

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

**Th11a**



**RECORD PACKET COPY**

Filed: 06/04/01  
49th day: 07/23/01  
180<sup>th</sup> day: 12/01/01  
Staff: CL  
Staff report: 06/16/01  
Hearing date: 07/12/01

**COASTAL DEVELOPMENT PERMIT APPLICATION**

Application number .....3-99-064, Steinmann

Applicant.....Kurt Steinmann

Project location.....845 Embarcadero Street, Morro Bay

Project description .....Demolition of a single story, 1480 square foot building, construction of a 2300 square foot single story building and a public access boardwalk 125' in length, 8' in width along the bay frontage of the site.

Local approval.....City of Morro Bay CUP 15-99 and 30-99

File documents.....City of Morro Bay Certified Local Coastal Plan

Staff recommendation ...Approval with Conditions

**Summary:** The Applicant proposes to demolish an existing one story, 1580 square foot building and construct a 2300 square foot single story building and public access boardwalk on a 13, 212 square foot site leased by the applicant from the City of Morro Bay on the bayside of Embarcadero Street. The site, located towards the north end of Embarcadero, was previously developed with a larger, two story building, the building proposed for demolition and a floating dock. Land uses included a boatyard and retail commercial development. On February 13, 1999, a fire destroyed the larger building and the property has been used for temporary boat and equipment storage since then. The new project approved by the City provides for the construction of two buildings on the land portion of the site. These buildings will house a combination of coastal dependent/ related and visitor serving uses, other features proposed by this application include a public access boardwalk along the bay frontage and a 19' wide view corridor through the site from Embarcadero to the bay. The larger building is exempt from the Coastal Development Permit requirement because it is a replacement of a structure destroyed by fire consistent with Public Resources Code Section 30610(g).

The principal Coastal Act issues raised by the proposed development are impacts on public views to the bay and sand spit, public access and land use. Although construction of the proposed one story building will encroach an additional 8' into the viewshed from Embarcadero than the existing structure to be demolished, the impact on views to the bay and sand spit are adequately mitigated by the development of a public boardwalk across the entire 125' bay frontage of the site. This boardwalk will give the public



**California Coastal Commission**  
**July 2001 Meeting in Santa Rosa**

Staff: Charles Lester Approved by: *TEH*

unobstructed views to the bay and the sand spit and is consistent with the City’s plan to ultimately create a continuous boardwalk along the bayside frontage. The project also proposes the retention of a 19’ view corridor through the site from Embarcadero. The project will increase public access opportunities on this site providing both lateral ( boardwalk ) access and vertical access from Embarcadero through the central portion of the site to connect to the boardwalk. As conditioned, these accesses will be secured for public use by easements prior to the issuance of a building permit for the project. This permit is also conditioned to provide for Executive Director review and approval of the Public Access Program for the site that was required by the City. Adequate infrastructure (sewer, water and road capacity) exists to serve the proposed development. Parking in this area is accommodated in city owned lots supported by the Embarcadero businesses and with on street parking. The land uses proposed by the new development are conditioned by the City to generally maintain the mix of coastal dependant coastal related and visitor serving uses that existed on the site prior to the fire. As discussed in detail in the Findings, these uses are consistent with Coastal Act policies relevant to oceanfront sites.

The Commission has original permit jurisdiction over this project because it is located on filled state tidelands leased to the City of Morro Bay and subleased to individual lessees. The standard of review is therefore the Policies of Chapter Three of the Coastal Act although the Certified Morro Bay LCP may be used as guidance. As conditioned, Staff recommends approval.

**Staff Report Contents**

- I. Staff Recommendation on CDP Application.....3
- II. Conditions of Approval.....3
  - A. Standard Conditions.....3
  - B. Special Conditions .....4
- III. Recommended Findings and Declarations.....5
  - A. Project Description.....5
  - B. Coastal Development Permit Determination .....6
    - 1. Visual Resources.....6
    - 2. Public Access .....7
    - 3. Development .....10
    - 4. Water Quality .....11
    - 5. California Environmental Quality Act (CEQA) .....12
- IV. Exhibits
  - Exhibit A: Site Plan and Elevations
  - Exhibit B: Vertical Access Site Plan
  - Exhibit C: Location Map
  - Exhibit D: City Approvals, CUP 15-99 and CUP 30-99
  - Exhibit E: Letter exempting the destroyed building from the CDP requirement
  - Exhibit F: Photograph of existing land use on the site



## I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

**Motion.** I move that the Commission approve Coastal Development Permit Number 3-99-064 pursuant to the staff recommendation.

**Staff Recommendation of Approval.** Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development 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 a Coastal Development Permit.** The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

## II. Conditions of Approval

### A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **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.

## **B. Special Conditions**

1. **Incorporation of City's Conditions.** Mitigation Measures 72,76,77,78,79,81,82 and 84 adopted by the City of Morro Bay on May 23, 2001 for CUP 30-99 are hereby incorporated as conditions of this permit.

Any revision or amendment of these adopted conditions and mitigation measures or the project plans shown as Exhibit A of this staff report shall not be effective until reviewed by the Executive Director for determination of materiality, and if found material, approved by the Commission as an amendment to this coastal development permit.

2. **Vertical Public Access Condition**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the lessee shall execute and record a document, in a form and content acceptable to the Executive Director, to dedicate to the City of Morro an easement for vertical public access and passive recreational use from Embarcadero through the site to connect with the lateral access along the entire bayside frontage of the site. The document shall provide that the dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. The area of dedication shall consist of a corridor, 19' in width that extends from Embarcadero to the lateral public access along the bayside frontage of the site as shown on Exhibit B. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.

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

3. **Lateral Access Easement and Public Access Plan**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicant shall submit the Public Access Program required by Condition 27 of CUP 15-



99 and the lateral access easement required by Condition 28 of CUP 15-99 (Approved by the City of Morro Bay on August 23, 1999) for Executive Director's review and approval. Any revisions to the Public Access Plan and lateral easement shall be submitted to the Executive Director. If the revisions are determined to be material, they will not be effective until an amendment to this Coastal Development Permit is authorized by the Commission. This requirement shall be reflected in the provisions of the dedication and noted in the approved Public Access Program document.

### **III. Recommended Findings and Declarations**

The Commission finds and declares as follows:

#### **A. Project Description**

##### **1. Project Location**

The 13,212 square foot site is located on the bayside of the Embarcadero in Morro Bay. (Please see Exhibit C) The Embarcadero is one of the primary visitor destinations in Morro Bay and is largely developed with a variety of visitor serving (restaurants, gift shops) and coastal related (kayak rental, fish cleaning and icing facilities etc.) land uses. Parcels on the bayside of Embarcadero are leased out to individual lessees by the City that controls these properties through a lease from the State Lands Commission.

##### **2. Project Description**

The application proposes the demolition of a 1580 square foot building approximately 14' in height, the construction of a one story, 2300 square foot building a maximum of 17' in height, and a public access boardwalk, 8' in width, that extends across the entire 125' bayside frontage of the site. The site is located within an area of retained Coastal Commission jurisdiction because it is on filled state tidelands and thus requires a Coastal development Permit from the Commission as well as local planning approval. The City of Morro Bay initially approved the project on August 23, 1999 (CUP 15-99), with further action on May 23, 2001 (CUP 30-99) subject to a number of conditions. (Please see Exhibit D, City Approvals)

##### **3. Project Background**

Prior to 1999 this site was fully developed with a boatyard, floating dock and visitor serving retail commercial. Structural development on the site included a two story building (24' high, approximately 3400 square foot site coverage, but 6720 total square footage) that contained visitor serving retail uses, a 1580 square foot building used for boatyard purposes and a floating dock. The site did not include any formal public access. In 1999, fire destroyed the two story building and damaged the dock leaving the



smaller structure that is the subject of this application intact. Replacement of the destroyed building has been exempted from the coastal Development Permit requirement consistent with Coastal Act Section 30610 (g). ( Please see Exhibit E) The replacement for the destroyed building will be one story in height, somewhat smaller in floor area than the original and located in the same general area of the site, although because it is now a one story building, it will occupy a greater "footprint" than the destroyed structure. It is also designed to be architecturally consistent with the smaller building that is the subject of this Coastal Development Permit application. The Applicant has stated that he also intends to submit an application to rebuild the floating dock in the near future.

## **B. Coastal Development Permit Determination**

### **1. Visual Resources**

#### **a. Applicable Coastal Act Policies**

Section 30521 of the Coastal Act requires the protection of scenic resources within the coastal zone and public views to and along the shoreline as follows:

##### Section 30251

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

#### **b. Analysis**

The flat site is located between the bay and Embarcadero, a public road. Currently, the site is rather unkempt in appearance because it still contains broken concrete slabs from it's previous use, a poorly maintained single story building ( to be demolished and replaced by the structure that is the subject of this application ), a rather battered, large fiberglass whale, an assortment of debris and boat and car storage. ( Please see Exhibit F, Photo of site conditions ) Public views to the bay and the sand spit are available through the clutter on the site from Embarcadero.

Due to the fact that the site and the public viewing points on along Embarcadero are at the same elevation, any structural development over 5' or 6' in height will block views across the parcel as was demonstrated by the building that was destroyed by fire and the existing building. Construction of the



exempted building and the structure that is the subject of this application will likewise obstruct views. The exempted building will occupy 70' of the parcel's 125' width. The proposed smaller building will occupy an additional 33'. In total 80% of the viewshed across this parcel will be obstructed from viewing points along Embarcadero.

The loss of these public views is however, mitigated by the City approved design that requires the construction of an 8' wide boardwalk across the entire bay frontage of the site. ( Please see Exhibit A, Site Plan ) This boardwalk, which will be secured by an access easement to ensure public availability, will provide the public with unobstructed views of the bay and the sand spit and is consistent with city policies to provide visual and pedestrian access along the Embarcadero shoreline by requiring new bayside development to provide these facilities. Eventually, as the bay front boardwalks link up, this lateral pedestrian access will be largely continuous along the one mile length of Embarcadero. Access to the proposed boardwalk from Embarcadero will be via a vertical access easement through the center of the site.

The single story design of the project is somewhat nautical in character and is compatible in appearance and scale with the more attractive buildings along Embarcadero. The use of landscaping and open public areas between and around the two buildings serves to soften the appearance of the buildings and break up the mass of the structures.

### **c. Conclusion**

Coastal Act Policy 30521 requires new development to protect views to and along the shoreline, be visually compatible with the character of the area and, where feasible, to restore and enhance visual quality in visually degraded areas. As discussed in the preceding paragraphs, the proposed project includes a boardwalk across the entire bayside frontage that will provide unobstructed views for the public to and along the Morro Bay shoreline. The design of the proposed project is compatible with the surrounding attractive development along this portion of Embarcadero and will restore visual quality on the currently cluttered and unattractive site. The project, as conditioned by the City and the Commission is, therefore consistent with the policy direction of PRC Section 30521.

## **2. Public Access**

### **a. Applicable Coastal Act Policies**

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



*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 30211: 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.*

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

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

*Section 30220: Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

*Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area..*

## **b. Analysis and Conclusions**

**Public Access:** The project approved by the City of Morro Bay includes the following provisions for public access on this site: a boardwalk, 8' in width along the entire bay frontage of the parcel, a 720 square foot observation deck on the roof of the larger building ( unless an elevator is required ), a 18' to 20' wide vertical access through the central portion of the site from Embarcadero to the boardwalk, public restroom facilities located in the larger building and appropriate signing. Altogether approximately 40% of the site will be developed with public access improvements. The public access facilities that will be located in the larger building are not part of this application because replacement of the larger structure has been exempted from the Coastal Development Permit requirement consistent with PRC 30610 (g). The vertical and lateral accesses and the signing plan for access are included in this application.

Consistent with the access provisions of the Certified Morro Bay certified Local Coastal Program, the city approval includes conditions requiring both vertical and lateral public access on this filled state tidelands site and provides that the lateral access must be constructed in the first phase of the project. (Please see Exhibit D, Conditional Use Permit 15-99, specifically Conditions 27 and 28 and City Staff Report dated August 16, 1999 for a detailed discussion ). Condition 28 provides that access will be



secured by easement consistent with Section 17.48.280 of the Zoning Ordinance prior to the issuance of any building permits for the project. A review of Section 17.48.280 reveals that recorded easements or offers of dedication are only required for lateral accesses . Thus, while the City approval clearly contemplates a vertical public access through the central portion of the site ( Condition 1 ), only the lateral access is subject to an easement. Section 30212 (a) of the Coastal Act requires that new development shall provide both vertical ( "*Public access from the nearest public roadway to the shoreline...*" ) and lateral access ( "*and along the shoreline*" ) . The required access is typically secured for the benefit of the public either by an easement or offer to dedicate. In this instance, the City has required an easement for the lateral but has not similarly secured the equally important vertical access. If conditioned to require an easement over the vertical access as well, the project will be consistent with PRC Section 30212. Since the City is the underlying lease holder and is willing to accept an easement for the lateral access, the condition is written to offer the vertical easement to the city as a the first choice for the easement holder. In order to ensure that the lateral access easement and Public Access Program required by City Conditions 27 and 28 are fully consistent with the provisions of the Coastal Act Access policies, a condition is also added to incorporate these conditions into those of the Commission and provide for Executive Director review and approval of the easement and access plan.

Therefore, as approved by the City of Morro Bay and conditioned by the Commission, the proposed project is consistent with the access policies of the Coastal Act that require new development to maximize access and specifically to provide vertical and lateral access.

**Recreation:** The Coastal Act directs that oceanfront land, such as this site, should be considered for recreation use and should not be used for other types of development unless adequate recreational opportunities already exist nearby. ( PRC 30221 ). Although the project proposed **by this application** does not include a recreational use beyond the pedestrian boardwalk, it is anticipated that a portion of the **site** will be developed for recreational use. The Applicant has recently received approval from the City to reconstruct the floating dock in order to support a planned kayak rental business. This dock replacement project will, according to the Applicant's representative, be submitted for Commission review in the near future. In addition, ample ocean or bay front recreation opportunities exist nearby. Tidelands Park is located slightly less than a half mile away at the south end of Embarcadero. This public park provides boat launching facilities, parking and beach access. Dunes Street Park is located a block and a half north of the site. Recreational amenities at this small park include benches, a grassy picnic area, a monument and a small viewing pier. Finally, the Morro Bay sand spit, owned by the California Department of Parks and Recreation, is located immediately across the channel from the site and is available for limited public use. Therefore, because the site does not need to be reserved for recreational use the proposed project can be found consistent with Section 30221 of the Coastal Act.



### 3. Development

#### a. Applicable Coastal Act Policies

The Coastal Act gives coastal dependent land uses priority for oceanfront sites and encourages the siting of new projects within already established urban areas that have adequate infrastructure to support additional land development as follows:

##### Section 30250

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

##### Section 30255

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

#### b. Analysis and Conclusions

The project is proposed within the urban area of the City of Morro Bay. Most of the parcels along the Embarcadero are already developed with a variety of visitor serving and coastal related and dependant land uses. City sewer and water service is available and adequate to serve the proposed project. Parking for the existing development on the bayside of the Embarcadero is generally provided in city lots supported by the Embarcadero businesses and by street parking spaces. The entire project, of which this application is a small portion, has been assessed for thirty two parking spaces as it's share in the city parking program. This represents a slight reduction of parking demand over that ascribed to the previous development on the site. In the 1999 Staff Report, the City notes that the historic use required 35 spaces. Most of the time parking is available in the immediate vicinity of the visitor serving attractions of the Embarcadero area although on peak, summer week ends, some visitors must park as much as a few blocks away.



The proposed project is therefore consistent with Coastal act Section 30250 because it is located in an existing urban area, public services are available and adequate to serve the new development and off site parking requirements have been adequately addressed through the City's parking program.

Section 30555 gives coastal dependent development priority over other land uses on or near the shoreline. "Coastal dependent" is defined in the Coastal Act as follows:

#### Section 30101

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

The Coastal Act thus requires that when development is proposed on a site, such as the subject property, that is located on or near the shoreline, consideration must be given initially to coastal dependent uses. In this case, a portion of the site will be used for coastal dependent and coastal related uses. The City has conditioned it's approval to require that a minimum of 40% of the development constructed on the land portion of the site must be coastal dependent or coastal related. This percentage may be reduced to 25% if the project proposed on the water portion of the property is constructed. If the proposed dock replacement is approved in a subsequent permit action, all of this development will be coastal dependent ( kayak and charter boat facilities ). The remaining land use allowed on the site is proposed to be visitor serving commercial. A significant number of the shoreline parcels in Morro Bay are developed with a variety of coastal dependent uses ( fish landing and cooling facilities, marine repair, boat rentals etc ) and there is no evidence that a greater portion of the subject property is needed for this land use. The proposed project is, therefore, consistent with the siting considerations of PRC Section 30555.

## **4. Water Quality**

### **Coastal Act Policy**

Section 30231 of the Coastal Act requires that water quality be protected and, if possible enhanced, as follows:

#### 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.*

## **b. Analysis and Conclusion**

The site is located immediately adjacent to the waters of Morro Bay. Construction activities associated with the development of the site and drainage and run off from the completed project could potentially result in adverse impacts on Morro Bay water quality. The City has attached a number of conditions to CUP 30-99 to address this issue. ( Please see Conditions 72,76,77,78,79,81,82 and 84, Planning Commission Action on CUP 30-99, May 21, 2001 ) These conditions require the following measures to ensure that water quality will be adequately protected:

- installation of an oil/water separator,
- installation of an outlet structure to address silt and hydrocarbon containment,
- direct all run off to the street rather than the bay,
- the implementation of siltation and sediment control measures during construction,
- avoidance of use of the west side of the site closest to the bay for stockpiling of soil, and cleaning and refueling of equipment,
- on site storage of absorbent materials for use in the event of a fuel spill during construction., training for construction workers in how to contain a spill
- periodic review of the implementation of mitigation measures by a qualified biological monitor

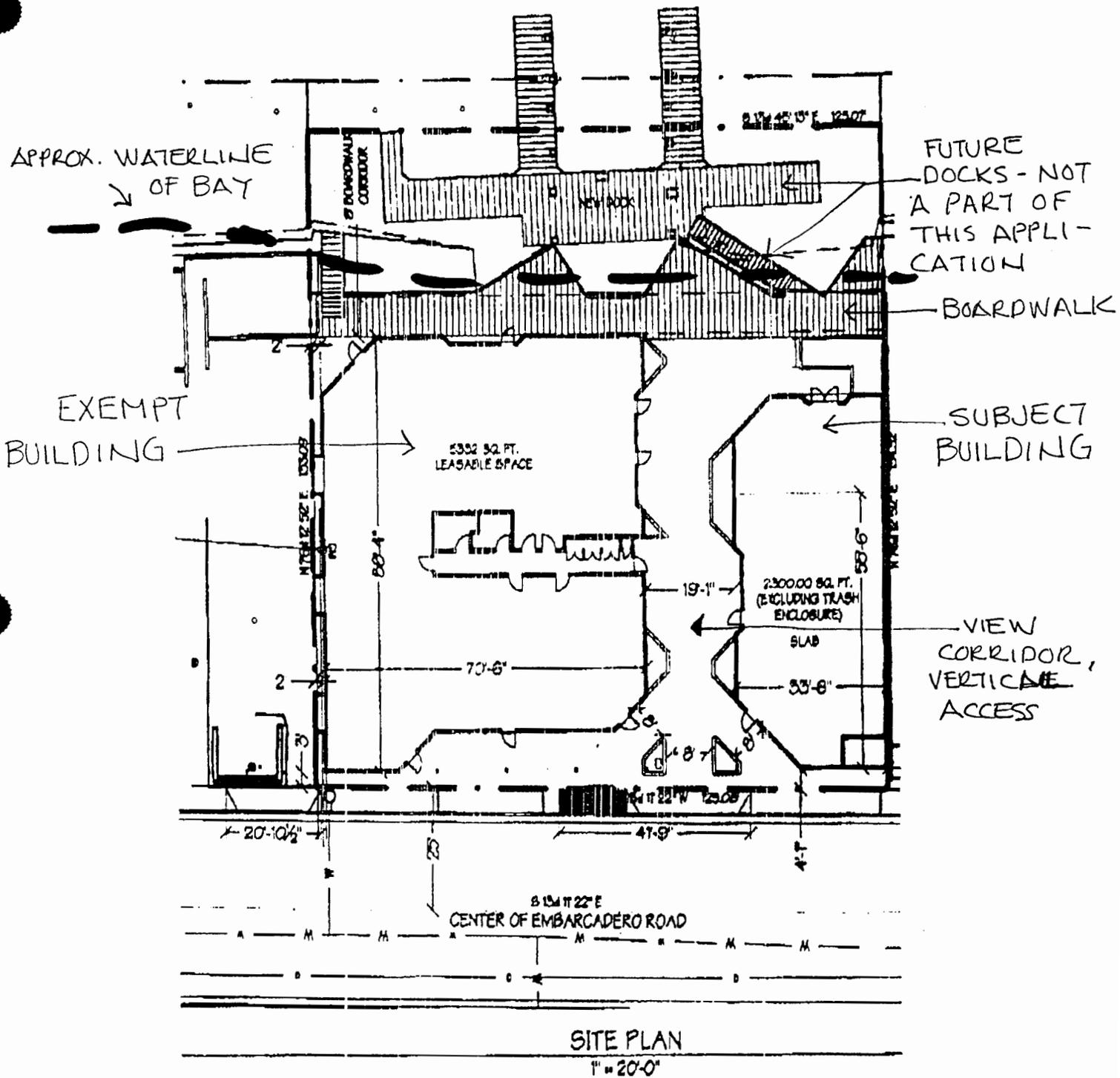
As conditioned by the City and incorporated into this recommendation, the construction and use of the proposed development will not adversely affect water quality of the bay and is therefore consistent with Coastal Act Section 30231.

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

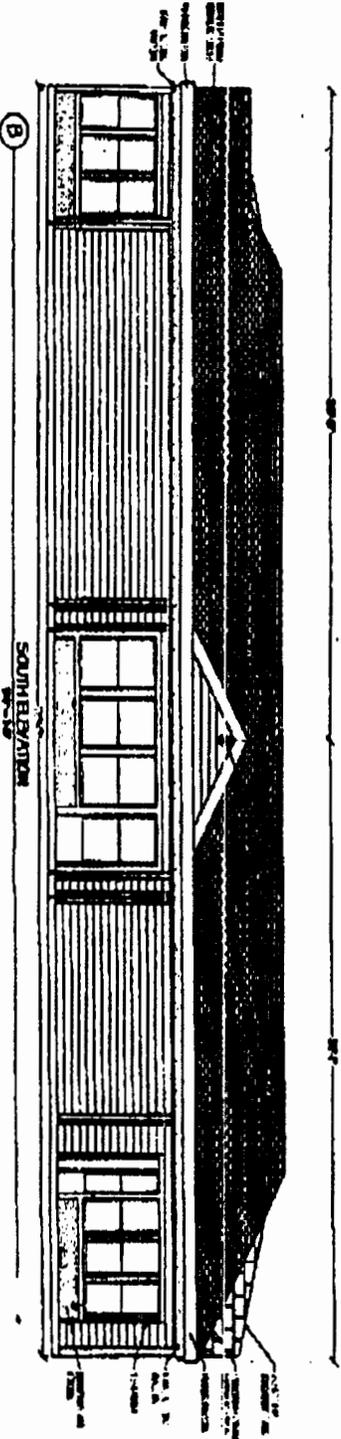
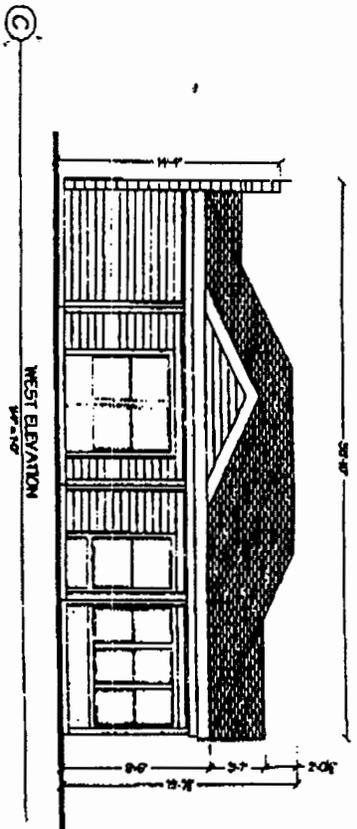
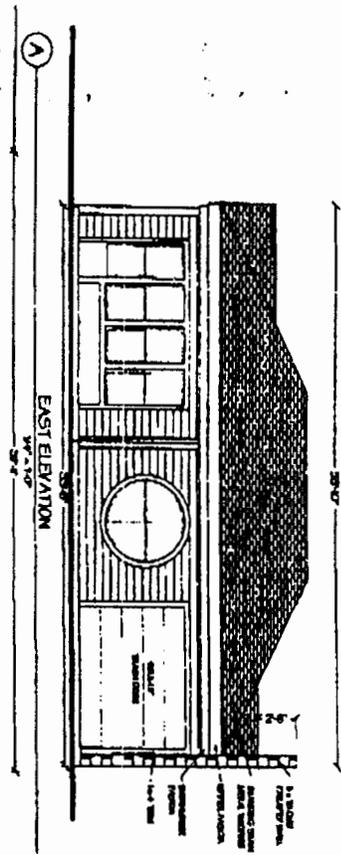
Section 13096 of Title 14 of the California Code of Regulations requires the Commission to make a specific finding that all approved Coastal Development Permits are consistent with any applicable CEQA requirements. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially reduce any significant adverse impacts that the project may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report, which is incorporated into this finding, recommends appropriate mitigation to address adverse impacts to the environment. Accordingly, the project is approved subject to conditions that implement the mitigation required of the Applicant by the Commission (See Special Conditions ). As such, the Commission finds that only as modified by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.



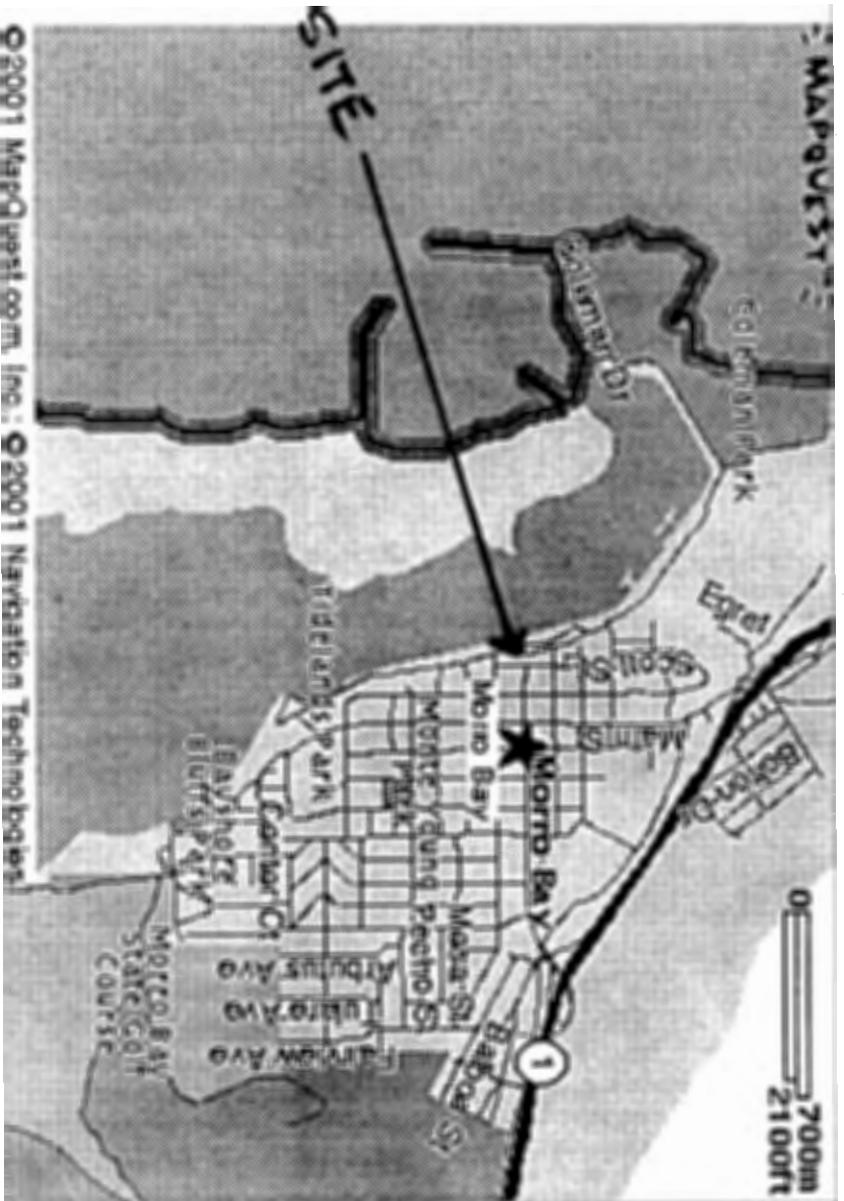


# SITE PLAN EXHIBIT A



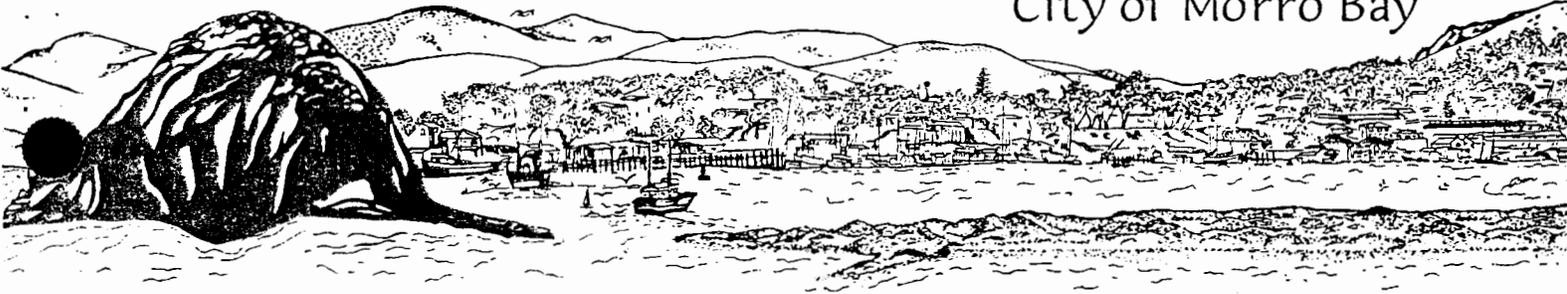
**ELEVATIONS OF 12300 SO. FT BUILDING**





# LOCATION MAP

# EXHIBIT C



PUBLIC WORKS DEPARTMENT • 695 HARBOR STREET, MORRO BAY, CALIFORNIA 93442 • 805-772-6261

**CONDITIONAL USE PERMIT  
(Concept Plan)**

CASE NO: CUP 15-99 (Concept Plan)

**THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:**

SITE ADDRESS: 845 Embarcadero

APPLICANT: Kurt Steinman

APN/LEGAL: 068-130-022/Lease 89-89W

DATE APPROVED: August 23, 1999 APPROVED BY: City Council

CEQA DETERMINATION: 15302 (b) (Class 2, Replacement Construction)

DESCRIPTION OF APPROVAL: Concept Plan approval to replace the previous development on-site destroyed by fire with tow new buildings, 6,100 s.f. and 2380 s.f., 17 feet in height, for retail, marine/coastal related use, including a manager's quarters.

THIS APPROVAL IS BASED UPON THE ATTACHED FINDINGS AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

ATTEST:   
Shauna Nauman, Secretary of the Planning Commission

DATE: 8/20/99

**THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT. THE PROJECT SITE IS WITHIN THE DIRECT PERMIT JURISDICTION OF THE CALIFORNIA COASTAL COMMISSION AND WILL REQUIRE SEPARATE APPROVAL OF A COASTAL DEVELOPMENT PERMIT BY THE CALIFORNIA COASTAL COMMISSION. IT IS THE APPLICANT'S RESPONSIBILITY TO FILE ALL NECESSARY APPLICATIONS WITH THE CALIFORNIA COASTAL COMMISSION FOR THIS PROJECT.**

**EXHIBIT D** *pg 1 of 36*

## ATTACHMENT A

### FINDINGS

CASE NO. CUP 15-99 (Concept Plan)  
845 Embarcadero

Concept Plan approval to replace the previous development on-site destroyed by fire with two new buildings, 6,100 s.f. and 2380 s.f., 17 feet in height, for retail, marine/coastal related use, including a manager's quarters.

#### A. California Environmental Quality Act (CEQA)

1. That for purposes of the California Environmental Quality Act, Case No. CUP 15-99 (Concept Plan) is Categorically Exempt, (CEQA Guidelines Section 15302 (b) (Class 2, Replacement Construction) as indicated in the attached staff report to the Planning Commission dated August 16, 1999

#### B. Conditional Use Permit Findings

1. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff memorandum dated August 16, 1999.
2. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project will be consistent with all applicable zoning and plan requirements as indicated in the attached staff memorandum dated August 16, 1999.
3. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be constructed and developed consistent with all applicable City regulations, as indicated in the attached staff memorandum dated August 16, 1999, and will provide public road and drainage improvements consistent with City Public Services Department requirements.
4. The architectural treatment and general appearance of all proposed buildings, structures and open areas are in keeping with the character of the surrounding area, are compatible with any design themes adopted by the City, and are not detrimental to the orderly and harmonious development of the City or to the desirability of investment or occupation in the neighborhood as indicated in the evaluation of project consistency with applicable zoning regulations and planning policies in the attached staff memorandum dated August 16, 1999.

**ATTACHMENT B**

**CONDITIONS OF APPROVAL**

**CASE NO. CUP 15-99 (Concept Plan)  
845 Embarcadero**

Concept Plan approval to replace the previous development on-site destroyed by fire with two new buildings, 6,100 s.f. and 2380 s.f., 17 feet in height, for retail, marine/coastal related use, including a manager's quarters.

**A. STANDARD CONDITIONS:**

1. **Permit/Project Description:** This concept plan approval is granted for the land described in the staff report referenced above, dated August 16, 1999, for the project depicted on the attached plans labeled "Exhibit C", dated July 26, 1999, on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows: Replacement of a structure destroyed as a result of fire, demolition of one remaining structure previously used for marine storage and boat repair, and removal of existing boat haul-out facilities. Any repairs or modifications to the existing revetment and/or docks is not a part of this project and will require separate review and approval. The key elements of the project description are as follows:

<b>Use:</b>	Coastal Dependent/Coastal Related (minimum of 40% of gross floor area per recommended conditions) If the docks are restored and enhanced as indicated in the concept plan, the percentage of Coastal Dependent/Related use can decrease to 25% of gross floor area. Property Manager's Quarters for use by an on-site manager only.
<b>Size of Structures:</b>	The primary building will be 5,300 s.f. (1st floor) and 800 s.f. (2nd floor) and the secondary building will be 2,380 s.f.
<b>Colors &amp; Materials :</b>	Warm brown, grey, green earth tones with raised metal seam or architectural grade shingle roofing as indicated on Planning Commission approved color/material exhibit.
<b>Roof:</b>	Not less than 80% of the roof area will be sloping with a minimum pitch of 4:12 (not including the public observation deck area). A roof equipment well will be provided adjacent to the east wall of the upper floor manager's unit to house roof mounted equipment.
<b>Landscaping:</b>	Conceptual plan as shown in Planning Commission approved exhibits. Final landscape/irrigation plans will be provided as part of Precise Plan review.

<b>Parking:</b>	The project requires 32 parking spaces based on the following assumptions regarding future use of the site: Retail.....16 spaces (1/300 s.f.) Dock.....5 spaces (1/6.5 lineal feet of boat) Non-Retail Coastal Related.....9 spaces (1/300 - 1/500) Manager Apartment.....2 spaces
<b>Lot Coverage:</b>	A maximum of 7,680 s.f. of the site will be covered by structures (not including the area covered by the public observation deck).
<b>Height:</b>	A maximum of seventeen (17) feet above average natural grade (ANG) covered by the building(s). Maximum ridge elevation 25.925 based on ANG of 8.925 as shown on plans submitted 8/9/99.
<b>Coastal Access:</b>	Vertical access to the bayfront provided through a central corridor 18.75 to 20 feet in width. Lateral access along the bayfront provided by an open, minimum 8 foot wide walkway along the entire bay frontage of the site. A second floor public observation deck (720 s.f.) will also be provided.
<b>Public Open Space &amp; Amenities:</b>	Approximately 7,065 s.f. of publicly accessible open space area including 720 s.f. on the second floor observation deck. Publicly accessible restrooms and windscreen protected viewing areas will also be provided as shown on the approved plans.
<b>Public Improvements:</b>	A public improvement plan will be required in conjunction with Precise Plan review. Public improvements will include expansion of the sidewalk along the Embarcadero to a minimum width of 10 feet as required by the Waterfront Design Guidelines.

*Modifications/Exceptions Requested:* None.

Site development, including all buildings and other features, shall be located and designed substantially as shown on the aforementioned exhibit, unless otherwise specified herein and shall be subject to approval of a Precise Plan pursuant to Section 17.40.030 G. MBMC.

2. **Precise Plan Approval Required Within One Year:** Unless a complete application for a precise plan is submitted to the City within one year of California Coastal Commission approval, this concept plan shall automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review. Any change in use from storage to a more intensive commercial use shall require a modification to this permit approved by the Planning Commission.
4. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.
5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Acceptance of Conditions: Prior to obtaining a building permit and within thirty (30) days of the effective date of this permit, the applicant shall file with the Director of Planning and Public Services written acceptance of the conditions stated herein.

**B. PLANNING DIVISION CONDITIONS:**

1. Precise Plan Requirements: Prior to Building Permit issuance, Precise Plan approval from the Planning Commission is required. The Precise Plan for the project shall include all information required by MBMC Section 17.40.030 G.1 and any other information deemed necessary by the Director of Public Services.
2. Revetment Evaluation: Prior to Building Permit issuance, the applicant shall be responsible for performing an evaluation of the structural adequacy of the existing revetment to accommodate the proposed development. The evaluation shall be performed by a qualified, licensed, professional, approved by the City Engineer and Harbor Director. The results of the evaluation shall be provided to the City upon request, including any and all recommendations regarding repair and/or modifications to the revetment. The applicant shall be responsible for ensuring that the revetment is structurally suitable to accommodate the proposed development. A building permit for the project (precise plan) shall not be issued by the City until the structural adequacy of the revetment is established to the City's satisfaction.

3. Revetment Repair/Reconstruction: The scope of this concept plan does not include repair and/or reconstruction of the waterfront revetment in connection with development of this site. Any modifications to the revetment shall require separate review and approval by all agencies with jurisdiction, including the Army Corps of Engineers, Coastal Commission, Department of Fish and Game, and the City of Morro Bay.
4. Dock Modifications: The scope of this concept plan does not include replacement/removal of the existing floating dock facilities. Separate approval from all agencies with jurisdiction, including the Army Corps of Engineers, Coastal Commission Department of Fish and Game and City of Morro Bay, shall be required for dock modifications.
5. Coastal Dependent/Related Uses Required: In order to ensure consistency with the land use designations for the site in both the Local Coastal Land Use Plan and General Plan, the project shall provide a minimum of 40% of the gross floor area of the development for Coastal Dependent and/or Coastal Related Use as defined in Sections 17.12.175 and 17.12.177 of the MBMC. Upon completion of dock restoration, as illustrated for informational purposes only on the concept plan, the minimum gross floor area designated for Coastal Dependent and/or Coastal Related Use may be reduced to 25% of the development.
6. Phasing for Demolition and Reconstruction: Prior to Precise Plan approval, the applicant shall be required to provide a bond covering the cost of all remaining demolition required on-site (structures, foundations, equipment, etc.) in an amount acceptable to the Director of Public Services. Demolition of the existing structures/equipment and facilities remaining on site shall require approval of a demolition permit from the City and a Coastal Development Permit from the Coastal Commission (unless a waiver from the Coastal Commission is obtained). All required demolition shall be completed on-site within six months of Precise Plan approval. Upon completion of demolition to the satisfaction of the Director of Public Services and the Harbor Director, the demolition bond shall be released to the applicant. Construction of the landside development shall be completed in a single phase upon completion of demolition unless otherwise approved by the Director of Public Services.
7. Coastal Commission Review: Prior to Precise Plan approval, the project shall be reviewed and approved by the California Coastal Commission. Any modifications to the project required by the Coastal Commission shall be subject to review and approval by the City as part of consideration of the Precise Plan.
8. Required Plan Modifications: Prior to submittal of the Precise Plan, the project plans shall be modified as follows:
  - a. Delete bay side balcony of second floor manager's unit and replace with shed roof feature similar to Embarcadero elevation to improve building articulation and provide a more integrated, cohesive design.
  - b. Relocate ground floor windscreens along bayside to provide a minimum width of 8 feet for the public bayside walkway.
  - c. Revise building height calculations to show that the maximum ridge elevation will not exceed 17 feet from average natural grade.

- d. Provide a roof well adjacent to the east wall of the manager's unit to accommodate mechanical equipment.
9. Payment of Fees: Prior to Building Permit issuance, the applicant shall pay all fees and costs related to project review to the City.
10. Colors and Materials: Prior to issuance of a building permit, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials as approved on the attached Exhibit(s). All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
11. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
12. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.
13. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view from adjoining public streets in a manner approved by the Director of Public Services. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.
14. Trash Enclosure: Pursuant to MBMC Section 17.48.230, prior to issuance of the building permit, a trash enclosure shall be shown on the project plans, subject to the review and approval of the Director of Public Services. The trash enclosure shall be aesthetically compatible with the main structure with a minimum wall height of five (5) feet and solid steel gates per the City's trash enclosure details. Reasonable effort shall be made to locate enclosures in a manner which will not interfere with the reasonable use of adjoining properties or endanger the health or safety of persons in the subject property.
15. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. daily, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
16. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Public Services. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit

fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility..

17. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
18. Parking: In accordance with MBMC Chapter 17.44, a minimum of 32 spaces to serve the approved use shall be provided on the project site at all times unless a modification/exception/variance is subsequently granted pursuant to the provisions of the zoning ordinance.
19. Landscape and Irrigation Plan: Prior to the issuance of a building permit, a landscaping plan, prepared and stamped by a licensed Landscape Professional, (i.e., Landscape Architect, Architect, or Landscape Contractor) shall be submitted for review and approval by the Director of Public Services in accordance with all requirements of Section 17.48.290 of the MBMC. Said plan shall include a planting plan showing the species, number, size, and location of all plant materials. An irrigation plan shall include the proposed method and location of irrigation. Native and/or drought tolerant plant and tree species shall be used to the maximum extent feasible. Trees shall be selected from the Master City Street Tree List prepared by the Public Works Department. The landscape plans shall also include fencing details, utility meter screening, and screening of the trash enclosure.
20. Landscaping Protection: All landscaping and planting within paved areas shall be contained within raised planters surrounded by six (6) inch concrete curbs.
21. Timing of Landscaping: Prior to issuance of a final Certificate of Occupancy, all required plantings, groundcover and irrigation systems shall be in place to the satisfaction of the Director of Public Services . The landscape consultant shall provide a watering schedule and certify that all plantings and irrigation systems have been installed pursuant to the approved plans prior to issuance of the final Certificate of Occupancy.
22. Maintenance of Landscaping: All required plant materials shall be maintained in accordance with the watering schedule as specified in the approved landscape plan notes. All landscaping shall be cared for, maintained, watered, fertilized, fumigated, pruned and kept in a healthy growing condition for the life of the project. Where required plant(s) have not survived, it shall be promptly replaced with new plant materials of similar species, functional, size, and characteristics as specified in the approved landscape plant notes.
23. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Public Services.

24. Water Equivalencies: Pursuant to MBMC Chapter 13.20, the project (60% retail 4,608 s.f. & 40% coastal dependent/related 2,572 s.f. and one apartment unit) requires an estimated water allocation of approximately 1.46 water equivalency units (weu's). Prior to the issuance of a building permit, the applicant shall obtain a water allocation for the required water equivalency unit through the Off-Site Retrofit Program, or the City's current Water Allocation Program at the time of building permit issuance.
- a. Prior to issuance of a Building Permit, the Public Services Director shall verify that the necessary water equivalencies have been met for the size of the project and the nature of proposed occupancy.
  - b. The water and sewer impact fees shall be paid at the time the Building Permit is issued.
25. Signage: Prior to installation of any sign on-site, a sign program shall be approved by the Planning Commission in conformance with MBMC Chapter 17.68. The sign program shall be submitted for Planning Commission review in conjunction with precise plan approval for this project. A sign permit is required prior to the installation of any sign.
26. Other State and Federal Permits: Prior to the issuance of a building permit, the applicant shall provide copies of the following permits or written verification of a waiver of permit requirements:
- Coastal Permit: (Within Direct Coastal Commission Jurisdiction)
  - Army Corps Permits: (Generally within ESH areas)
  - Fish and Game: (Generally within ESH areas)
27. Public Access: As part of the Precise Plan submittal / prior to issuance of a building permit a public access program, including signage, shall be submitted to the Public Services Director for review and approval based on the recommendation of the Planning Commission. All areas designated for public coastal access shall remain open and unobstructed. The leaseholder shall agree to remove the landscape planter/bench in the southwest corner of the site if determined necessary to provide continuous lateral access in the future with the lease site to the south.
28. Boardwalk and Observation Deck: The public boardwalk shall be a minimum of eight (8) feet in width. The second floor observation deck shall be for the general public use and may not be used for any commercial purposes. Should elevator access be required, the observation deck may be eliminated without approval of a major amendment to the Conditional Use Permit. Access easements consistent with the Waterfront Zone and with the general access provisions in Section 17.48.280 shall be recorded prior to issuance of any building permits. If the project is to be phased, the boardwalk and observation deck shall be constructed with the first phase. The boardwalk shall be designed to allow for future connection with a cantilevered boardwalk extending from the adjacent lease site to the north (Otter Rock).

C. BUILDING DIVISION CONDITIONS

1. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.
2. Structural Analysis. If the Building Official determines that this structure is not considered "conventional construction" as defined in UBC SEC 2326, 1809.1, & 1921.2.1, final project plans and construction documents, including a structural analysis, shall be prepared by an appropriately licensed professional subject to review and approval by the Building Official prior to building permit issuance.
3. Building Height Certification. Note on the site plan prepared for the building permit, "Prior to either roof nail or framing inspection a licensed surveyor is required to measure the height of the structure and submit a letter to the building inspector, certifying that the height of the structure is in accordance with the approved set of plans and complies with the height requirements of the City of Morro Bay, Municipal Code Section 17.12.310."
4. Soils Analysis. Prior to Building Permit issuance, the applicant shall submit a soils report required per UBC Sec. 2905 (1997 Edition). Submit two copies of the soils report for this project. Show all soils report grading and/or foundation recommendations on the foundation plans.
5. ADA Compliance. The owner and architect are responsible for compliance with the American Disabilities Act (ADA).
6. UBC Compliance. All setbacks and openings in exterior walls shall comply with all provisions of the 1997 UBC. Occupancy separation as per Section 310.2.2, 1997 UBC.
7. Applicable Codes. Codes currently in use are:
  - UBC - 1997
  - UMC - 1997
  - UPC - 1997
  - NEC - 1996
8. State Title 24 Compliance. All sections of Title 24 (i.e. Disabled Access) shall apply, including handicapped parking.

D. PUBLIC WORKS DEPARTMENT CONDITIONS

1. Circulation Element Requirements: The applicant shall construct or contribute to mitigations which impact the Embarcadero in accordance with City policy established in the Circulation Element of the General Plan. The contribution fee shall be proportionate to the percentage increase in peak traffic flows generated by the project, if any as determined by the Director of Public Services. Table 3, p. III-64, Sequence of Major Street Improvement Priorities, indicates the Embarcadero between Beach and Marina St. and a south Embarcadero connection as two of the eleven major street improvement priorities.
2. Off-Site Public Improvements: Are required as set forth in MBMC Section 14.44. Existing public improvements which are in need of repair, or do not meet City specification, shall be repaired or replaced by Applicant prior to project completion. Also, the applicant shall install the following improvements: replace existing driveway with curb, gutter and sidewalk. Other deficiencies which may become apparent prior to project completion shall be repaired by the Owner
3. Repair & Replacement of Public Improvements: Prior to project completion the Applicant shall repair curb, gutter, street, or other public improvements which were damaged as a result of construction operations for this project.
4. Fees: Fees required pursuant to these Engineering Division Conditions shall be paid at the Public Services Department, Engineering Division. (Make checks payable to the City of Morro Bay)
5. Encroachment Permits: Are issued at the Public Services Department by the Engineering Division, prior to construction in or use of land in the City right-of-way and may be required prior to map recordation, building permit issuance, or as required by the City.  
  
--Standard Encroachment Permit,  
Required for standard construction per City standard specifications. Current fee \$71.82  
  
--Special Encroachment Permit,  
Required for non-standard work or encroachments in the City right-of-way. The owner submits a completed Special Encroachment Permit, including drawings, notarization and insurance indemnifying the City. After review, approval, and recordation, the Permit and insurance requirements continue with the current and future owners. Current fee \$35.91 plus applicable direct costs checking, administration, and recording.  
  
--Sewer Encroachment Permit,  
Required for sewer work in the City right-of-way. Current fee \$71.82
6. Drainage: Route roof and driveway runoff to the street in a non-erosive manner and do not concentrate runoff onto adjacent properties.
7. Grading & Drainage Plan: Prior to building permit issuance, calculations shall demonstrate that the proposed on-site drainage facilities will handle the peak runoff from

a 25-year storm. Surface disposal of drainage over sidewalks or driveways or to the Bay is prohibited. A drainage plan shall ensure that drainage is directed to an approved location. The Applicant shall construct on-site inlets and through-curb drainage facilities in accordance with City standards.

8. Water Pressure Reducer: The Applicant's plumber shall install a pressure reducer on the private property portion of the project if in his judgment his static water pressure readings indicate such device should be required due to excessive pressure.
9. Water Backflow Prevention Device: If required, the Applicant is responsible for the installation of an approved domestic water backflow prevention device per MBMC chapter 13.08. Devices are generally not required for single family homes. Devices are usually required for irrigation systems on a dedicated water meter; systems which use may change in character of use (commercial rentals, etc.); gray water systems; or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. The installation shall occur prior to building permit completion approval by the City. Should the Applicant need further information, the City's contracted inspection provider can be reached at: (805) 781-5544, Office of Cross-Connection Inspector, S.L.O. County Health Agency, 2156 Sierra Way, San Luis Obispo, Ca. 93406.
10. Sewer Backwater Valve: Prior to project completion the sewer lateral shall be provided with a backwater valve on private property to prevent a blockage of the municipal sewer main from causing damage to the proposed project.
11. Street Trees: Street trees must be chosen from one of the species listed in the City Master Tree List. Trees shall be planted in an area at the back of sidewalk.

#### E. FIRE DEPARTMENT CONDITIONS:

1. Automatic Fire Sprinkler System: The project as proposed will require the installation of an automatic fire sprinkler system. Applicant shall submit plans and specification sheets for the fire sprinkler system to the Building Department for review and approval prior to installation. The sprinkler system shall be in accordance with NFPA Standard 13 [UFC, Sec. 1001.4]. Please provide the following standard information on the plans:
  - a. Owners name, north arrow, occupancy of each room and make of fire sprinklers proposed.
  - b. Provide manufacturers literature/cut-sheets indicating UL approval for all valves, hangers, sprinkler heads, alarm devices, gauges, etc.
  - c. The fire sprinkler contractor shall do their own static water pressure test and show the information on the plans.
  - d. Indicate on the plans where proposed utilities/appliances are located, and note if these appliances will effect the location or temperature rating of any fire sprinkler.
  - e. Provide a symbol index on the plan for future reference.
  - f. Show location of inspector's test on the plans.
  - g. Comply with manufactures maximum and minimum clearances from walls to sprinkler heads.

- h. Show the most demanding or remote 1500 sq.ft. area used for hydraulic calculations.
  - i. A structural engineer will need to verify that the building is capable of supporting the fire sprinkler system.
2. Fire Sprinkler Monitoring System: A fire sprinkler monitoring systems is required. At least one (1) pull station may be in the area of the cashier's station or behind the bar. In addition to the outside bell, at least one (1) mini-horn is required inside so that an alarm is audible in the restaurant/bar area.
  3. Sprinkler Riser: Provide a dedicated room, by the electrical main, for the sprinkler riser, electrical main, and fire alarm panel, with an exterior door for Fire Department access.
  4. Key Box: When access gates or doors obstruct access to a development or structure, or buildings are equipped with an automatic fire sprinkler system or fire alarm system, a key box and/or a special approved padlock shall be provided. The key box shall be a type approved by the Fire Chief and shall contain keys to gain access. Approved key switches may be used for electronically-controlled access.

Typically, a flush-mounted Know Box (key box) mounted no higher than 7 feet, and appropriate keys for emergency Fire Department access is sufficient. Box must be obtained through the Fire Department and installed prior to occupancy release. It takes approximately 2 weeks for delivery. Contact the Fire Prevention Bureau at 772-6242.

5. Encroachment Permit Verification: Applicant shall provide written approval from the Public Works Department for any required encroachment permits required for proposed underground water connection, double detector check valves, PIV, or fire department connection.
6. Proposed Supply Modifications: All required or proposed supply modifications shall be clearly identified on the approved set of plans. Indicate the Public Works Department's design requirements on the plans (e.g. existing no upgrades required, existing shall be upgraded to..., sidewalk/vault modifications required, etc.)
7. Fire Hydrant: The site plan shall indicate the location of the nearest fire hydrant.
8. Addresses: Provide approved numbers (addresses) in such a position as to be plainly visible and legible from the street fronting the property. Lettering shall be a minimum of 5" high on a contrasting background (UFC, Sec. 901.4.4---add note on plans).
9. Fire Extinguisher: Provide a minimum of one 2-A:10-B:C fire extinguisher for each 3000 square feet of floor area. Travel distance shall not exceed 75 feet (CACR T-19 Sec 3.29)
10. Trash enclosures must comply with the 1994 Uniform code Article 1103.2.2
  - a. dumpsters and containers with an individual capacity of 1.5 cubic yards (40.5 cubic feet) or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines (CFC Sec. 1103.2.1.4)

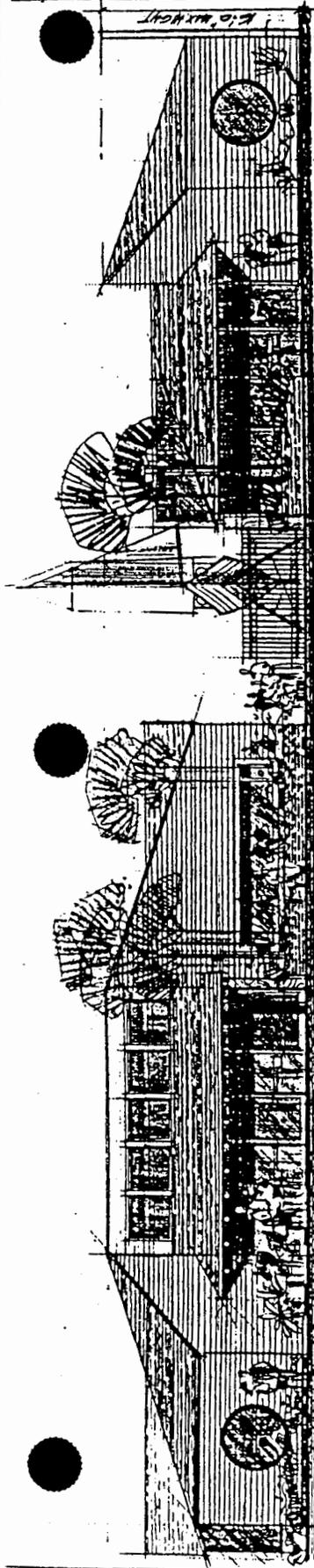
b. Combustible waste containers larger than 40 gallons must be made of metal or have a maximum heat release as allowed by the Fire Code (CFC Sec. 1103.2.1.4).

11. Exterior Awnings: All exterior awnings connected or adjacent to buildings shall be made from either fabric which has been flame-resistant treated with an approved exterior chemical process by an approved application concern, or from inherently flame-resistant fabric approved and listed by the State Fire Marshal for exterior use. (UFC 1103.3.3).

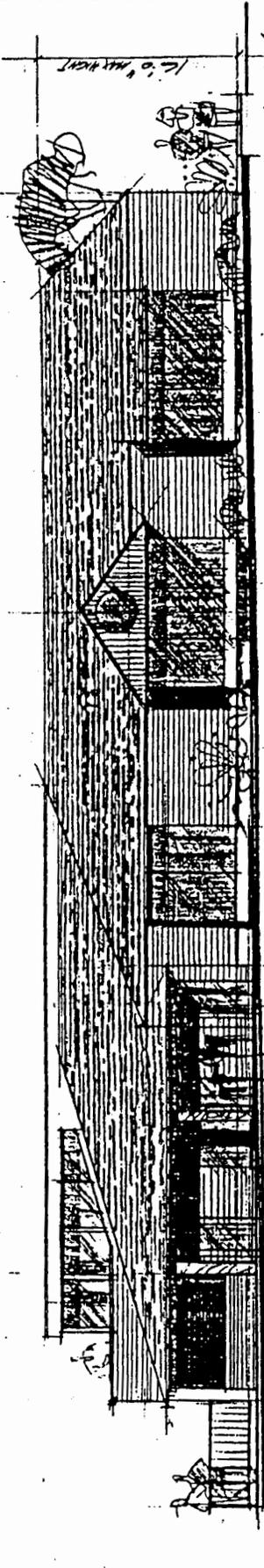
#### F. HARBOR DEPARTMENT

1. Lease Approval: The applicant shall negotiate a revised or new lease with the Harbor Director, subject to approval by the City Council, to ensure that the change of use and these conditions are incorporated into a revised lease prior to issuance of a building permit for the project.
2. Docks and Revetment: Prior to issuance of a building permit for any work on or over the revetment, including revetment modifications or repairs, wharfs, piers, floating docks, gangways, etc., the plans for said work shall be approved by the City Engineer.

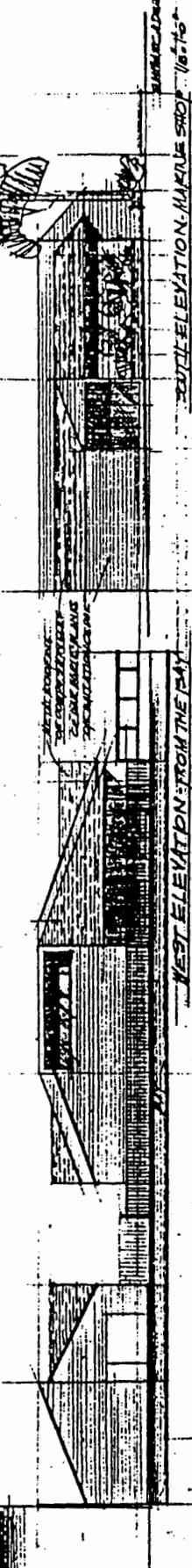
PREPARED: SHIP SLIP, PORT HURON ON LEWIS ST. BY 29 W  
 DRAWN: J. B. ROBERTSON, ARCHT. & ENGINEER, 1100 W. WASHINGTON ST. PORT HURON, MICH. 48130  
 SHEET NO. 1 OF 1  
 DATE: 1936



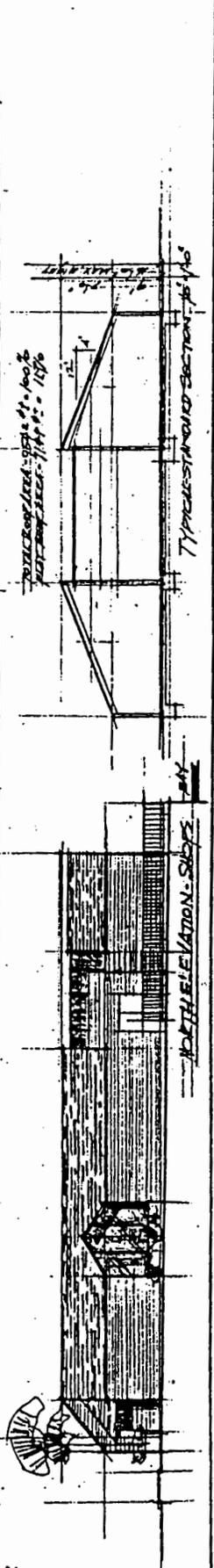
PROMISED CITY SHOPS THE NEW BAYING SHOP - EAST ELEVATION ON THE EMERALD BLVD. EXT. BY 10'



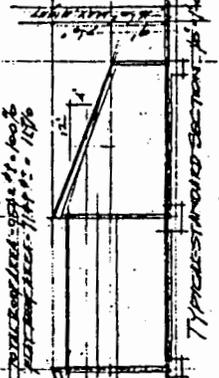
SOUTH ELEVATION



WEST ELEVATION FROM THE BAY



NORTH ELEVATION - SUB 2



TYPICAL STAIR SECTION 1/4" = 1'-0"





# City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200

**FILE COPY**

May 24, 2001

Josef Steinmann  
158 North Ocean  
Cayucos, CA 93430

RE: Case No.: CUP 30-99 SITE: 845 Embarcadero

Dear Mr. Steinman:

On May 21, 2001 the Planning Commission approved your request for a Conditional Use Permit to reconstruct the southern building and a new pier on your property at 845 Embarcadero.

This action does not constitute an encroachment permit. Any further processing of this project must be initiated by the applicant; subject to the applicable rules and regulations of the Morro Bay Municipal Code.

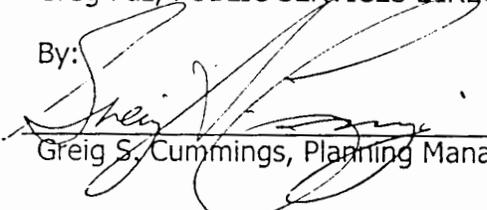
The Morro Bay Municipal Code provides for an appeal of the action by the Planning Commission within ten (10) days of adoption and anyone wishing to appeal may do so in writing by delivering such letter to the office of the City Clerk. There is a fee for processing appeals, which are not coastal permits.

Please review the Environmental Document Filing Fee Form. Payment of the Fish and Game fee will finalize the environmental action taken on the project and limit that amount of time that the project may be challenged. Please take the Notice of Determination and Environmental Document Filing Fee Form to the County Clerk's Office.

Sincerely,

Greg Fuz, PUBLIC SERVICES DIRECTOR

By:

  
\_\_\_\_\_  
Greg S. Cummings, Planning Manager

Enclosures: Permit, Findings and Conditions of Approval, Negative Declaration, Fish and Game Fee Form

# EXHIBIT D

FINANCE  
595 Harbor Street

ADMINISTRATION  
595 Harbor Street

FIRE DEPARTMENT  
715 Harbor Street

PUBLIC SERVICES  
590 Morro Bay Boulevard

HARBOR DEPARTMENT  
1275 Embarcadero

POLICE DEPARTMENT  
850 Morro Bay Boulevard

RECREATION AND PARKS  
1001 Kennedy Way 17 of 36



# City of Morro Bay

# FILE COPY

Morro Bay, CA 93442 • 805-772-6200

## NOTICE OF DETERMINATION

TO:  San Luis Obispo Co. Clerk  
County Government Center  
San Luis Obispo CA 93401

FROM: City of Morro Bay  
Public Services Department  
590 Morro Bay Blvd  
Morro Bay, CA 03442

Office of Planning & Research  
1400 Tenth Street  
Sacramento, CA 95814

Project Title: Steinman Project

Project Location - Specific: 845 Embarcadero

Project Location - City: Morro Bay

County: San Luis Obispo

### Description of Project:

**Precise Plan** for the reconstruction of dock area consisting of 1679 square foot dock, a 5710 square foot commercial structure on the south end of the property and the plaza area; and

**Concept Plan** for the construction of the items in the Precise Plan plus a 1701 square foot building on the north end of the property and a plaza area.

Name of Public Agency Approving the Project: City of Morro Bay

Name of Person or Agency Carrying Out Project: Josef Steinman

2001041021  
State Clearinghouse Number (If Submitted)

Greig Cummings,  
Lead Agency Contact Person

805 772-6266  
Telephone No.

This is to advise that the City of Morro Bay has approved the above described project on \_\_\_\_\_ and has made the following determinations regarding the above described project:

1. The project  will  will not have a significant effect on the environment.
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3.  A Negative Declaration was filed for this project pursuant to the provisions of CEQA.
4. Mitigation measures  were  were not made a condition of the approval of the project.
5. A statement of Overriding Considerations was  was not  adopted for this project.
6. Findings  were  were not made pursuant to the provisions of CEQA.

This is to certify that the record of project approval and final EIR (if applicable) with comments and responses is available to the General Public at: Planning and Building Department, 535 Harbor, Morro Bay CA 93442

\_\_\_\_\_  
Signature (Public Agency)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greig Cummings, Planning Manager

FINANCE  
595 Harbor Street

ADMINISTRATION  
595 Harbor Street

FIRE DEPARTMENT  
715 Harbor Street

PUBLIC SERVICES  
590 Morro Bay Boulevard

HARBOR DEPARTMENT  
1275 Embarcadero

POLICE DEPARTMENT  
850 Morro Bay Boulevard

RECREATION AND PARKS  
1001 Kennedy Way 18 of 36

CITY OF MORRO BAY  
PUBLIC SERVICES DEPARTMENT  
PLANNING DIVISION

**FILE COPY**

**ENVIRONMENTAL DOCUMENT FILING FEE FORM**

**NOTICE:** During environmental review, this project required consultation, review or development of mitigation measures by the California Department of Fish and Game. Therefore, the applicants will be assessed user fees pursuant to section 711.4 of the California Fish and Game Code.. The California Environmental Quality Act (Section 21089) provides that this project is not operative, vested or final until the filing fees are paid.

Lead Agency: City of Morro Bay

Date: May 24, 2001

County: San Luis Obispo

Project No. CUP 30-99

Project Title: Steinmann, "The Boatyard"

Project Applicant: Name: Josef Steinmann

Address: 158 North Ocean

City: Cayucos, CA 93430

Phone #: (805) 772-8386

Please remit the following amount to the County Clerk-Recorder:

<input type="checkbox"/> Environmental Impact Report	\$ 850.00
<input checked="" type="checkbox"/> Negative Declaration	\$ 1250.00
<input checked="" type="checkbox"/> County Clerk's Fee	\$ 25.00
<b>Total amount due:</b>	<b>\$ 1375.00</b>

**AMOUNT ENCLOSED:**

Checks should be made out to the County of San Luis Obispo. Payment must be received by the County Clerk, 1144 Monterey Street, Suite A, San Luis Obispo, CA 93408-2040, within two days of project approval.

**NOTE:** Filing of the Notice of Determination for the attached environmental document requires a filing fee in the amount specified above. If the fee is not paid, the Notice of Determination cannot be filed.

19 of 36

CONDITIONAL USE PERMIT

CASE NO: CUP 30-99

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:
Precise Plan for the reconstruction of dock area consisting of 1679 square foot dock, a 5710 square foot commercial structure on the south end of the property and the plaza area; and Concept Plan for the construction of the items in the Precise Plan plus a 1701 square foot building on the north end of the property and a plaza area subject to application and approval by the Planning Commission for a Precise Plan.

SITE ADDRESS: 845 Embarcadero

APPLICANT: Josef Steinmann

APN: Ptn 066-322-001; Lease site 89/89W LEGAL: Lot 22, MB 68-30

DATE APPROVED: May 21, 2001 APPROVED BY: PLANNING COMMISSION

APPROVED BASED UPON ATTACHED FINDINGS (Findings and Conditions of Approval Attached)

CEQA DETERMINATION: Mitigated Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act (Public Resources Code 21000 et. Seq.)

DESCRIPTION OF APPROVAL: Reconstruction of a 1679 square foot dock and construction of a 5710 square foot commercial structure on the south end of the property and a plaza area and Concept Plan for the construction of the items in the Precise to receive final Planning Commission approval after application.

THIS APPROVAL IS CONDITIONAL AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS PERMIT SHALL, AT THE DISCRETION OF THE DIRECTOR PURSUANT TO MUNICIPAL CODE SECTION 17.60.150, RENDER THIS ENTITLEMENT NULL AND VOID.

THERE IS AN APPEAL PERIOD OF TEN (10 ) CALENDAR DAYS, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE PLANNING COMMISSION

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: June 1, 2001

ATTEST: Greig S. Cummings, Planning Manager DATE: May 24, 2001
FOR: GREG FUZ, PUBLIC SERVICES DIRECTOR

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE an ENCROACHMENT PERMIT

FINDINGS  
CASE NO. CUP 30-99 (PRECISE PLAN & CONCEPT PLAN)  
845 EMBARCADERO

**Precise Plan** for the reconstruction of a 1679 square foot dock and construction of a 5710 square foot commercial structure on the south end of the property and a plaza area; and **Concept Plan** for the construction of the items in the Precise Plan plus a 1701 square foot building on the north end of the property and a plaza area.

California Environmental Quality Act (CEQA)

1. In accordance with the California Environmental Quality Act (CEQA), a Negative Declaration with mitigation measures for Case No. CUP 30-99 has been prepared for the project. The mitigation measures have been incorporated into the conditions of approval.
- B. Conditional Use Permit (Precise Plan/Concept Plan)
  1. The project will not be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the project's neighborhood because the proposed uses are permitted within the WF zone; the proposed uses are similar to adjacent uses in the WF zoning district applicable to the project site; and the proposed structures will be constructed in accordance with all applicable project conditions and City regulations.
  2. The project will not be injurious or detrimental to neighborhood property and improvements because the proposed project uses are similar to previous uses located on the site; similar to uses on adjacent property; and the project will adhere to the conditions of approval, mitigation measures and City regulations applicable to this development.
  3. The project will not be injurious or detrimental to the general welfare of the City because the proposed uses are permitted in the WF zone and Mixed Use (Harbor) general plan designation.
  4. The proposed uses are allowed by the Certified Coastal Land Use Plan, Zoning Ordinance and General Plan for the City of Morro Bay, and as previously agreed to by the City Planning Commission based on the analysis and discussion in the attached staff memorandum dated August 16, 1999.
  5. The establishment, maintenance, or operation of the proposed uses will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood because the proposed project uses are consistent with all applicable zoning and general plan requirements as outlined in the May 21, 2001 staff report and August 16, 1999 staff report.
  6. The uses will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be constructed and developed consistent with all applicable City regulations, and will provide public road and drainage improvements consistent with City Public Services Department requirements.
  7. The architectural treatment and general appearance of all proposed buildings, structures and open areas are in keeping with the character of the surrounding area; are compatible with any design themes adopted by the City; and are not detrimental to the orderly and harmonious development of the City or to the desirability of investment or occupation in the neighborhood as indicated in the evaluation of project as outlined in the May 21, 2001 staff report and August 16, 1999 staff report.

## C. General Plan Required Findings.

1. As conditioned and based on the project plans, the proposed uses, by their nature and project design, are consistent with Program N-1.3 of the General Plan (Noise Element) because the project site is not exposed to significant transportation related noise sources, and standard ordinance provisions governing construction hours ensure that impacts on surrounding properties from construction noise will be minimized.
2. The project will not generate significant traffic or create circulation impacts, and will provide adequate onsite facilities to accommodate vehicles because as conditioned and based on the project plans, the proposed uses are consistent with Policies C-1-C-8 (Sidewalks), Policies C-9-C-12 (Bikes), Policies C-13-C-20 (Streets), Policies C-21-C-26 (Parking), Policies C-27-32 (Transit), Policy C-33 (Harbor), and Policies C-34-C-38 (Utilities) of the General Plan (Circulation Element) as standard curb, gutter and sidewalk improvements will be made to adjoining public right-of-way as well as in-lieu payment for the project's pro-rata impact on area roads and intersections.
3. As conditioned and based on the project plans, the proposed uses, by their nature and design the proposed project are consistent with the policies contained in Chapter II of the General Plan regarding Mixed Commercial/Harbor Dependent Land Use because the project provides a mixture of retail commercial, visitor serving and marine service.
4. The project is consistent with the policies contained in Chapter III of the General Plan regarding coastal and recreational access because the project provides lateral access along the entire bayfront of the site by providing an 8-foot boardwalk, and providing a 19-foot vertical access way and view corridor.
5. As conditioned and based on the project plans, the proposed uses, by their nature and design the project are consistent with the policies contained in Chapter IV of General Plan regarding coastal visitor serving facilities because project will provide a combination of retail, marine service, and marine supply uses to accommodate tourist.
6. As conditioned and based on the project plans, the proposed uses, by their nature and design the project are consistent with the policies contained in Chapter IX of the General Plan regarding commercial fishing and recreational boating because new docks will provide increased boating opportunities.
7. As conditioned and based on the project plans, the proposed uses, by their nature and design the project are consistent with the Program S-6.2 (Safety Element and Hazards) contained in Chapter X of the General Plan because the project site is essentially level and any grading will be limited to excavation and recompaction for foundation preparation and establishing drainage flows and the project is consistent with Programs S-7.1-S-7.4 because a standard condition of approval has been incorporated into the project pertaining to grading, drainage and erosion control.
8. As conditioned and based on the project plans, the proposed uses, by their nature and design the project are consistent with Policies 10.01-10.11 contained in Chapter XI of the General Plan regarding diking, dredging, filling and shoreline protection because the existing revetment will be evaluated to confirm its structural integrity for the proposed development before building permit issuance.
9. As conditioned and based on the project plans, the proposed uses, by their nature and design the project are consistent with Policy 11.08 contained in Chapter XII of the General Plan regarding environmentally sensitive habitat because a Biological Resource Assessment was conducted on the area and a number of mitigation measures have been

incorporated into the conditions of approval to minimize impact on the eelgrass; and an oil/water separator must be installed to ensure that harmful wastes generated from the site are contained and do not enter the bay.

10. As conditioned and based on the project plans, the proposed uses, by their nature and design the project are consistent with Policies 12.01 and 12.02 contained in Chapter XIII of the General Plan regarding coastal land use plan visual resources because the project will be consistent with the Waterfront Master Plan Design Guidelines.

#### Waterfront Master Plan Findings-Area 6

1. As conditioned and based on the project plans, the project uses are consistent with the Waterfront Master Plan because the project includes tourist uses, marine related services and supplies, and retail commercial.
2. As conditioned and based on the project plans, the proposed project provides access to the Bay through a 19-foot access/visual corridor.
3. As conditioned and based on the project plans, the project provides an 8-foot wide boardway which will eventually connect to adjacent properties.

CONDITIONS OF APPROVAL/MITIGATION MONITORING PROGRAM  
CASE NO. CUP-30-99  
STEINMAN

- 1. **Permit/Project Description:** This precise plan approval is granted for the property described in the staff report referenced above, for the project depicted on the attached plans labeled "Exhibit D", dated May 3, 2001, and the attached rendering labeled "Exhibit E on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:

**Precise Plan** for the reconstruction of dock area consisting of 1679 square foot dock, a 5710 square foot commercial structure on the south end of the property and the plaza area; and

**Concept Plan** for the construction of the items in the Precise Plan plus a 1701 square foot building on the north end of the property and a plaza area.

- 2. **Compliance with the Law:** The applicant shall ascertain and comply with all Federal, State, County and City requirements as part of this project, including, but not limited to, the Morro Bay Municipal Code, programs and policies contained in the certified Coastal Land Use Plan, and General Plan for the City of Morro Bay. The following conditions, requirements and plan check approvals do not relieve the applicant or applicant's agents, of any discrepancies, errors or omissions which may become apparent prior to completion of construction.
- 3. **North Building and Concrete Slab-**The conceptual plan approval for the north building shall expire unless the applicant submits a new precise plan for the north building and concrete slab within six months from Planning Commission approval of this project.

<p>Use:</p>	<p>The project includes construction of a replacement dock of approximately 1679 square foot dock to support boat anchorage and kayak rental facility (the existing pilings will be reused or removed and no new pilings are proposed), and reconstruction of a commercial building with leaseable area of 5332 square foot building and a common space area of 378 square feet for a totaling 5,710 square feet. The structure was previously destroyed by fire. The project also includes a <u>concept plan</u> to replace an existing building with a 1701 square foot commercial building. (A subsequent precise plan will be submitted on this proposed structure.)</p> <p>The allowable uses are contained in Exhibit "F". A minimum of 40% of the gross floor area of the structures shall be reserved for harbor dependent and coastal related uses. The remaining uses shall be visitor-serving uses.</p>
<p>Size of Structures:</p>	<p><b>Dock-1670 square feet (PRECISE PLAN)</b>  <b>South Building-5332 square feet plus 378 common space area totaling 5,710 square feet (PRECISE PLAN)</b>  <b>North Building-1701 square feet (CONCEPT PLAN ONLY)</b></p>

<b>Colors &amp; Materials:</b>	Warm brown, grey, green earth tones with raised metal seam or architectural grade shingle roofing as indicated on Planning Commission approved color/material exhibit.
<b>Roof:</b>	Not less than 80% of the roof area will be sloping with a minimum pitch of 5:12. (Per August 1999 Planning Commission approval.)
<b>Landscaping:</b>	Pursuant to Chapter 17.44 and Exhibit " D"
<b>Parking:</b>	A minimum of 32 parking spaces are needed.
<b>Lot Coverage:</b>	A maximum of 7,680 square feet of the site may be covered by structures. (Per August 1999 Planning Commission approval.)
<b>Height:</b>	A maximum of seventeen (17) feet above average natural grade (ANG) covered by the building(s). Maximum ridge elevation 25.925 based on ANG of 8.925 as shown on plans submitted 8/9/99. (Per August 1999 Planning Commission approval.)
<b>Coastal Access:</b>	Vertical access to the bayfront provided through a central corridor 19.1 feet in width. Lateral access along the bayfront provided by an open, minimum 8-foot wide walkway along the entire bay frontage of the site, <u>which is consistent with the approved coastal access plan for the adjacent Otter Rock Restaurant site.</u>
<b>Public Open Space &amp; Amenities:</b>	Publicly accessible restrooms and an 8-foot boardwalk are provided as shown on the approved plans.
<b>Public Improvements:</b>	Public improvements include expansion of the sidewalk along the Embarcadero to a minimum width of 8 feet as required by the Waterfront Design Guidelines.

4. **Mitigation Measures:** The project shall be subject to all mitigation measures in the Mitigated Negative Declaration, Exhibit "G", posted on April 3, 2001 and contained in the conditions of approval.
5. **Permit:** This permit is granted for the land described in the staff report, referenced above, and as shown on the attached Exhibits and Exhibits on file with the Public Service Department. Exhibit " F" includes the only permitted uses for this project. The locations of all buildings and other features shall be located and designed substantially as shown on the aforementioned Exhibits, unless otherwise specified herein.
6. **Inaugurate Within Two Years:** Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided; however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCD) in effect at the time of the extension request.

7. **Changes:** Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review. Any change in use from uses permitted in Exhibit "F" shall require a modification to this permit.
8. **Hold Harmless:** The applicant hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
9. **Compliance with Conditions:** Compliance with and execution of all conditions listed hereon shall be required, unless otherwise specified herein, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
10. **Acceptance of Conditions:** The applicant accepts the conditions upon mobilizing equipment upon the site, commencing work on the site, or upon issuance of building permit.
11. **Archaeological Resources:** \*In the event archaeological resources are unearthed or discovering during any onsite activity, the following standards shall apply:
  - a. Construction activities shall cease and the Building Official and Planning Manager shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with State and Federal laws.
  - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Building Official and Planning Manager so that proper disposition may be accomplished.
12. **Individual Signs and Murals:** Prior to installation of any sign, individual and common signs shall be reviewed and approved by the Planning Manager. Prior to painting any mural, the Planning Manager shall provide review and approval. Advertising shall not be incorporated into any mural.

**PLANNING DIVISION:**

13. **Revetment Evaluation:**\* Prior to building permit issuance, the applicant shall be responsible for performing an evaluation of the structural adequacy of the existing revetment to accommodate the proposed development. The evaluation shall be performed by a qualified, licensed, professional, approved by the City Engineer and Harbor Director. The results of the evaluation shall be provided to the City upon request, including any and all recommendations regarding repair and/or modifications to the revetment. The applicant shall be responsible for ensuring that the revetment is structurally suitable to accommodate the proposed development. A building

---

\* Requirement of August 1999 Planning Commission Approval.

permit for the project shall not be issued by the City until the structural adequacy of the revetment is established to the City's satisfaction.

14. **Dock Poles:** The pilings shall neither be removed nor replaced without subsequent environmental review. dock poles shall not be removed.
15. **Payment of Fees:** \* Prior to building permit issuance, the applicant shall pay all fees and costs related to project review to the City.
16. **Demolition of North Building:** Prior to a demolition permit being issued for the north building, a coastal permit shall be approved.
17. **Occupancy of Southern Building:** Final building inspection and occupancy permit shall not be issued for the southern building until the northern building is demolished, its contents removed from the site and all plaza improvements are completed, or a building permit is issued for the new north building, or a performance security bond to the satisfaction of the Director of Public Services is provided to ensure demolition of the northern building and installation of the plaza and landscaping.
18. **Colors and Materials:** \* Prior to building permit issuance, the Public Services Director shall ensure compliance of all exterior colors and materials, including fencing materials as approved by the Planning Commission. All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility with colors and materials used in the onsite improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.
19. **Water Saving Devices:**\* Prior to certificate of occupancy, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
20. **Undergrounding of Utilities:**\* Prior to certificate of occupancy, pursuant to MBMC §17.48.050, all onsite utilities including electrical, telephone and cable television shall be installed underground.
21. **Exterior Light:** \* Prior to building permit issuance, and pursuant to MBMC §17.52.080 complete details of all exterior lighting shall be shown on the project plans for review and approval by the Public Services Director. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 17 feet and shall achieve the following objectives: avoid interference with reasonable use of adjoining properties; shielded to minimize onsite and offsite glare; provide adequate onsite lighting; limit fixture height to avoid excessive illumination; and provide structures which are compatible with the total design of the proposed facility.
22. **Parking:** \* In accordance with MBMC §17.44, the applicant shall pay in lieu fees for the total required number of onsite parking spaces for the dock and structures.

---

\* Requirement of August 1999 Planning Commission Approval.

23. **Final Landscaping and Irrigation Plan:** **Prior to building permit issuance,** the applicant shall submit a final landscaping plan prepared by a landscape architect and consistent with Zoning Code §17.44. The landscaping and irrigation plan shall include the location of all plants, irrigation systems, trash enclosure(s) and other information requested by the Director of Public Services. An irrigation plan shall include the proposed method and location of irrigation. Native and/or drought tolerate plant and the Mater City Street Tree List prepared by the City. The landscape plans shall also include fencing details, utility meter screening, and screening of the trash enclosure. The plan shall also show landscaping for the area where the existing structure is located and along the existing firewall on the northern property line.
24. **Trash Enclosure(s):** **Prior to final approval,** the type, location and method of screening of refuse collection stations shall be identified on the final landscaping plan. Reasonable effort shall be made to locate enclosures in a manner which will not interfere with the reasonable use of adjoining properties or endanger the health or safety of persons in the subject property.
25. **Construction Hours:** \* Pursuant to MBMC §9.28.030 (l), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. daily, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
26. **Installation of Landscaping:** \* **Prior to issuance of the final certificate of occupancy,** all required plantings, groundcover and irrigation systems shall be in place to the satisfaction of the Director of Public Services. The landscape consultant shall provide a watering schedule and certify that all plantings and irrigation systems have been installed pursuant to the approved plans, **before issuance of the final certificate of occupancy.**
27. **Maintenance of Landscaping:** \*All required plant materials shall be maintained in accordance with the watering schedule as specified in the approved landscape plan notes. All landscaping shall be cared for, maintained, watered, fertilized, fumigated, pruned and kept in a healthy growing condition for the life of the project. Where required plant(s) have not survived, it shall be promptly replaced with new plant materials of similar species, functional, size, and characteristics as specified in the approved landscape plant notes.
28. **Dust Control:** **Prior to issuance of a grading permit,** a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC §17.52.070.
29. **Water:** **Prior to building permit issuance,** WEU shall be consistent with MBMC Chapter 13.20. No additional water use shall exceed eight WEUs.
30. **Screening:** All mechanical equipment when located outside of a building, support equipment including, but not limited to air conditioning and heating devices shall be screened as followed:
  - **Roof Mounted Equipment,** shall be screened by architectural features from view public rights-of-way, and shall not exceed 17'.
  - **Mechanical Equipment,** when located on the ground, shall be screened by landscaping, a solid wall or fencing, from the view of abutting public right-of-way and surrounding properties.

---

\* Requirement of the August 1999 Planning Commission Approval.

31. **Other State and Federal Permits:** \*Prior to building permit issuance, the applicant shall provide copies of the following permits or written verification of a waiver of permit requirements:

- Coastal Permit (Within Director Coastal Commission Jurisdiction)
- Army Corps Permits (Generally within ESH areas)
- Fish and Game (Generally within ESH areas)

**PUBLIC WORKS DIVISION**

32. **Circulation Element Requirements:** \*The applicant shall construct or contribute to mitigations which impact the embarcadero in accordance with City policy established in the Circulation Element of the General Plan. The contribution fee shall be proportionate to the percentage increase in peak traffic flows generated by the project, if any as determined by the Public Services Director. Table 3, p. III-64, Sequence of Major Street Improvement. Priorities, indicates the Embarcadero between Beach and Marina Street and a south Embarcadero connection as two of the eleven major street improvement priorities.

33. **Offsite Public Improvements:** \*Pursuant to MBMC §14.44, existing public improvements which are in need of repair, or do not meet City specifications shall be repaired or replaced by the applicant, **prior to project completion**. Also, the applicant shall install the following improvements: replaced existing driveway with curb, gutter and sidewalk. The applicant shall repair other deficiencies, which may become apparent prior to the project completion.

34. **Dedication of Right-of-Way:** **Prior to building permit issuance**, the applicant shall submit documents to dedicate public right-of-way where necessary to obtain the required width for required public improvements.

**Fees:** \* Fees required pursuant to Public Works conditions shall be paid at the Public Services Department front counter (make checks payable to the City of Morro Bay).

35. **Encroachment Permits:** **Prior to construction in or use of land in the City right of way**, the applicant must obtain encroachment permits from the Public Services Department. The various permits include:

- a. **Standard Encroachment Permit**-An encroachment permit is required for standard construction per City standard specifications. The current fee is \$71.82.
- b. **Special Encroachment Permit**-A special encroachment permits is required for non-standard work or encroachments in the City right-of-way. The owner submits a completed Special Encroachment Permit, including drawings, notarization and insurance indemnifying the City. After review, approval, and recordation, the permit and insurance requirements continue with the current and future owners. Current fee is \$35.91 plus applicable direct costs checking, administration, and recording.
- c. **Sewer Encroachment Permit**-A sewer encroachment permit is required for sewer work in the City right-of-way. The current fee is \$71.82

36. **Repair & Replacement of Public Improvements:** **Prior to project completion**, the

---

\* Requirement of August 1999 Planning Commission Approval.

applicant shall repair curb, gutter, street, or other public improvements which were damaged because of construction operations for this project. Curb, berm, gutter or other improvements as required shall be installed at abandoned or illegal drive approach areas.

37. **Grading/Erosion Provisions:** If grading operations extend into the rainy season, November 1 through March 31, erosion and sedimentation control measures shall provide protection against erosion of adjacent property and prevent sediment or debris from entering adjacent properties, any harbor, waterway, ecologically sensitive area, or public roadway.
38. **Final Grading & Drainage Plans: Prior to building permit issuance,** calculations shall demonstrate that the proposed onsite drainage facilities will handle the peak runoff from a 25 year storm. Surface disposal of drainage over sidewalks or driveways or to the Bay is prohibited. The applicant shall construct onsite inlets and through curb drainage facilities in accordance with City standards. Route roof and driveway runoff to the street in a non-erosive manner and do not concentrate runoff onto adjacent properties.
39. **Water Backflow Prevention Device:** If required, the applicant is responsible for the installation of an approved domestic water backflow prevention device per MBMC Chapter 13.08. Devices are generally not required for single family homes. Devices are usually required for irrigation systems on a dedicated water meter; systems which use may change in character of use (commercial rentals, etc.); gray water systems; or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. The installation shall occur **prior to building permit completion approval by the City.** Should the applicant need further information, the City's contracted inspection provider can be reached at: (805) 781-5544, Office of Cross-Connection Inspector, S.L.O County Health Agency, 2156 Sierra Way, San Luis Obispo, Ca. 93406.
40. **Sewer Backwater Valve:** A backwater valve shall be installed onsite to prevent a blockage of the municipal sewer main from causing damage to the project.
41. **Public Improvements Plan Required:** It may be required that the proposed public improvements be segregated from the tentative parcel map and shown on the public improvements plan.
42. **Water System Capacity/Protection: Prior to issuance of building permit,** if an increase in the municipal system capacity is required because of this project as determined by the Engineering Division, the applicant shall construct the necessary improvements.
43. **Water Pressure Reducer:** The applicant's plumber shall install a pressure reducer on the private portion of the property.
44. **Replacement of Public Improvements: Prior to final certificate of occupancy,** the applicant shall repair and replacement of public improvements. Improvements shall include repairing curb, gutter, street, or other public improvements, which were damaged because of construction operations for this project.
45. **Street Trees:** \*Street trees shall be planted in areas at the back of sidewalk.
46. **Engineering Checking and Inspection Agreement: With or prior to the first improvement plan check shall be submitted to the Engineering Division,** the applicant shall enter into an agreement for reimbursement to the city Engineering Division for the direct cost of checking, inspection and other services, which may be required by the contract City Engineer.

---

\* Requirement of August 1999 Planning Commission Approval.

- 47. **Sewer Lateral**-Pursuant to the April 1954 sewer as built plans, there is no sewer lateral serving the site from the main line. The main line is 15" v.c.p. The main line runs parallel to the site frontage in the right-of-way at a distance 40' east of the site frontage property (lease) line. The main line is approximately 12" deep.
- 48. **Sediment or Debris Provision**-sedimentation control measures shall prevent sediment or debris from entering the City right-of-way, Bay, roadway and adjacent properties.

**BUILDING DIVISION**

- 49. **Property Line Verification:** \* **Prior to foundation inspection**, the lot corners shall be staked and setbacks marked by a licensed professional to verify property lines.
- 50. **Structural Analysis:** \* If the Building Official determines that this structures is considered conventional construction as defined in UBC § 2326, §1809.a. and §1921.2.1, final project plans and construction documents, including a structural analysis shall be prepared by an appropriate licensed professional subject to review and approval by the Building Official, **prior to building permit issuance**.
- 51. **Building Height Certification.** \* **A Note shall be included on the building permit site plan which states:** "Prior to either roof nail or framing inspection, a licensed surveyor is required to measure the height of the structure and submit a letter to the building inspector, certifying that the height of the structure is in accordance with the approved set of plans and complies with the height requirements of the city of Morro Bay, Municipal Code §17.12.310."
- 52. **Soils Analysis:** \* **Prior to building permit issuance**, the applicant shall submit a soils report required per UBC §2905 (1997 Edition). Submit two copies of the soils report for the project. Show all soils report grading and/or foundation recommendations on the foundation plans.
- 53. **ADA Compliance:** \* The owner and architect are responsible for compliance wit the American Disabilities Act (ADA).
- 54. **State Title 24 Compliance.** \* All sections of Title 24 (i.e., Disabled Access) shall apply, including handicapped parking.
- 55. **Applicable Codes:** \* Codes currently in use are:  
 UBC-1997  
 UMC-1997  
 UPC-1997  
 NEC-1996
- 56. **Signed Plans:** **Prior to building permit issuance**, working drawings/plans shall be stamped and signed by a licensed professional. Plans shall clearly label all useable space and include a classification for the building use.

---

\* Requirement of August 1999 Planning Commission Approval

57. **APCD Letter: Prior to a demolition permit**, a letter from the County APCD must be submitted to the Building Official that any onsite problem with asbestos has been resolved

**FIRE DEPARTMENT**

58. **Address Numbers:** Approved address numbers shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the middle of the street fronting the property. Numbers shall be consistent with the UFC. **PLEASE MAKE NOTE ON IMPROVEMENT PLANS.**

59. **Key Box:** The project shall include a flush-mounted Knox-Box (key box), no higher than 7 feet, and appropriate keys for emergency Fire Department access. Box must be obtained through the Fire Department and be installed prior to occupancy release. It takes from 4 to 6 weeks for delivery. For more information, please call the Fire Prevention Office at 772-6242. [UFC 902.4] Provide entrance and/or equipment room key(s) for key box, upon final inspection. [UFC §902.4]

60. **Fire Department Access to Equipment:** Rooms or areas containing controls for air-conditioning systems, automatic fire-extinguishing systems or other detection, suppression or control elements, shall be identified for use by the Fire Department. [UFC §1001.8] Any person using a torch or other flame-producing device for sweating pipe joints from or in any building or structure shall provide one approved fire extinguisher on the premises where said burning operation is performed. Combustible material in the close proximity of open flame shall be protected against ignition by shielding, wetting or other means. In all cases, a fire watch shall be maintained near the operation for one-half hour after the torch or flame-producing device has been used. [UFC §1109.3] **Exception:**

When a pair of doors serving a room not normally occupied is needed for the movement of equipment, manually operated edge or surface bolts may be used and a door closer need not be provided on the inactive leaf.

61. **Automatic Fire Sprinkler System:** \* The project as proposed will require the installation of an automatic fire sprinkler system. The applicant shall submit plans and specifications sheets for the fire sprinkler system to the Building Division for review and approval, **prior to installation**. The sprinkler system shall be in accordance with NFPA Standard 13 (UFC §1001.4). Please provide the following standard information on the plans:

- Owners name, north arrow, occupancy of each room and make of fire sprinklers proposed.
- Provide manufacture's literature/cut-sheets indication UL approval for all valves, hangers, sprinkler heads, alarm devices, gauges, etc.
- The fire sprinkler contractor shall do their own static water pressure test and show the information on the plans.
- Indicate on the plans where proposed utilities/appliances are located, and note if these appliances will effect the location or temperature rating of any fire sprinkler.
- Provide a symbol index on the plan for future reference.
- Show location of inspector's test on the plans.
- Comply with manufactures maximum and minimum clearances from walls to sprinkler heads.
- Show the most demanding or remote 1500 sq. ft. area used for hydraulic calculations.
- A structural engineer will need to verify that the building is capable of supporting the fire sprinkler system.

---

\* Requirement of August 1999 Planning Commission Approval.

- 62. **Fire Sprinkler Monitoring System:** \*A fire sprinkler monitoring systems is required.
- 63. **Sprinkler Riser:** \*Provide a dedicated room, by the electrical main, for the sprinkler riser, electrical main, and fire alarm panel, with an exterior door for Fire Department access.
- 64. **Encroachment Permit Verification:** \*The applicant shall provide written approval from the Public Works Division for any encroachment permits required for proposed underground water connection, double detector check valves, PIV or Fire Department connection.
- 65. **Proposed Supply Modification:** All required or proposed supply modification shall be clearly identified on the approved set of plans. Indicate the Public Works Division's design requirements on the plans (e.g., existing no upgrades required, existing shall be upgraded to sidewalk/vault modifications required, etc.).
- 66. **Fire Hydrant:** \*The building plans shall indicate the location of the nearest fire hydrant.
- 67. **Fire Extinguisher:** \*Provide a minimum of one 2-A:10-B fire extinguisher for each 3000 square feet of floor area. Travel distance shall not exceed 75 feet (CACR T-19 §3.29).
- 68. **Trash Enclosures:** \*Trash enclosures must comply with the 1994 Uniform Code §1103.2.2, including:
  - Dumpsters and containers with an individual capacity of 1.5 cubic yards (40.5 cubic feet) or more shall not be stored in buildings or placed within five feet of combustible walls, openings or combustible roof eave lines (CFC §1103.2.1.4).
  - Combustible waste containers larger than 40 gallons must be made of metal or have a maximum heat release as allowed by the Fire Code (CFC §1103.2.1.4).
- 69. **Exterior Awnings:** \*All exterior awnings connected or adjacent to buildings shall be made from either fabric, which has been flame-resistance, treated with an approved exterior chemical process by an approved application concern, or from inherently flame-resistant fabric approved and listed by the State Fire Marshall for exterior use (UFC §1103.3.3).

HARBOR DEPARTMENT

- 70. **Docks and Revetment:** \* Prior to building permit issuance for any work on or over the revetment, including revetment modifications or repairs, wharfs, piers, floating docks, gangways, etc., the plans for said work shall be approved by the City Engineer.
- 71. **Lease Approval:** Only the uses allowed by this approval shall be contained in the lease.

MITIGATION MEASURES:

- 72. The applicant shall install an oil and water separator/isolator onsite between all drainage water inlets and the street gutter. Inlet and/or an outlet structure design shall address silt and hydrocarbon containment and be approved by the City Public Services Director. Roof, pavement and driveway runoff shall be routed to the street, and not onto adjacent properties.

Timing: Prior to final approval

\* Requirement of August 1999 Planning Commission Approval

Verified By: Public Services Director

73. Prior to issuance of a building permit, the project shall meet the requirements of Chapter 33 and Appendix 3 of the 1998 UBC standards to assure there are no liquefaction, subsidence or other geological problems.

Timing: Prior to issuance of building permit

Verified By: Building Official

74. If the placement of additional pilings is deemed necessary to support the proposed dock sections, the Army Corps of Engineering will need to be notified in writing of the change and the current §10 authorization amended to reflect the noted change. Additional environmental review may also be required by the city of Morro Bay.

Timing: Prior to the placement of additional pilings

Verified By: Planning Manager

75. All permit conditions stipulated by the Army Corps of Engineering's authorization letter (file no. 200000060-TW) of December 22, 1999 shall be implemented by the applicant.

Timing: Varies

Verified By: Building Official, Applicant

76. The applicant shall install an oil and water separator/isolator onsite between all drainage water inlets, the street gutter and the Bay. Inlet and/or an outlet structure design shall address silt and hydrocarbon containment and be approved by the City Public Services Director. Roof, pavement and driveway runoff shall be routed to the street, and not onto adjacent properties or the Bay.

Timing: Prior to final approval

Verified By: Building Official

77. Limit all private and construction vehicle traffic to areas away from the western edge of the property.

Timing: During project construction

Verified By: Building Official

78. Implement appropriate siltation/sedimentation control measures during construction and limit construction activities to dry weather to avoid increased surface water runoff and erosion on site, and sedimentation into Morro Bay. Install appropriate erosion control devices (e.g., hay bales or silt fences) around the perimeter of each construction zone and areas experiencing disturbance of the ground surface. Erosion control devices should be checked on a daily basis by construction personnel, and periodically by the biological monitor, to ensure property function.

Timing: During project construction

Verified By: Building Official

79. Avoid stockpiling any soil in areas located on the western property margin, adjacent to Morro Bay, or in areas that have potential to experience significant runoff during the rainy season.

Timing: During project construction

Verified By: Building Official

80. All docks shall be lowered in placed (following assembly) from the existing building site, as stated in the §10 authorization from the Army Corp of Engineering.

Timing: During dock construction

Verified By: Building Official

81. To reduce the potential for inadvertent release of fuel from construction areas to aquatic habitats, avoid all cleaning and refueling of equipment and vehicles near the western property boundary. Stage and refuel vehicles only in appropriately marked construction staging areas, preferably offsite or near Embarcadero Drive.

Timing: During project construction

Verified By: Building Official

82. Sorbent materials, such as booms and drop cloths, should be stored on site to allow construction crews to respond to unplanned hydrocarbon spills in a timely manner. Construction crews shall be briefed on the purpose, application, and location of sorbent materials prior to project implementation.

Timing: During project construction

Verified By: Building Official

83. All paints, finishes, wood treatments and other chemicals used on the dock structures shall be of a chemical composition that is not toxic to marine life. Biofouling treatments used in the project should be approved by the CDFG, Coast Guard, Harbor District or other regulating agency prior to application.

Timing: During dock construction & maintenance

Verified By: Building Official

84. The applicant shall retain a qualified biological monitor to periodically review implementation of the mitigation measures.

Timing: Prior to initiation of construction.

Verified By: Planning Manager

85. Avoid leaving trash on the worksite. Pelicans are known to rummage in trash bins and at urban areas where garbage is accessible. All trash onsite shall be placed into a covered receptacle to discourage wildlife foraging. Accessible trash will encourage pelicans and domestic animals to visit the project site.

Timing: Ongoing

Verified By: Property Manager

86. Pets shall not be brought to, nor allowed on, the worksite, to minimize the potential for wildlife harassment.

Timing: Ongoing

Verified By: Property Manager

87. Credits for previous permitted uses may be provided as long as building is rebuilt within six months of permit approval per § 17.56.130 of the Zoning Code. Otherwise, in lieu fees of \$4000 per space shall be paid, or an offsite parking agreement shall be provided to the Public Services Director, prior to issuance of a building permit.

Timing: Prior to issuance of a building permit

Verified By: Building Official

88. The project shall be designed in accordance with the Waterfront Master Plan.

Timing: Prior to issuance of building permit

Verified By: Planning Manager

89. The applicant shall retain a qualified professional to implement a five year monitoring program documenting the distribution, abundance, and condition (e.g., habitat robustness) of eelgrass resources at the Steinman lese site. An initial survey shall be conducted one month prior to project implementation to establish a pre-project, eelgrass baseline (preference survey). Annual surveys documenting the distribution, abundance, and condition of eelgrass resources shall be conducted at the ends of years 1 through 5 using the same methodology as that used in the baseline survey. The applicant shall have annual reports prepared at the ends of years 1 though 5 for submittal to the CDFG documenting eelgrass distribution, abundance, and condition through time, relative to the initial baseline survey. At the end of the five-year monitoring period, eelgrass determined to have been adversely impacted by the proposed project shall be replaced at a ratio of 2:1 (replacement: impacted), or at similar terms acceptable to the CDFG (e.g., in lieu fees).

Timing: 1 month prior to implementation of pre-project

Annual Surveys at the end of years 1-5

Verified By: Planning Manager

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
27-4863  
HEARING IMPAIRED: (415) 904-5200



May 7, 2001

Marshall Ochylski  
Post Office Box 14327  
979 Osos Street, Suite A5  
San Luis Obispo, CA 93406

Subject: *Lease Site 89-89W, 845 Embarcadero, Morro Bay*

Dear Mr. Ochylski,

I am writing in response to your enquiry regarding whether the reconstruction of a building destroyed by fire at 845 Embarcadero could be exempted from the requirement for a Coastal Development Permit pursuant to Public Resources Code (PRC) Section 30610 (g). This section of the Coastal Act provides that development destroyed by a disaster may be replaced without obtaining a Coastal Development Permit if five criteria are met. These criteria are :

- 1) the destroyed development is not defined as a "Public Works" in PRC Section 30114,
- 2) the replacement structure conforms to existing zoning regulations
- 3) the replacement structure is for the same land use as the destroyed structure
- 4) the replacement structure does not exceed the floor area, height, bulk of the destroyed structure by more than 10%
- 5) the replacement structure will be sited in the same location on the affected property as the destroyed structure

Based on information included with the City's approval of Conditional Use Permit 15-99 ( Concept Plan) and our subsequent correspondence, this building located at the 845 Embarcadero site leased by your client, Mr. Steinmann from the City of Morro Bay was destroyed by fire in 1999. The destroyed building was a two story structure with a floor area of approximately 6,720 square feet.

The proposed replacement of the destroyed building as approved by the City of Morro Bay is consistent with the criteria for exemption outlined above as follows;

- 1) None of the destroyed development is defined as a " Public Works".
- 2) The replacement building is consistent with the city's zoning regulations for this parcel.

# EXHIBIT E

- 3) The replacement structure will be for the same use as the destroyed structure. The City staff report prepared for the Planning Commission review of this project states that the uses will be the same and in the same proportion as the pre-fire uses.
- 4) The replacement structure will not exceed the floor area, height or bulk of the destroyed building by more than 10%. In fact the replacement structure will be somewhat smaller than the destroyed building. Information and plans submitted on behalf of your client show that the destroyed building that contained 6720 square foot of floor area, will be replaced by a one story structure with a total floor area of 5710 square feet. The total bulk of the destroyed building was estimated by the city at 87,360 cubic feet, the new bulk is estimated at 79,940 cubic feet.
- 5) The site plans submitted with your inquiry show that the replacement building will be sited in the same location as the destroyed structure.

Based on these representations, this project is exempt from the Coastal Development Permit requirement.

This exemption does not exempt your client from the requirement to obtain a Coastal Development Permit for the replacement of the smaller building still existing on the site, An application has been received for this project which is located within an area of the Commission's original jurisdiction. We anticipate scheduling the item for Commission hearing at either the June or July meeting. It is my understanding that your client may request a determination regarding the replacement of the dock under the exemption allowed by PRC 30610 (g). Any such request will be evaluated at the time it is submitted. None of the above eliminates your client's obligation to obtain any other required permits from the City of Morro Bay or any other regulatory agency.

Sincerely,



Diane Landry  
Staff Counsel  
Central Coast District Office

c.c. Rob Schultz, City Attorney  
Greg Fuz, City of Morro Bay  
Tami Grove  
Mike Watson

*2072*

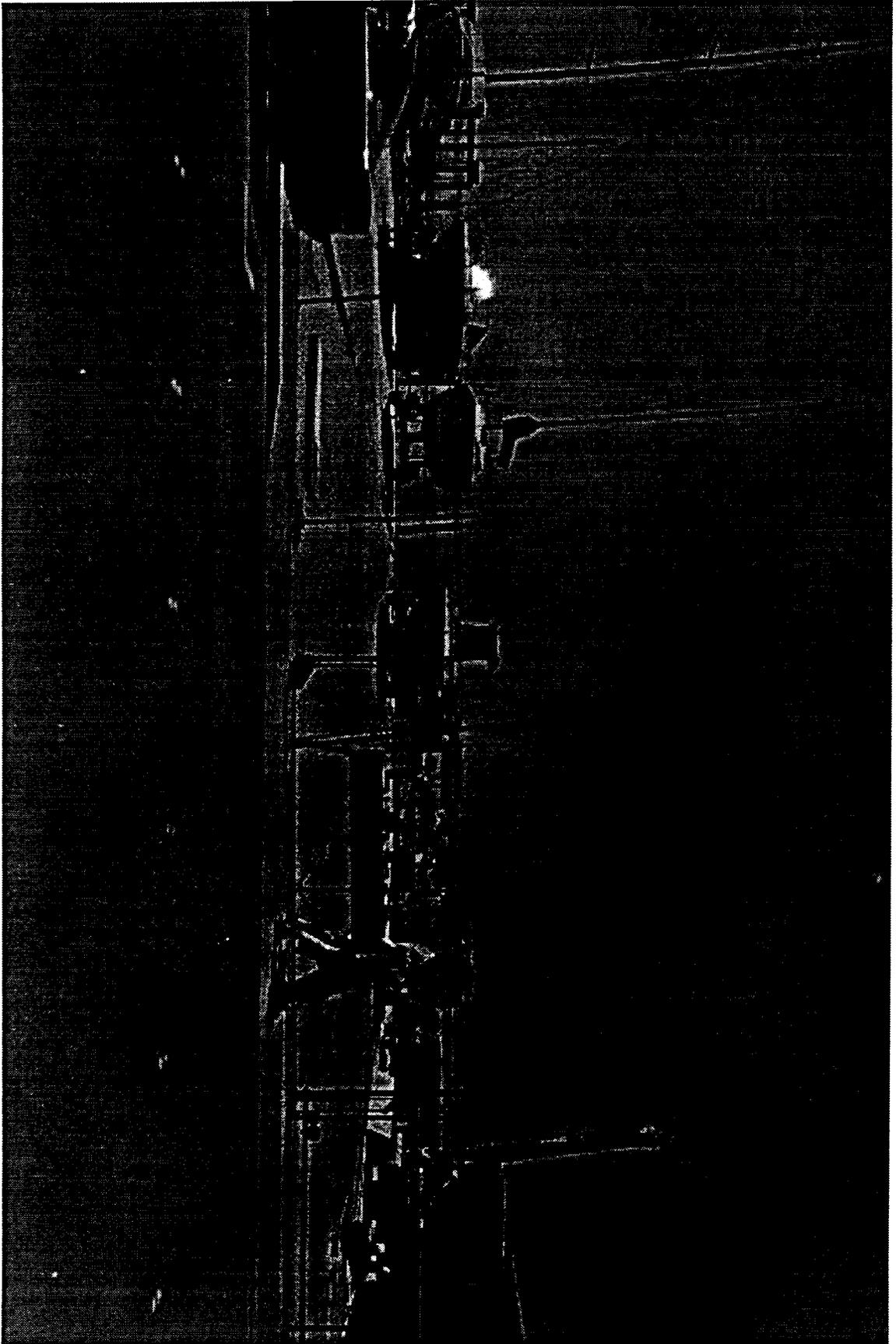


Photo Number x. Boatyard.

● **VIEW FROM EMBARCADERO** ●

**EXHIBIT F**

