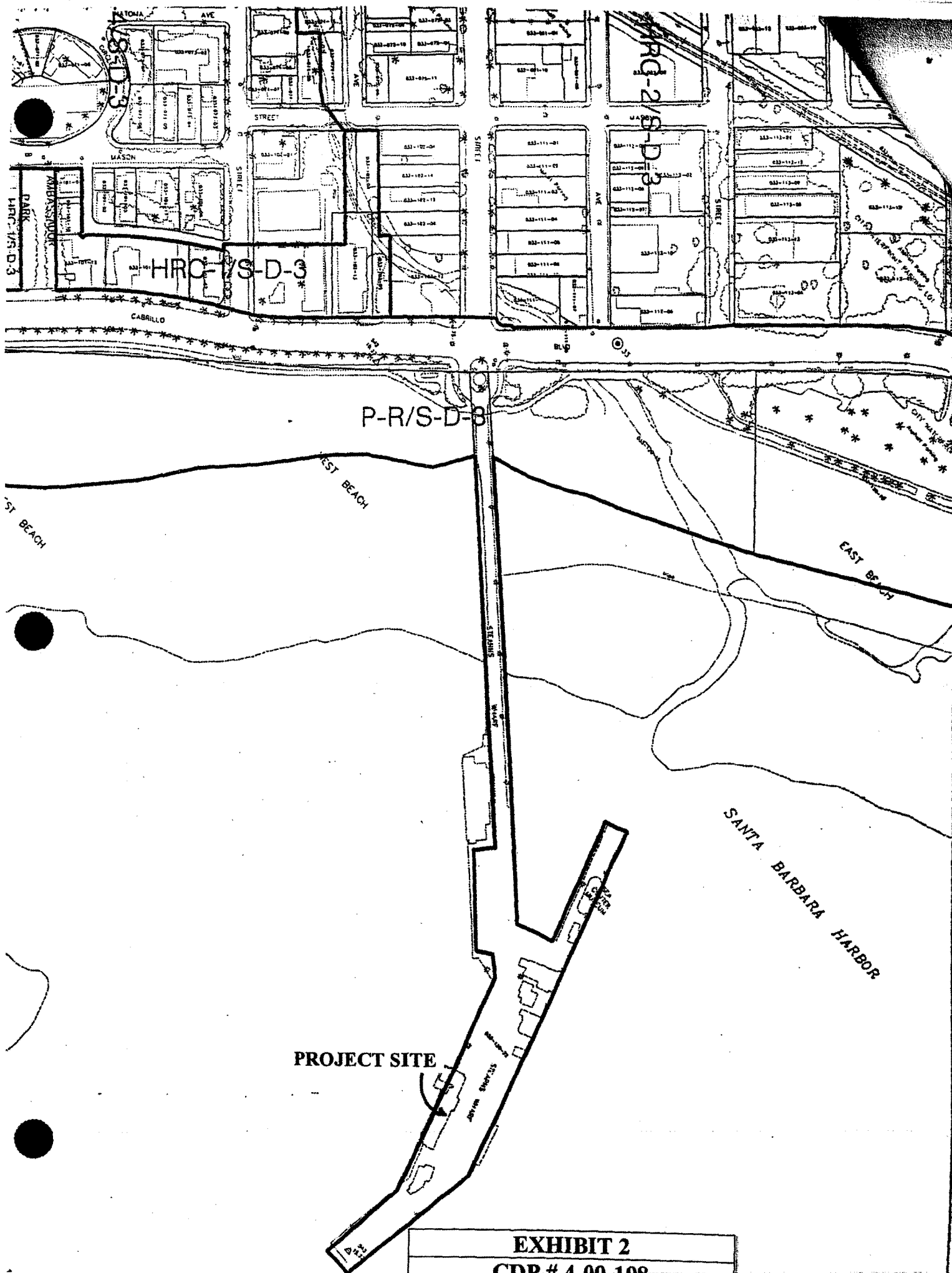
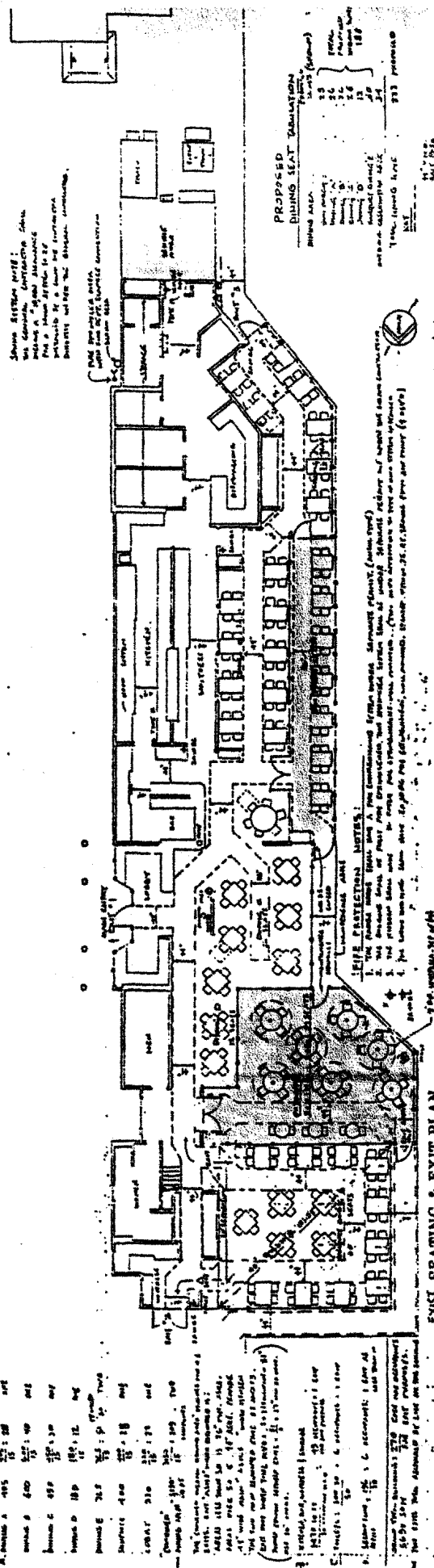


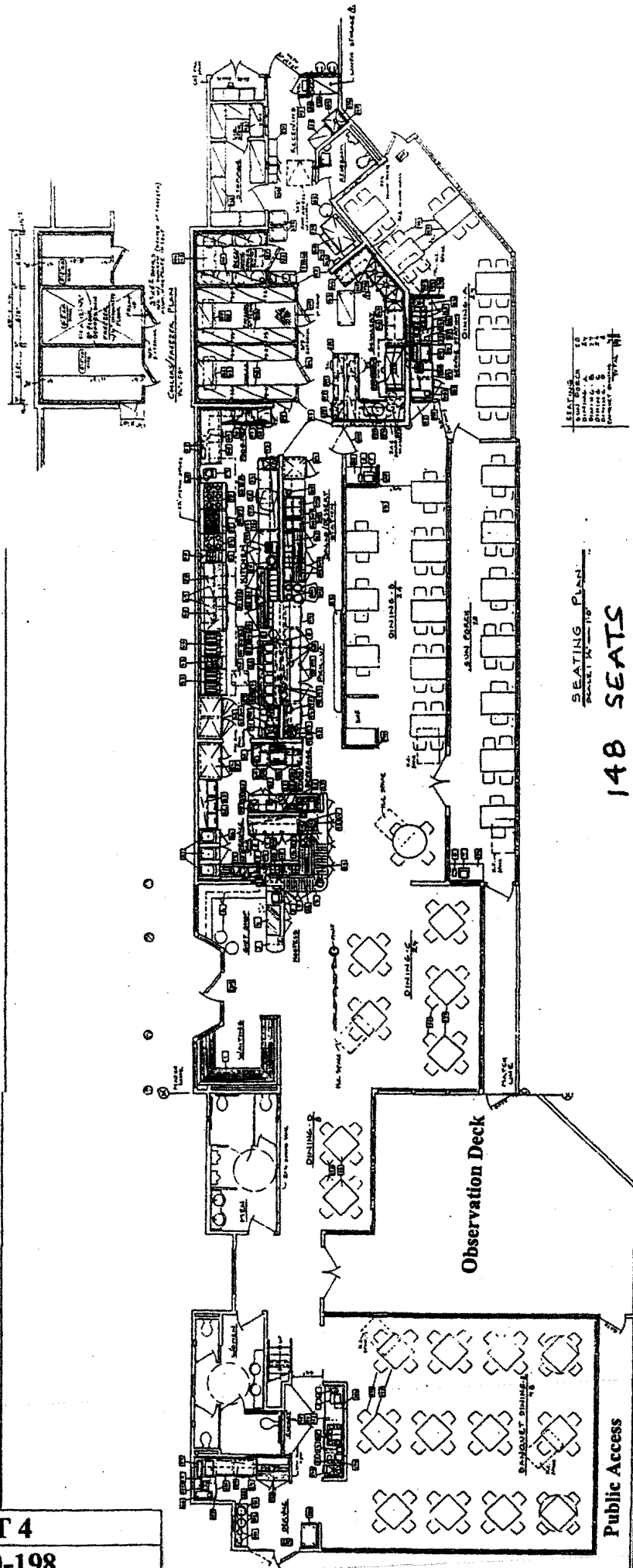
EXHIBIT 2  
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**EXHIBIT 4**  
**CDP # 4-00-198**



**SEATING PLAN**  
**148 SEATS**

**EQUIPMENT PLAN**

<b>PROJECT</b> SANTA BARBARA STEARNS WHARF REBUILD 1999 MOBY DICK RESTAURANT	<b>DATE</b> 01/10/99	<b>SCALE</b> 1/8" = 1'-0"	<b>DESIGNER</b> GLENN BARRY ARCHITECT SANTA BARBARA, CA (805) 564-1435	<b>CLIENT</b> SANTA BARBARA STEARNS WHARF REBUILD 1999 MOBY DICK RESTAURANT	<b>DATE</b> 01/10/99
<b>ARCHITECT</b> GLENN BARRY ARCHITECT SANTA BARBARA, CA (805) 564-1435	<b>DATE</b> 01/10/99	<b>SCALE</b> 1/8" = 1'-0"	<b>DESIGNER</b> GLENN BARRY ARCHITECT SANTA BARBARA, CA (805) 564-1435	<b>CLIENT</b> SANTA BARBARA STEARNS WHARF REBUILD 1999 MOBY DICK RESTAURANT	<b>DATE</b> 01/10/99
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**VOSS EQUIPMENT CO.**  
 1000 10th St.  
 Santa Barbara, CA 93101  
 Tel: (805) 964-0000 Fax: (805) 964-0001

Source System Note:  
The Central Contracted Small  
Business A \$900 allowance  
for a home system to be  
installed by a contractor com-  
pletely up to the General con-

[illegible][illegible]

**SANTA BARBARA  
STEARNS WHARF REBUILD 1999  
MOBILE/BACK RESTAURANT  
SITE PLAN EXIT/SEATING PLAN**

**Project Architects:**  
**GIL BARRY ARCHITECT**  
**1806-G CLIFF DRIVE**  
**SANTA BARBARA, CA.**  
**93109 (805) 564-1433**

PROJECT DATA  
PLANT ADDRESS: 220 STEARNS WALK  
ALBANY, N.Y. 12208-22  
LAND USE ZONE 1-NC  
GENERAL PLAN LAND USE INTENT: COMMERCIAL

DESIGN	DESIGNED
DRAWN	
CHECKED	
FLR. INL. NO.	
PRICE	
ATLAS	



## CITY OF SANTA BARBARA

## Public Works Department

## Interoffice Memorandum

RECEIVED

MAR 15 2000

CITY OF SANTA BARBARA  
PLANNING DIVISION

DATE: March 15, 2000

TO: Bill Jacobs, Associate Planner  
Colette Phillippi, Planning Technician

FROM: Robert J. Dayton, Senior Transportation Planner *RJD*

SUBJECT: MOBY DICK RESTAURANT - COMPLETENESS REVIEW

Transportation Planning staff has reviewed the plans dated September 9, 1999, and read the letter from the applicant, Otto Hertl, dated February 23, 2000. The applicant is proposing, as part of a reconstruction of the Moby Dick restaurant, two small additions, the full enclosure of a sun porch, and the legalization of 74 seats; 40 of which are proposed to be accommodated on the existing outdoor observation deck. Under the Zoning Ordinance, the remaining 34 indoor seats would require 11 parking spaces. The Zoning Ordinance does not require parking for outdoor seating.

**Parking Demand Analysis**

The 74 seats proposed to be legalized have been in existence for approximately 20 years. Throughout this time period, numerous parking studies have been conducted in the Waterfront; e.g., the Waterfront Area Transportation Study, and have included any parking demand created by these illegal seats. Although the Wharf cannot supply for its parking demand on peak summer weekends, additional parking supplies in the Waterfront are used to meet the Wharf's parking demand. The previous parking studies concluded that parking is available in the Waterfront area, except for a handful of peak summer weekends when the tourist population is high.

Transportation Planning staff believes that during these peak-parking times, the Wharf parking lot would be full with or without the Moby Dick seats that are proposed to be permitted. Staff believes that during peak parking demand times, people visiting the Moby Dick Restaurant will do so because the Wharf is a tourist attraction, not because of the restaurant's additional seating. For example, if the application to permit these illegal seats is denied, we do not believe that the parking supply on peak summer weekends would be any less impacted.

Therefore, in reviewing this proposal and other similar proposals on the Wharf, it may be important to consider how much development can and should occur on the Wharf, rather than how additions to the Wharf will affect parking demand. Transportation Planning staff would support an 11 space parking modification for the additional seating.

**Conditions Of Approval**

The Waterfront Department, through the Metropolitan Transit District, has initiated a trolley service that shuttles people from the Waterfront area parking lots onto the Wharf. The trolley makes parking further from the Wharf more convenient; thus, easing the demand for parking on the Wharf. In lieu of additional parking, Transportation Planning recommends that the development be required to provide additional bicycle parking, and cooperate with the City to contribute in the operational costs of operating the shuttle.

Additionally, staff recommends that the development participate with other Wharf merchants to pay for the electric shuttle tokens for patrons who request them as well as provide free bus passes to its employees. These recommendations are required as a condition of approval.

CD/avb

cc: Helene Buchman, Transportation Planning

\\PWSYS\USERS\Trans Planning\Doctors\Plan Review\Moby Dick 220 Stearns Wharf.doc

EXHIBIT 6

CDP # 4-00-198

