

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 421-4863

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Staff: SC
Staff Report: 07/17/01
Hearing Date: 08/07/01

**STAFF REPORT
PERMIT AMENDMENT**

Application Number..... **3-81-041-A22, Wharf Substructure Repair and Demolition of Santa Cruz Municipal Wharf Restrooms**

Applicant..... **City of Santa Cruz**

Project Location **Southern end of Municipal Wharf, Santa Cruz, Santa Cruz County (APN 5-401-04)**

Project Description..... **Demolition of existing public restrooms at the south end of the Santa Cruz Municipal Wharf in order to complete repairs to a deteriorated section of the wharf substructure; installation of two portable toilets as a replacement for the existing public restrooms.**

Original Project..... **Demolition of three buildings on Santa Cruz Municipal Wharf; construction of three new buildings and new deck area.**

File Documents **Moffatt & Nichol Engineering Report (M&N File No. 4154-07)**

PROCEDURAL NOTE

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

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

In this case, the Executive Director has determined that the proposed amendment constitutes a material change.



California Coastal Commission

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the coastal development permit amendment request with the following standard and special conditions:

I. STAFF RECOMMENDATION ON PERMIT AMENDMENT

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 3-81-041-A22 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of Santa Cruz County from carrying out a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. CONDITIONS OF APPROVAL

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit amendment 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **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.



4. **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. **Funding for the construction and maintenance** of permanent restrooms at the south end of the Wharf shall be provided for in the City of Santa Cruz's budget for the 2002/2003 fiscal year.
2. **Prior to construction of permanent restroom facilities at the south end of the Wharf**, the City shall submit final plans to the Executive Director for review and approval. These plans shall provide for permanent restrooms in the same location as the restrooms slated for demolition.
3. **The permanent restrooms shall be constructed** and ready for use no later than June 30, 2003.

IV. FINDINGS AND DECLARATIONS

A. Standard of Review

The Santa Cruz Municipal Wharf is within the original jurisdiction of the Coastal Commission for the purposes of issuing a coastal development permit. Therefore, the standard of review for this project is the Coastal Act. The City has a certified Local Coastal Program, which includes recommendations for development on the wharf, that may be consulted for guidance.

B. Project Location and Description

The Santa Cruz Municipal Wharf, a City-owned facility, was built in 1914 (see Exhibit 1 for location map). Originally the Wharf primarily was used for the docking of cargo vessels. The Wharf's function as a shipping utility ceased in 1938. Currently the Wharf's main function is that of a tourist center, attracting an estimated two to three million visitors annually. At approximately one-half mile in length, the Santa Cruz Municipal Wharf is the longest wharf on the West Coast. The Wharf is designated as an historical landmark in the City of Santa Cruz LCP.

Like all wharves, the Santa Cruz Municipal Wharf must undergo periodic inspections of its supportive substructure. In March 1999, at the request of City staff, a marine engineering firm performed an inspection of the supporting structure under the public restroom at the south end of the Municipal Wharf (see Exhibit 2 for location map). This inspection confirmed that the majority of the pilings and bearing lumber had deteriorated and would need to be replaced in the near future. To replace these materials, however, the existing 735 square foot restroom building at the south end of the Wharf would need to be removed (two other restroom facilities are located at other points on the wharf). The City gained limited success in extending the life of this highly used public restroom



facility by installing additional joists. However, while making these repairs, additional deterioration was found, warranting another structural inspection.

In January 2001, the marine engineering firm re-inspected the Wharf structure under the public restrooms. The structural engineers reevaluated the existing support strength and recommended that the restroom building be removed and the structural repairs accomplished before the busy summer season. This has not yet occurred.

The proposed amendment would include replacement of joists, lower bracing ledgers, cap beams, approximately 35' x 45' of decking, and approximately 24 pilings. In addition, the amendment would allow for the demolition of the existing public restrooms at the southern end of the Municipal Wharf in order to complete repairs to the deteriorated section of the wharf substructure. The demolition of the existing restrooms will include the removal of the existing waste plumbing and electrical utilities below the restroom structure. New plumbing and electrical utilities will be added (personal communication with Dan Buecher, wharf supervisor). Two portable toilets will be located adjacent to the restroom site during the construction phase. After substructure repairs are completed, the portable toilets would be relocated to the existing restroom site. Visual screening would be installed. The City has not allocated any funding to replace the restroom building.

B. Coastal Act Issues

1. Scenic and Visual Resources/Recreation

Coastal Act Sections 30251 and 30253(5), regarding development, state:

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...

Section 30253(5): New development shall, where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Additionally, City of Santa Cruz LCP Community Design Policy 3.5 states:

New or renovated development shall add to, not detract from City-identified landmarks, historic areas, and buildings, and established architectural character worthy of preservation.

As stated above, the historic Santa Cruz Municipal Wharf attracts approximately two to three million visitors per year, making the Wharf one of Santa Cruz's most important recreational attractions. The Wharf has tremendous appeal, drawing visitors from many geographical locations. Visitors come for



the oceanside attributes of the Wharf – water, fishing, boating, fresh air, and beautiful scenery – as well as for restaurants, gift shops, and fish markets. A variety of marine animals are present in the areas around the wharf, including sea lions, brown pelicans, and sea otters. Views from the Wharf include Lighthouse Point, the Santa Cruz Beach Boardwalk, West Cliff Drive, and the surfing area known as Steamer Lane.

Coastal Act Section 30251 calls for protection of the scenic and visual qualities of coastal areas. Coastal Act Section 30253(5) states that new development shall protect areas that are popular visitor destination points for recreational uses (such as the Santa Cruz Municipal Wharf). The south end of the Wharf contains a number of popular recreational amenities (see Exhibit 2) i.e., outdoor picnic tables, benches, and coastal viewing areas. Also, a small restaurant (The Dolphin) is located at the south end of the wharf. This restaurant does not provide restroom facilities to its patrons but instead refers them to the public restrooms located just outside the restaurant. Other activities at the southern end of the Wharf include fishing and the viewing of sea lions that haul out on the Wharf substructure.

The existing restroom facilities in this area are housed in a 735 square foot wooden structure. The existing restroom structure was built in 1964 and has developed structural cracks. In addition, the existing restrooms are not in compliance with the Americans with Disabilities Act. For these reasons, the City has determined that it is not a viable alternative to move the existing restrooms to another location until the wharf substructure construction is completed, and then move the restrooms back to the same location. Thus the existing restrooms are proposed to be replaced with standard plastic portable toilets of the design commonly seen at construction sites and remote park locations i.e., areas without access to sanitation lines.

Although Wharf maintenance is necessary to preserve the integrity of the Wharf structure, the replacement of permanent restroom facilities with two portable toilets is not adequate given the intensity and scope of the above-stated recreational activities in this area of the wharf. Furthermore, portable toilets in this area will give off noxious fumes, chemical or otherwise, which will adversely affect the recreational activities of the surrounding area (sea lion watching, picnicking, outdoor dining, coastal viewing, fishing). Thus, portable toilets may be expected to adversely affect recreational use of this portion of the wharf, inconsistent with Coastal Act Section 30253(5). In addition, the appearance of these utilitarian enclosures may be reasonable as temporary structures during construction, but will detract from the visual character of this highly visible and visited recreational attraction. Thus, portable toilets, no matter how screened, will not be visually compatible with the Wharf structure and the surrounding natural environment. As such, portable toilets are not consistent with the protection of the scenic and visual qualities of the Wharf, as required in Coastal Act Section 30251.

As stated above, the Santa Cruz Municipal Wharf is an historic structure and as such is subject to Coastal Act Section 30253(5) due to its unique characteristics. Although not the standard of review, the Commission notes that the preservation and stewardship of historic structures is of statewide importance, as demonstrated by Executive Order W-26-92, which was enacted in 1992 by Governor



Wilson. This Executive Order calls for the protection of historical and cultural resources and states, in part, "...each state agency is directed: (1) to administer the cultural and historic properties under its control in a spirit of stewardship and trusteeship for future generations..." (see Exhibit 4). In addition, City of Santa Cruz LCP Community Design Policy 3.5 states that new or renovated development shall add to, not detract from City-identified landmarks and historic areas. As stated above, the Santa Cruz Municipal Wharf is an historic landmark. Although only the wharf structure itself is historic, and not any of the buildings upon it (including the restrooms), the Commission does not find that replacing the existing permanent bathroom structure with portable toilets is in keeping with the "spirit of stewardship" for historic properties. It is the Commission's determination that portable restrooms would detract from the historic wharf structure.

In conclusion, the permanent placement of portable toilets on the south end of the Santa Cruz Municipal Wharf without a plan for replacement of these portable toilets with permanent restroom facilities designed to be compatible with the Wharf and nearby development on the Wharf (wood construction, etc.) is not consistent with Coastal Act Section 30251 regarding protection of scenic and visual areas and is not consistent with Coastal Act Section 30253(5) regarding protection of popular visitor destination points for recreational uses. In addition, portable toilets would detract from the historic Wharf structure. To ensure that the historic, scenic, and recreational aspects of the Wharf are protected, Special Condition 1 requires that the City provide funding for the construction and maintenance of permanent restrooms in the 2002/2003 fiscal budget. Special Condition 2 requires the submission of final plans for permanent restrooms in the same location, for review and approval. Upon Executive Director approval of these plans, this amended permit (3-81-041-A22) shall be sufficient for construction of the new permanent restrooms. Finally, Special Condition 3 requires that the permanent restrooms be constructed by June 30, 2003. As conditioned, the proposed project is consistent with the scenic and visual priorities of Coastal Act Section 30251 and the recreational priorities of Coastal Act Section 30253(5).

2. Marine Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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.

Section 30233(a)(4) of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: . . .

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

As stated above, the proposed amendment includes replacement of joists, lower bracing ledgers, cap beams, approximately 35' x 45' of decking, and approximately 24 pilings at the southern end of the Santa Cruz Municipal Wharf. Any of these activities could result in damage to the sensitive marine environment, including adverse impacts to both sessile and non-sessile organisms. The project description, however, contains safeguards and procedures for protection of the marine environment (see Exhibit 3), which have been reviewed and deemed adequate by a Commission water quality specialist. In addition, the replacement of existing pilings and Wharf substructure benefits the public by allowing for public access and recreational opportunities over the water. As such, the proposed project is consistent with Coastal Act Sections 30230, 30231, and 30233(a)(4) regarding protection of the marine environment.

California Environmental Quality Act (CEQA)

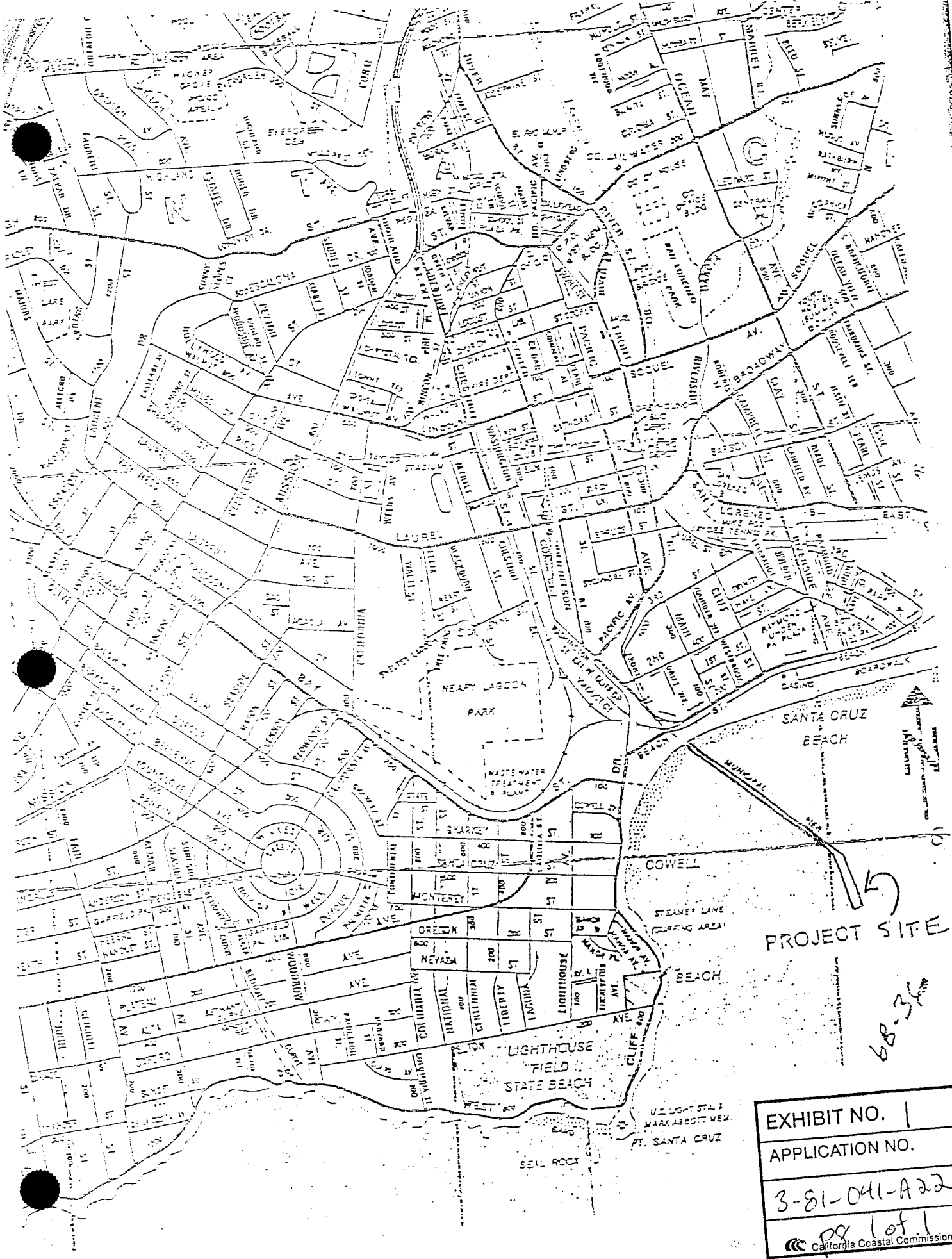
Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures that would substantially lessen any significant adverse effect 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. These findings are incorporated into this CEQA finding and public comments received on this item have also been fully addressed in these findings. The impacts of the proposed development on coastal resources have been discussed in this staff report and the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions of Approval). This impact analysis and findings, as well as conditions to mitigate the identified environmental impacts, are hereby incorporated. As such, the Commission



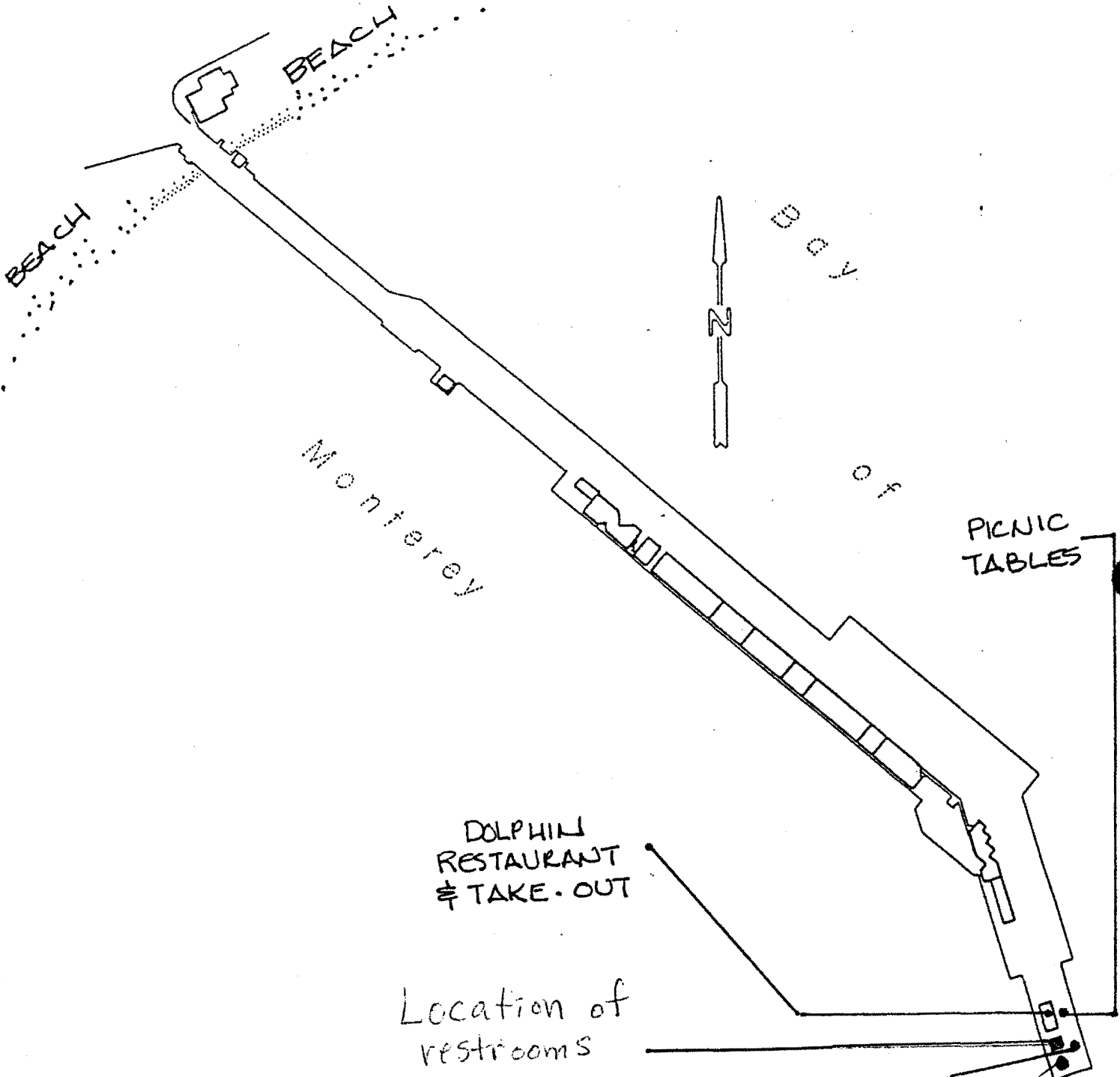
finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.





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PICNIC TABLES

DOLPHIN RESTAURANT & TAKE-OUT

Location of restrooms

SEAL WATCHING

FISHING

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SANTA CRUZ MUNICIPAL WHARF Feb. 14, 1983

Attachment A: Supplement to Project Description

Application for an Amendment to Coastal Development Permit 3-81-41

Applicant:
City of Santa Cruz
809 Center Street
Santa Cruz, CA 96060

Contact Name: Dannettee Shoemaker (831) 420-5270

Wharf Substructure Repairs

The majority of the piling and bearing lumber in the wharf substructure under the "ocean end" public restrooms has deteriorated. This weakened substructure has been monitored over the past several years. The most recent structural inspection conducted in January 2001 by Moffatt & Nichol recommended that the restroom building be removed before the summer season in order to make repairs to the substructure. Two supporting cap beams that directly support the restroom building showed large areas of deterioration.

The substructure work would include approximately 35' x 45' of decking, joists, lower bracing ledgers, cap beams, and approximately 24 pilings. Safeguards and procedures for protection of the marine environment would be followed (see section below).

Wharf "Ocean End" Public Restroom Demolition and Replacement

The existing public restrooms at the "ocean end" of the wharf must be removed in order to complete the wharf substructure repairs discussed above. The existing restroom is in poor condition. It does not meet applicable building codes or ADA requirements. The facility includes 3 toilets for women and 2 toilets/1 urinal for men.

Demolition would include removal of the 25' x 17' wood frame structure and plumbing/electrical systems for the restrooms. Safeguards and procedures for protection of the marine environment would be followed (see section below).

Two portable toilets would be located adjacent to the restroom site during the construction phase. These toilets would be ADA compliant and include cleaning dispensers. After substructure repairs are completed, the portable toilets would be relocated to the restroom site. Visual screening would be installed. No funding is available to construct permanent restroom facilities.

Safeguards and Procedures for Protection of Marine Environment

The following safeguards and procedures for the protection of the marine environment will be followed:

1. Material containment. Particular care will be exercised to prevent foreign materials (e. g. treated lumber, and other construction scraps) from entering

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the Bay. A staging area shall be used for refueling equipment and vehicles, mixing and storing materials, debris collection and disposal, and containing runoff from any materials that may be used or stockpiled during the project. A floating containment boom shall be placed around all active portions of the construction site where wood scraps and other floatable debris could enter the water. Also a boat will be tied to the site during times of work to allow quick response to any clean up needed. The presence of all animals will be continually monitored and controlled within the construction site as much as possible. The work crew will be carefully briefed on procedures and responses to keep the worksite and Bay as clean as possible including the reporting of any accidental spills. The City of Santa Cruz and the Santa Cruz Wharf crew is very experienced in open ocean construction and will take the lead in the clean up and removal of any materials resulting from this project.

2. Piling Installation Procedures. Piling replacement will be performed in accordance with Department of Fish and Game recommendations using a placement boom crane and a drop hammer for minimum disturbance of bottom sediments. Only piling pressure treated with ACZA (Ammoniacal Copper Zinc Arsenate) also known as Chemonite in accordance with AWPA (American Wood-Preservers Association) Standards for marine use will be used. A preinstallation SCUBA inspection will be made at each replacement site to assure minimal disturbance to life forms present.

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EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA



EXECUTIVE ORDER W-26-92

WHEREAS, the preservation and wise use of California's cultural and historic resources are of importance to the people of this state; and

WHEREAS, these cultural and historic resources, hereinafter referred to as "heritage resources," include artifacts, sites, buildings, structures, districts, and objects with historical, architectural, archaeological, and cultural significance; and

WHEREAS, these heritage resources provide not only continuity with our past, but foster community pride, stimulate economic activity, improve housing, enhance the quality of life and, along with California's unique natural resources, draw hundreds of thousands of visitors to California every year; and

WHEREAS, due to their location, age, and the construction materials used, many of our important historic buildings and historic sites may be at risk from deterioration, destruction, and natural disasters; and

WHEREAS, an assessment of the extent of our heritage resources is needed in order to ensure their recognition and adequate protection in the future; and

WHEREAS, the preservation and wise use of historic resources must include consideration of cost-effectiveness and fostering private sector incentives, and state agencies must consider these and other public interests in their decision-making processes;

NOW, THEREFORE, I, PETE WILSON, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, do hereby issue this order to become effective immediately, and do hereby direct all agencies of the Executive Branch of state government as follows:

Section 1. In furtherance of the purposes and policies of the State's environmental protection laws, including but not limited to the California Environmental Quality Act, Public Resources Code Section 21000 et seq., the State Historic Building Code, Health and Safety Code Section 18950 et seq., and the historic resources preservation laws, Public Resources Code Section 5020 et seq., all state agencies shall recognize and, to the extent prudent and feasible within existing budget and personnel resources, preserve and maintain the significant heritage resources of the State. In accordance with these statutes, each state agency is directed:

- 1) to administer the cultural and historic properties under its control in a spirit of stewardship and trusteeship for future generations; and
- 2) to initiate measures necessary to direct its policies, plans, and programs in such a way that state-owned sites, structures, and objects of historical, architectural, or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the people; and

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- 3) to ensure that the protection of significant heritage resources are given full consideration in all of its land use and capital outlay decisions; and
- 4) in consultation with the California State Office of Historic Preservation, to institute procedures to ensure that state plans and programs contribute to the preservation and enhancement of significant non-state owned heritage resources.

Section 2. Each state agency shall designate from among its current staff a key official (Agency Preservation Officer) whose responsibility will be to ensure that the State's policies regarding the protection of cultural and historic resources within the jurisdiction of such state agency are carried out.

Section 3. Under the direction of its Agency Preservation Officer, in consultation with the State Historic Preservation Officer, and in consultation as appropriate with the State Historical Building Safety Board, each agency shall, by January 1994, develop and institute feasible and prudent policies and a management plan to preserve and maintain its significant heritage resources.

(a) Inventories pursuant to Section 5024 are to be completed or updated by January 1995, or as soon thereafter as feasible as specified in a Memorandum of Understanding with the State Historic Preservation Officer. Inventory preparation shall take into account the kind, quantity, location of, and development risk to properties within the ownership and control of the agency.

(b) Heritage resources management plans and policies shall be reviewed periodically and revised as appropriate in consultation with the State Office of Historic Preservation.

(c) For purposes of developing management plans and policies under this order, resources which meet the following criteria shall be considered significant heritage resources:

- (1) listed in or potentially eligible for inclusion in the National Register of Historic Places; or
- (2) registered or eligible for registration as a state historical landmark or point of historical interest; or
- (3) registered or eligible for listing in a California Register of Historical Resources in accordance with procedures and criteria developed by the State Historical Resources Commission.

Section 4. The State Historic Preservation Officer and the State Office of Historic Preservation shall provide leadership to and shall coordinate the efforts of State agencies in implementing their stewardship obligations with regard to historic resources, including, but not limited to, the requirements of Public Resources Code Sections 5020, et seq.

Section 5. Each state agency shall report to the State Office of Historic Preservation annually its progress in completing inventories, management plans, and policies pursuant to this order.

Section 6. The Resources Agency and the Office of Planning and Research shall provide guidance concerning the application of the California Environmental Quality Act (CEQA) and the state's CEQA regulations in order to provide for the consistent protection and preservation of the heritage resources of California.

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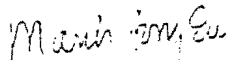
The provisions of Section 21080(b)(3) and (4) of the Public Resources Code shall not be construed or applied to exempt from review projects to alter significant historic resources except to the extent that the condition of the historic structures or resources poses an emergency as defined by Section 21060.1 of the Public Resources Code. The historic value of structures is to be preserved and enhanced, unless the state or local agency finds the structure presents an imminent threat of harm to the public or of damage to adjacent property.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 30th day of April 1992.

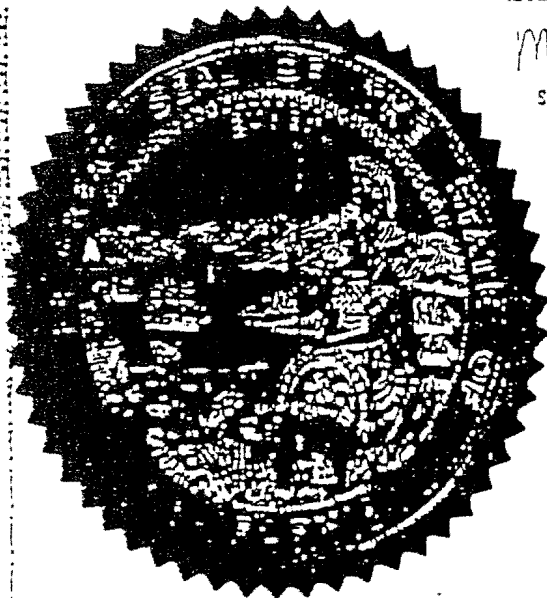


Governor of California

ATTEST:



Secretary of State



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