

**CALIFORNIA COASTAL COMMISSION**

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Staff: ALB-LB **ALB**  
Staff Report: September 18, 2003  
Hearing Date: October 7-10, 2003  
Commission Action:

**STAFF REPORT: MATERIAL AMENDMENT****AMENDMENT NUMBER:** 5-82-291-A3**APPLICANT:** SHC Laguna Niguel, LLC**AGENT:** Michael Kollin, Kollin Design Group**PROJECT LOCATION:** 1 Ritz Carlton Drive, Dana Point (Orange County)

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construction of a 397 room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55 acre blufftop lot.

**DESCRIPTION OF AMENDMENT:** Construction of a new 2,651 square foot fitness center and approx. 2,000 square foot roof terrace within the footprint of an outdoor terrace on the seaward side of the existing hotel. The project also involves the construction of a new paved public walkway seaward of the proposed fitness center. The project affects previously imposed Special Conditions 1 and 2 of Coastal Development Permit 5-82-291 because development is proposed which will modify the deed restricted "common areas of the development" and the public walkway system. The amendment will require the recordation of an updated deed restriction with exhibit depicting the new fitness center, relocated roof terrace and new public accessway.

**SUMMARY OF STAFF RECOMMENDATION:**

The project involves new development on the seaward side of the Ritz Carlton Hotel in the City of Dana Point. The major issue addressed by the current staff report is maintenance of public access.

Staff recommends that the Commission, after a public hearing, **approve an amendment to Coastal Development Permit 5-82-291** to allow the construction of a new fitness center with roof terrace and to modify Special Conditions 1 and 2 of the underlying permit pertaining to public access. The amendment is conditioned to require 1) retention of the special conditions of the underlying permit (5-82-291, as amended) not affected by the current action; 2) submittal of final project plans; 3) recordation of an updated deed restriction with Public Access Map to reflect new development; 4) maintenance of public access during construction; 5) a restriction on the establishment of a private membership facility; and conformance with geotechnical recommendations.

At the time of this staff report, the applicant has indicated acceptance of all conditions of approval recommended by staff.

**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.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The current project affects conditions required for the purpose of protecting coastal access. Therefore, pursuant to Section 13166 of the Commission's regulations, the Executive Director is referring this application to the Commission.

**SUBSTANTIVE FILE DOCUMENTS:**

- City of Dana Point Local Coastal Program (LCP)
- City of Dana Point Minor Site Development Permit SDP02-61M
- Coastal Development Permit P-79-5539
- Coastal Development Permit 5-82-291
- Coastal Development Permit 5-82-291A
- Coastal Development Permit 5-87-220

**LIST OF EXHIBITS:**

1. Vicinity Map
2. Existing Site Plan
3. Project Plans and Elevations

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**I. MOTION AND RESOLUTION:**

The staff recommends that the Commission make the following motion and adopt the following resolution:

**Motion:** *I move that the Commission approve Coastal Development Permit Amendment No. 5-82-291-A3 pursuant to the staff recommendation.*

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 majority of the Commissioners present.

**Resolution to Approve Permit Amendment No. 5-82-291-A3:**

The Commission hereby approves the coastal development permit amendment on grounds that the development as amended and subject to conditions will be in conformity with the

requirements of the City of Dana Point certified Local Coastal Program and is consistent with the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS:

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 this permit is reported to the Commission. 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 permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS:

### 1. Prior Conditions

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-82-291, as amended, remain in effect.

### 2. Submittal of Final Project Plans

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit two (2) full size sets of final project plans approved by the City of Dana Point, for the review and approval of the Executive Director, which demonstrate the following:

- (a) The usable square footage of the new roof terrace will not be less than 2,000 square feet, as generally depicted in the Proposed Project Plans received September 17, 2003, attached as page 2 of Exhibit 3 of the current staff report.
- (b) A new lateral public walkway will be constructed immediately seaward of the new fitness center as generally depicted in the Proposed Project

Plans received September 17, 2003, attached as page 1 of Exhibit 3 of the current staff report.

- (c) An exterior stairway will be constructed to provide public access to the new roof terrace, and
- (d) Signage will be provided to inform the public of their ability to utilize the new roof terrace and walkway.

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

3. Public Access Deed Restriction

***This special condition shall supercede Special Conditions 1 and 2 of Coastal Development Permit No. 5-82-291:***

- A. The following areas shall be maintained for permanent access and recreational use by the general public: bluff trail and walkway; viewpoints and rest areas; the Vista Point Park; and all common areas of the hotel, including, but not limited to, the lobby, restaurant, coffee shops, grounds, sundeck, spa and fitness center.

The development shall be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit an updated public access map, for the review and approval of the Executive Director, depicting all public walkways and publicly available common areas at the subject site. The public walkway system shall include the "new sidewalk" shown in the Project Plans submitted by the applicant on September 17, 2003, as generally depicted on page 1 of Exhibit 3 of the current staff report. Publicly available common areas shall include the "roof terrace" shown in the Project Plans submitted by the applicant on September 17, 2003, as generally depicted on page 2 of Exhibit 3 of the current staff report.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on the development. The deed restriction shall include a legal description of the applicant's entire parcels. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. Maintenance of Public Access During Construction

The construction activities authorized pursuant to Coastal Development Permit No. 5-82-291-A3 shall not obstruct public access at the subject site during the peak use season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. In addition, the applicant shall comply with the following:

- 1) At no time shall construction activities associated with the fitness center project obstruct the public's ability to utilize the bluff trail, including view points and rest areas, the Vista Point Park and/or the hotel parking garage.
- 2) The staging area for construction of the fitness center shall not obstruct public access along the adjacent public access trail.

5. Restriction on Private Membership

A. By acceptance of this permit, the applicant acknowledges that 1) the fitness center approved by this permit amendment shall remain open to the public and shall not be operated as a "membership-only" facility, and 2) the roof terrace approved by this permit amendment shall not be used for formal dining service (i.e. restaurant use only).

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. Conformance of Design and Construction Plans to Geotechnical Report

A. All final design and construction plans, including foundation, grading and drainage plans, shall be consistent with all recommendations contained in the Geotechnical Investigation prepared by GeoSoils, Inc. dated June 6, 2002.

B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

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

**V. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. Project Location, Description, and Background****Project Location**

The subject site is located at 1 Ritz Carlton Drive seaward of Pacific Coast Highway in the northern portion of the City of Dana Point, County of Orange (Exhibits 1 & 2). The site is located within the Monarch Beach area of the City, which has a certified Local Coastal Program (LCP). The site is bordered to the north by the Salt Creek Beach Park and a portion of the public parking lot area, to the south and west by Salt Creek Beach, and to the east by the residential community of Niguel Shores. The project site is located at the approximately 17.58-acre Ritz Carlton Hotel property, developed with 333,840 square feet of building area, which is comprised of guestrooms, conference facilities, banquet rooms, various guest accommodations, a banquet facility and a separate parking structure. A public accessway traverses the hotel property, leading to a blufftop walkway, view points and the Vista Point Park on the seaward portion of the site. (The hotel was previously approved under Coastal Commission CDP 5-82-291, as will be discussed on the following page). The proposed amendment involves new development along the seaward side of the subject property, as shown below.

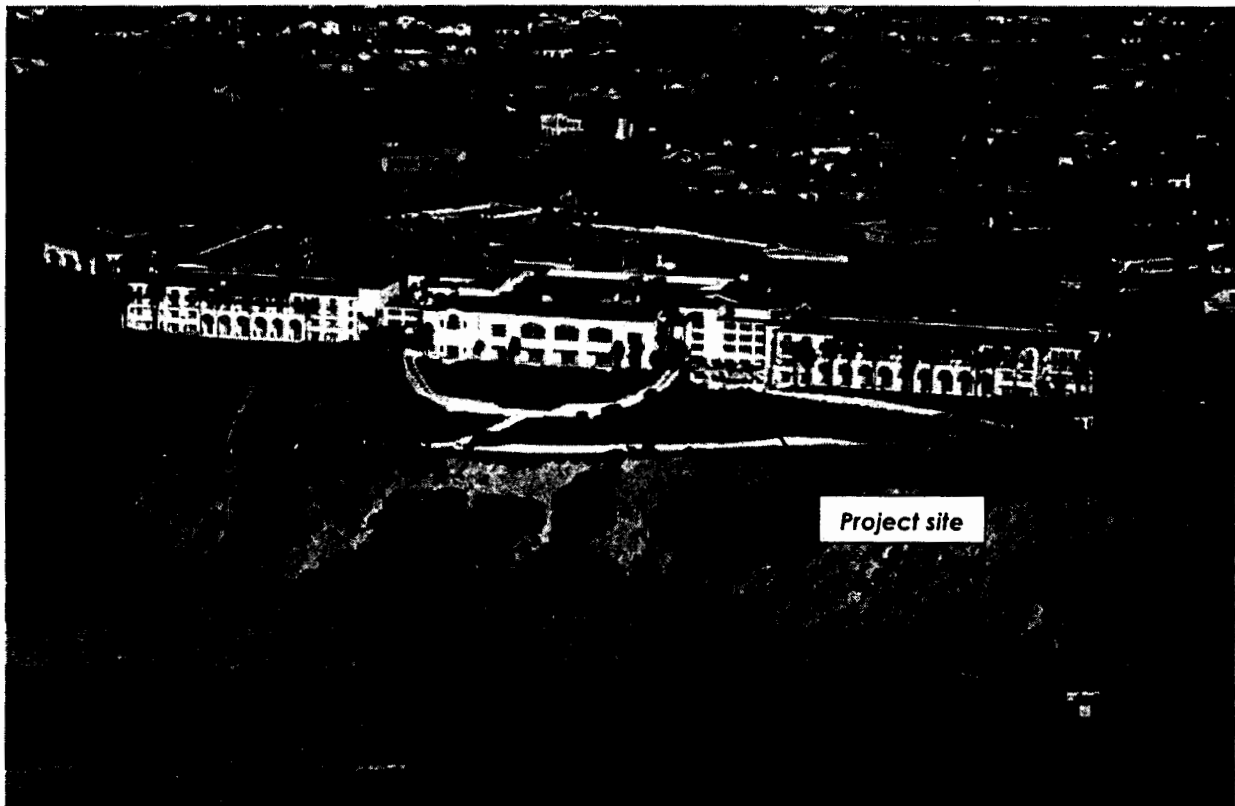


Image 5006 California Coastal Records Project

Proposed Amendment Description

The proposed project consists of the construction of a new bi-level one-story 2,651 square foot fitness center and approximately 2,000 square foot roof deck within the footprint of an existing outdoor terrace on the seaward side of the hotel structure (Exhibit 3). The new roof deck will be accessible from the lobby level of the hotel and from a new exterior stairway. The project also includes the construction of an approximately 375 square foot paved walkway seaward of the proposed fitness center. The site of the proposed fitness center, roof deck, and walkway is currently developed with a bi-level outdoor terrace and landscaping. The new development will be supported by a caisson and grade beam foundation system.

The project affects previously imposed Special Conditions 1 and 2 of Coastal Development Permit 5-82-291 because development is proposed which will modify the deed restricted "common areas of the development" and the public walkway system. The amendment will require the recordation of an updated deed restriction with exhibit depicting all areas open to the public, including the new fitness center, relocated terrace and new public accessway.

At the time of Commission approval of CDP 5-82-291, the project was conditioned to require the provision of permanent public access and recreation use throughout the subject site, including the bluff trail, parks, and hotel commons areas. The current project requires an amendment to the underlying permit because the applicant wishes to update and revise the recorded Public Access Plan. The revised plan will illustrate an adjustment to the boundaries of the public trail and show the replacement of an outdoor terrace with a new fitness center and roof terrace.

Past Commission Actions at Subject Site**P-79-5539 (AVCO)**

On July 23, 1979, the concept of the Ritz Carlton Hotel was initially approved under Coastal Development Permit (CDP) P-79-5539 with specific approval of the hotel being granted under CDP 5-82-291, discussed below. A special condition of this permit required the applicant to "submit a deed restriction indicating that this facility [the hotel] and all its associated facilities (including lobby, outdoor areas, trail connecting hotel and beach, bluff-top plaza, etc.) shall be operated as a public hotel facility and not converted to a private resort facility."

**5-82-291 (AVCO)**

On June 16, 1982, the Commission approved Coastal Development Permit 5-82-291 (AVCO), which allowed the construction of a 397 room resort hotel with two restaurants, meeting rooms, ballroom, pool and deck, public beach access trail, 672 off-street parking spaces, landscaping and other improvements on a vacant 18.55 acre blufftop parcel. One condition of project approval required the recordation of a deed restriction which insures that the bluff trail, including view points and rest areas, and the Vista Point Park are opened and maintained for permanent access and recreational use by the general public. The deed restriction was also intended to insure that the development would be dedicated to hotel use, available in accordance with standard hotel/motel practice for use by the general public, and that "under no circumstances will the development be used for private resort or time-share use which could inhibit or exclude casual use by the general public." In addition, the permit was conditioned to require the recordation of a deed restriction which insures that public access is maintained to all common areas of the development. These areas were to include, but not be limited to, "the lobby, restaurants, coffeeshops, grounds and sundeck."

**5-82-291-A (AVCO)**

On October 29, 1982, the Commission granted permit amendment 5-82-291A to allow a change to the wording of Special Condition No. 5 (Lower Cost Visitor Accommodations) so that *"the covenant can be only on the commercial site and not the on the hotel site; and that the letter of credit be increased to \$548,000."* The currently proposed amendment will not affect Special Condition No. 5.

**5-87-220 (Prutel Joint Venture)**

On May 12, 1987, the Commission approved Coastal Development Permit 5-87-220 (Prutel Joint Venture), which allowed the construction of a 5,400 square foot storage and engineering building as an addition to the existing parking structure serving the hotel. The approval was conditioned to require the applicant to submit, for the review and approval of the Executive Director, a plan for the continued implementation of the public access requirements established in Coastal Development Permit 5-82-291. As such, the trail and grounds of the resort were to remain open to use by the general public.

**5-82-291-A and A-5-DPT-00-467 (SHC Laguna Niguel)**

On March 13, 2003, the Commission approved Coastal Development Permit Amendment 5-82-291-A2 and De Novo Coastal Development Permit A-5-DPT-00-467, which allowed demolition of two tennis courts and construction of a three-story 32,276 square foot addition to the Ritz Carlton Hotel for use as a spa facility and the revision of Special Conditions 1 and 2 of Coastal Development Permit 5-82-291 to allow 1) realignment of the public access trail and 2) inclusion of a spa facility into what is considered "common areas of the development." This permit amendment has not yet been activated, but was granted an extension by the Commission until March 2004.

**Local Coastal Program Certification**

The City of Dana Point Local Coastal Program (LCP) was effectively certified for the subject area by the Commission under City of Dana Point LCP Amendment 1-96 on November 5, 1997. The LCP amendment certified most of the existing uncertified Monarch Beach LCP segment, with the exception of the Dana Strands area, which is deferred. The portions of the Land Use, Urban Design, and Conservation/Open Space Elements of the General Plan applicable to Monarch Beach now serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach now serve as the Monarch Beach IP. As such, the City now has authority to issue coastal development permits for new projects in the Monarch Beach area. LCP policy 9.69.030 (c)(3)(B) and (D) specify that the Commission retains jurisdiction over permits originally issued by the Commission, including CDP 5-82-291 at the subject site.

The proposed project affects special conditions of a Commission-issued permit (5-82-291), thereby requiring an amendment to the original permit. Pursuant to Section 30604 (b), the City's certified LCP is the standard of review in the current analysis.

**B. Standard of Review**

The Commission's standard of review for the proposed amendment is the Monarch Beach segment of the City of Dana Point certified LCP, pursuant to Section 30604 (b) of the Coastal Act. The portions of the Land Use, Urban Design, and conservation/Open Space Elements of the City of Dana Point General Plan applicable to Monarch Beach now serve as the LUP for Monarch Beach. The portions of the City's Zoning Code applicable to Monarch Beach now serve as the Monarch Beach IP.

Additionally, Section 30604 (c) of the Coastal Act 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 recreation policies of Chapter 3 of the Coastal Act.

### **C. Public Access**

The proposed project involves the construction of a new fitness center within the footprint of an exiting outdoor terrace on the seaward side of the hotel structure. The project also involves the construction of a new walkway seaward of the proposed fitness center and a new terrace on the roof of the fitness center, which is intended to provide comparable usable space as the existing outdoor terrace. As stated previously, the proposed development affects two underlying special conditions of Coastal Development Permit No. 5-82-291 approved by the Commission in June 1982. As a condition of CDP No. 5-82-291, both the public trail and the resort grounds are required to remain open to the public in perpetuity. On September 16, 1982, a deed restriction with a "Public Access Plan" exhibit was recorded against the property specifying this requirement. The proposed amendment will require the recordation of an updated deed restriction with Public Access Plan illustrating the new alignment of the public trail and designating the new fitness center as an area open to the public.

#### **a. Local Coastal Program (LCP) Policies**

##### Land Use Element

Policy 1.8: *The location and amount of new development should maintain and enhance public access to the coast by facilitating the provision or extension of transit service, providing non-automobile circulation within the development, providing adequate parking facilities or providing substitute means of serving the development with public transportation, and assuring the potential for public transit for high intensity uses.*

Policy 4.3: *Public access, which shall be conspicuously posted, and public recreational opportunities, shall be provided to the maximum extent feasible for all the people to the coastal zone area and shoreline consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Policy 8.2 *Assure that adequate public recreational areas and public open space are provided and maintained by the developer as part of a new development.*

Policy 8.6 *Maximize the provision of public trail and transit loop systems within the Monarch Beach area. The systems shall include access to and along the shoreline and to the visitor-serving and public places within Monarch Beach.*

Policy 8.9: *Avoid expansion of the golf course or any other land use that occurs at expense of environmentally sensitive habitat, public park or public areas.*

##### Urban Design Element

Policy 4.6: *Preserve and maintain existing public accessways, and existing areas open to the public, located within visitor-serving development in the coastal zone.*

Conservation/Open Space Element

Policy 6.8: *Preserve public access to the coastal areas through easement dedications thereby providing marine-oriented recreational uses so that transportation corridors may augment the City's open space system.*

Chapter 9.69—Coastal Development Permit

9.69.030 (c)(3)(B) and (D) state, in pertinent part:

(B) *Development authorized by a coastal development permit issued by the Coastal Commission either prior to effective certification of a Local Coastal Program or on appeal after certification remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, extension, reconsideration and revocation.*

(D) *Coastal Development Permit P-79-5539*

*Development authorized by Coastal Development Permit P-79-5539, including both development approved on condition that the additional coastal development permit be obtained, and development approved on condition of the submission of additional plans for the review and approval of the Executive Director of the Coastal Commission, remains under the jurisdiction of the Coastal Commission for purposes of condition compliance and amendment. Condition compliance includes both obtaining a coastal development permit from the Coastal Commission for development that was approved on condition that a separate coastal development permit be approved, and obtaining approval from the Executive Director of the Coastal Commission for plans for development that was approved on condition of the submission of final plans. Coastal development permits, or approval of plans by the Executive Director of the Coastal Commission, for development authorized by Coastal Development Permit P-79-5539 shall be obtained from the California Coastal Commission.*

**b. Coastal Act Policies**

Section 30210 of the Coastal Act states, in pertinent part:

*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 states, in pertinent part:

*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.*

As discussed previously, the Commission's approval of Coastal Development Permit 5-82-291 in 1982 allowed construction of the existing Ritz Carlton Hotel and associated improvements subject to special conditions that required a public accessway from Shoreline Drive (now Ritz Carlton Drive) to a public vista park located on the south side of the hotel, and required that public areas not be converted to private use. The proposed amendment will allow the existing

public accessway and common area to be modified from its current form. The applicant understands that it will be necessary to "re-record" the Public Access Plan to include the new roof terrace and sidewalk seaward of the fitness center.

As provided earlier, the City of Dana Point certified LCP contains policies which protect existing public access and recreation opportunities and encourage improvement of such access and recreation opportunities in the coastal zone. Such policies include, but are not limited to, Policies 1.8, 4.3, 8.2, 8.6 and 8.9 of the Land Use Element, Policy 4.6 of the Urban Design Element, and Policy 6.8 of the Conservation/Open Space Element. The LCP also provides policies regarding the processing of coastal development permits. Additionally, Section 30211 of the Coastal Act states that development shall not interfere with the public's right of access and Section 30210 of the Coastal Act requires that access opportunities be maximized. The Commission imposes the following special conditions to provide for continued public access at the subject site.

As discussed previously, the Commission's approval of Coastal Development Permit 5-82-291 in 1982 allowed construction of the existing Ritz Carlton Hotel and associated improvements subject to special conditions that required a public accessway from Shoreline Drive (now Ritz Carlton Drive) to a public vista park located on the south side of the hotel, and required that public areas not be converted to private use. The proposed project involves the construction of a fitness center on the site of an outdoor terrace that is currently open to the public. The new fitness center will result in an encroachment into a designated common area. To mitigate the obstruction into the common area, the applicant proposes to construct a roof terrace of comparable size, as shown on page 2 of Exhibit 3. According to the applicant, the new terrace will provide better public access than the existing outdoor terrace because the roof terrace will be accessible from the main lobby level, whereas the existing terrace is only accessible from the ground floor of the hotel. The applicant also proposes to create a new paved walkway directly seaward of the fitness center to enable the public to walk in front of the fitness center, rather than having to enter the hotel to continue along the lateral walkway.

As provided earlier, the City of Dana Point certified LCP contains policies which protect existing public access and recreation opportunities and encourage improvement of such access and recreation opportunities in the Coastal Zone. Such policies include, but are not limited to, Policies 1.8, 4.3, 8.2, 8.6 and 8.9 of the Land Use Element, Policy 4.6 of the Urban Design Element, and Policy 6.8 of the Conservation/Open Space Element. The LCP also provides policies regarding the processing of coastal development permits. Additionally, Section 30211 of the Coastal Act states that development shall not interfere with the public's right of access and Section 30210 of the Coastal Act requires that access opportunities be maximized. The Commission imposes the following special conditions to provide for continued public access at the subject site.

### **c. Special Conditions**

#### Prior Conditions

The Commission imposes Special Condition No. 1, which states that unless specifically altered by the Commission's approval of the current amendment, the special conditions of the underlying permit (5-82-291, as amended) shall remain in effect.

#### Submittal of Final Project Plans

When initially submitted, the project included a much smaller roof terrace than currently proposed. However, after working with Commission staff, the applicant agreed to enlarge the size of the new roof terrace in order to provide comparable square footage as that currently

provided at the outdoor terrace. A new exterior staircase will lead to the proposed roof terrace. The applicant also modified the project description to include a new lateral public walkway seaward of the fitness center so that visitors can traverse from one side of the fitness center to the other without having to enter the hotel. The walkway will be constructed in an area that is currently a landscaped slope, thereby requiring the construction of a retaining wall to support the walkway. Although the applicant submitted a written change to their project description and a reduced set of revised project plans, full sized project plans reflecting all of the various changes have yet to be submitted. For example, a public access signage plan has not been provided. As such, Special Condition No. 2 requires the submittal of final project plans, which incorporate all of the changes agreed upon by the applicant and Commission staff. In addition, the plans must demonstrate that the City of Dana Point has reviewed and approved these changes.

#### Recordation of Public Access Deed Restriction

The proposed amendment will allow development within a publicly available common area. Specifically, the amendment will also allow replacement of an existing common area (lower outdoor terrace) with a comparable common area (roof terrace) within an existing visitor-serving development. To assure that the applicant constructs and maintains the new public access improvements in perpetuity, the applicant must record the deed restriction with an updated Public Access Plan. Consequently, the Commission imposes Special Condition No. 3. Special Condition No. 3 requires the applicant to record a public access deed restriction that ensures that the new fitness center and walkway will be maintained open to the public in perpetuity. An updated public access map depicting all public trails and access areas at the subject site will accompany the deed restriction document. Consequently, access will be maintained throughout the Ritz Carlton site, including the bluff trail, the View Point park, and all common hotel areas (i.e. restaurant, lobby, spa, etc. In addition, the tennis courts that are currently restricted to use by hotel guests only, will be made open to the public as part of the spa facility. Special Conditions 1 and 2 of the original permit (5-82-291) are superceded by this condition.

#### Construction Impacts on Public Access

The proposed project may result in temporary construction phase impacts upon public access. Although the applicant intends to minimize impacts to coastal access during construction, the proposed project may begin as early as January 2004 and take up to 6 months to complete. As such, construction may occur during the peak beach use season, typically defined as Memorial Day weekend to Labor Day weekend. Timing of construction of the realigned trail must be limited to assure that access is not compromised, particularly during the peak beach use season.

To ensure that public access will not be adversely affected during construction of the fitness center, the Commission imposes Special Condition No. 4. Special Condition No. 4 requires the applicant to minimize impacts to public access by agreeing not to obstruct use of the bluff trail during construction.

#### Potential for Conversion of Fitness Center to Private Facility

Coastal Development Permit 5-82-291, as amended, states that under no circumstances may the development be used for a private resort which could inhibit or exclude casual use by the general public. The condition required that the trails and park/open space areas in the project be opened and maintained for permanent access and recreational use by the general public. The proposed fitness center would result in the conversion of hotel grounds, which are presently deed restricted as areas open to the general public, to fitness center area which is only open to hotel guests and their guests. The fitness center could be interpreted to be an exclusive facility, off-limits to the general public, whereas the fitness center can be used by the

public in conjunction with spa use. In addition, the roof terrace could be interpreted to be associated with a formal restaurant use, whereas the terrace is only to be used for occasional dining and beverage service.

Such use would lessen or avoid the intended effect of Special Condition 1 of Coastal Commission-issued Coastal Development Permit 5-82-291 and P-79-5539. Therefore, the Commission imposes Special Condition No. 5, which requires the applicant to record a deed restriction specifying that the fitness center shall not be operated as a "membership only" facility and that the roof terrace shall not be operated as a formal restaurant service area.

As conditioned for recordation of an updated public access map, maintenance of public access during construction, and restriction of private facility establishment, the Commission finds the project consistent with the public access policies of the City of Dana Point certified LCP and the public access and recreation policies of the Coastal Act.

#### **D. Parking**

The City of Dana Point certified LCP contains policies requiring adequate parking to be provided to serve new development. The applicant submitted a *Parking Demand Study* for the Ritz Carlton prepared by Linscott, Law & Greenspan Engineers dated April 12, 1999. A shared parking model was developed and utilized to forecast the parking requirements for the hotel and its associated facilities. The study evaluated the proposed spa expansion (approved by 5-82-291-A2) and determined that there would be an excess of 77 parking spaces after the new spa is built. The applicant anticipates that the number of people using the new fitness center (proposed by 5-82-291-A3) and the expanded spa facility is expected to remain the same as the number of people using the current spa and fitness center. As such, the applicant contends that no additional demand for parking is generated by construction of the new fitness center. However, the new fitness center may attract a greater number of visitors than anticipated and therefore must provide adequate parking. Applying the City's parking standard of 1 space per 100 square feet of gross floor area, the new fitness center would require 27 parking spaces. Subtracting the parking required for the fitness center (27) from the surplus listed in the parking study (77), the hotel will still have 50 parking spaces above their minimum requirement. Therefore, the Commission finds the proposed project consistent with the certified LCP.

#### **E. Geologic Stability**

The City of Dana Point certified LCP requires new development to minimize risks to life and property in areas of high geologic, flood, and fire hazard and assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed project involves development on the seaward side of the existing hotel. Although the project will result in a seaward encroachment of the central portion of the hotel structure, the resultant fitness center will not be the seawardmost point of the hotel. The southern (downcoast) wing of the hotel is currently sited approximately 60 feet from the bluff edge. The proposed fitness center will be set back approximately 70 feet from the bluff edge.

The applicant submitted a geotechnical report prepared by GeoSoils, Inc., which concludes that the project is feasible from a geotechnical engineering viewpoint, provided that the recommendations presented in their report are implemented in design and construction. The report includes recommendations for site preparation and foundation design. A caisson and

grade beam system is proposed to support the new fitness center. To ensure that the project is carried out in conformance with the geotechnical recommendations, the Commission imposes Special Condition No. 6. Special Condition No. 6 requires the applicant to submit final project plans, which have been reviewed, signed and stamped by a geotechnical consultant. Therefore, as conditioned for conformance to geotechnical recommendations, the Commission finds that the proposed project is consistent with the geologic hazard policies of the certified LCP.

#### **F. Scenic and Visual Resources**

The City's certified LCP requires new development to be designed to protect scenic ocean views and to be consistent with the character of the surrounding area. The proposed project involves construction of new enclosed building area on the seaward side of the existing hotel. The new spa structure will not result in an adverse visual impact from the ocean or park, nor will the project obstruct existing public views of the ocean. As such, the proposed project will not adversely affect existing public coastal views. Additionally, the new development is designed to continue the architectural theme of the Ritz Carlton hotel and will not adversely affect the surrounding environment.

As proposed by the applicant, the proposed project will meet the scenic and visual resource protection policies of the City's LCP. Therefore, the Commission finds the proposed project consistent with the certified LCP.

#### **G. Water Quality**

The City of Dana Point LCP requires new development to meet specific water quality standards. As new development may potentially impact water quality through construction activities and post-construction stormwater runoff, the Commission must ensure that appropriate measures are taken to maintain and enhance water quality to the maximum extent feasible, consistent with the certified LCP.

The proposed project involves new construction on a blufftop property between the first public road and the sea. The applicant proposes to construct a new fitness center in the footprint of an existing terrace. In this instance, the project will conform with the City of Dana Point's extensive local water quality provisions concerning stormwater and urban runoff pollution controls.

As proposed by the applicant, the proposed expansion project will meet the water quality standards of the City's LCP. Therefore, the Commission finds the proposed project consistent with the certified LCP.

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

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

The project is located within an existing resort facility. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the Coastal Act: 1) retention of the special conditions of the underlying permit (5-82-291, as amended) not affected by the current action; 2) submittal of final project plans; 3) recordation of an updated deed restriction with Public Access Map to reflect new development; 4) maintenance of public access during construction; 5) a restriction on the establishment of a private membership facility; and conformance with geotechnical recommendations. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.

COASTAL COMMISSION  
EXHIBIT # 1  
PAGE 1 OF 1

5-82-291-A3

SUBJECT  
SITE

MONARCH BAY COMMUNITY STREETS  
ALSO KNOWN AS MONARCH BAY DR

- 1 QUEEN CATHERINE CT
- 2 EXPRESS WY
- 3 CORONATION DR
- 4 QUEEN ANN CT
- 5 LOUIS XIV CT
- 6 KING JOHN LN
- 7 KING WILLIAM CT
- 8 KING FREDERICK LN
- 9 CROWN COAST DR
- 10 KING CHARLES III LN
- 11 KING FERDINAND IV CT
- 12 BEACH CLUB DR
- 13 SUNBREADERS DR
- 14 SUNBREST DR

SEE ▽ H3

- 1 BAYCREST PL
- 2 TAMMY PORT
- 3 PLACID HARBOR
- 4 ROCKPORT
- 5 RIDGELINE CT
- 6 SANDSTONE CT
- 7 WINDY WATER CT
- 8 STONECREST
- 9 CROSSCREEK
- 10 WINDLIFT PT

SEE ▽ J6

- 1 ST OF THE ANCHOR LANTERN
- 2 ST OF THE WESTERN LANTERN
- 3 ST OF THE SHORE LANTERN
- 4 ST OF THE STARBOARD LANTERN
- 5 ST OF THE PORT LANTERN
- 6 ST OF THE COVE LANTERN

SEE ▽ J5

- 1 SAND CASTLE CT
- 2 SPIN DRIFT CT
- 3 SANDFLOWER CT
- 4 MISSING TIDE CT
- 5 SEABREEZE WY
- 6 SEA MIST WY
- 7 STARFISH WY
- 8 SUNFISH WY

SEE ▽ G1

- 1 NEW CHANDON
- 2 PICKNEY CLOSE

SEE ▽ H5

- 1 SEA GULL CT
- 2 SEAWING CT
- 3 MOON RING CT
- 4 DIVERS CT
- 5 SEA SHELL WY
- 6 EVENING STAR DR
- 7 SEACALL WY
- 8 NORTH STAR WY
- 9 MORNING STAR LN

**LEGAL DESCRIPTION**

**PARCEL A**

LOT 1 OF TRACT NO. 1174, IN THE CITY OF SAN ANTONIO, COUNTY OF BEXAR, STATE OF TEXAS, AS SHOWN ON THE PLAT OF THE SAN ANTONIO TRACT NO. 1174, AS RECORDED IN THE PUBLIC RECORDS OF THE COUNTY CLERK OF BEXAR COUNTY, TEXAS.

**LEGEND**

- REMAINING WALL
- CONSTRUCTION CONTROL LINE
- FENCE LINE
- SPOT ELEVATION
- HIGHWAY LINE
- EXISTING CONTROL MARK

**SMP-SHG**

SMP-SHG Incorporated  
1915 Santa Monica Boulevard  
Fourth Floor  
Santa Monica, California 90404  
310.585.5400  
310.585.1091

**Sinclair Group**  
Company  
Solutions for the natural  
and built environment

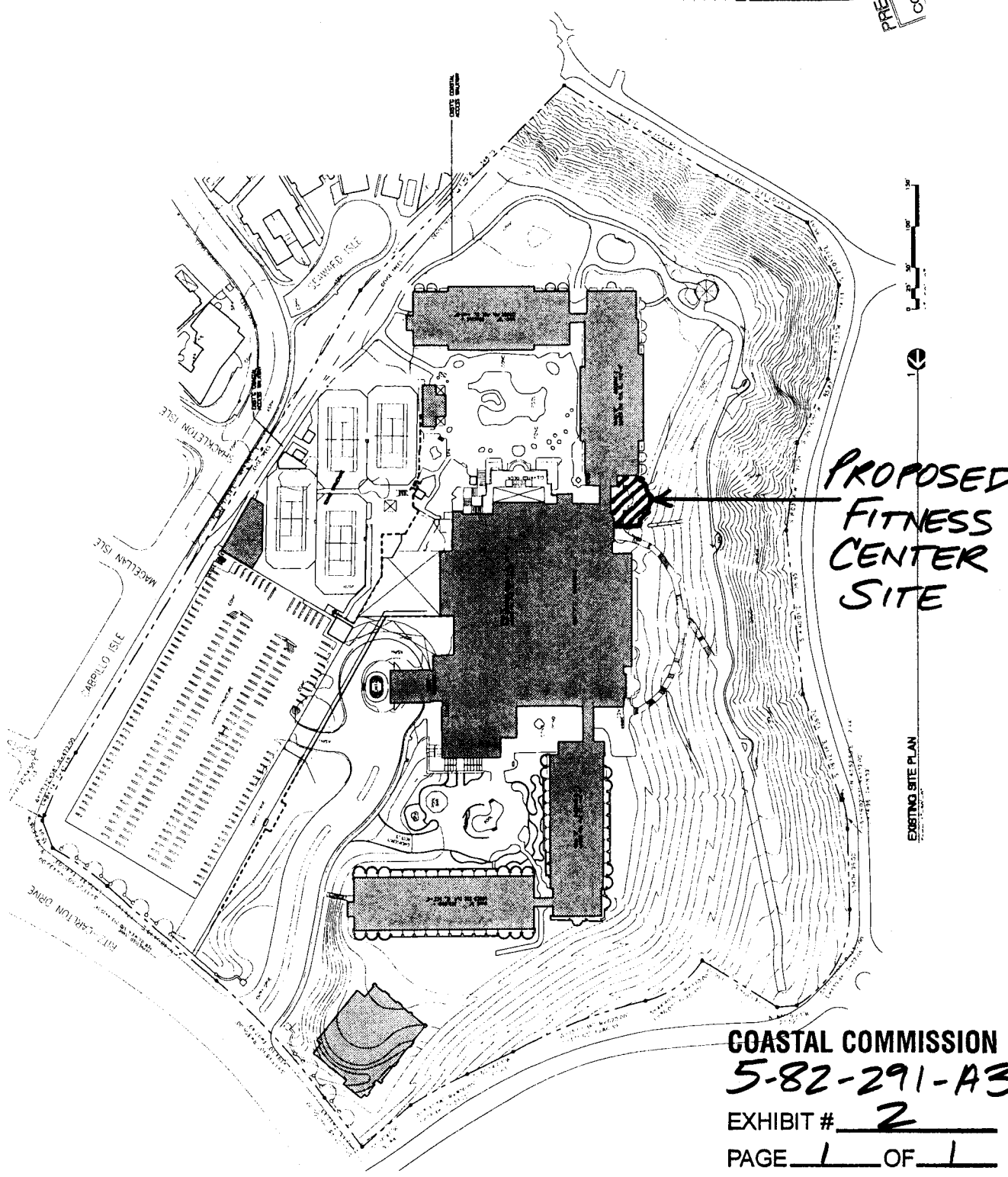


REVISION	DATE	DESCRIPTION
2	10/11/00	PLANNING COMMISSION
1	07/27/00	EMERGENCY ACCESS

**FMSM**  
THE RITZ-CARLTON  
LAGUNA NIGUEL  
SPA ADDITION  
Dana Point, California

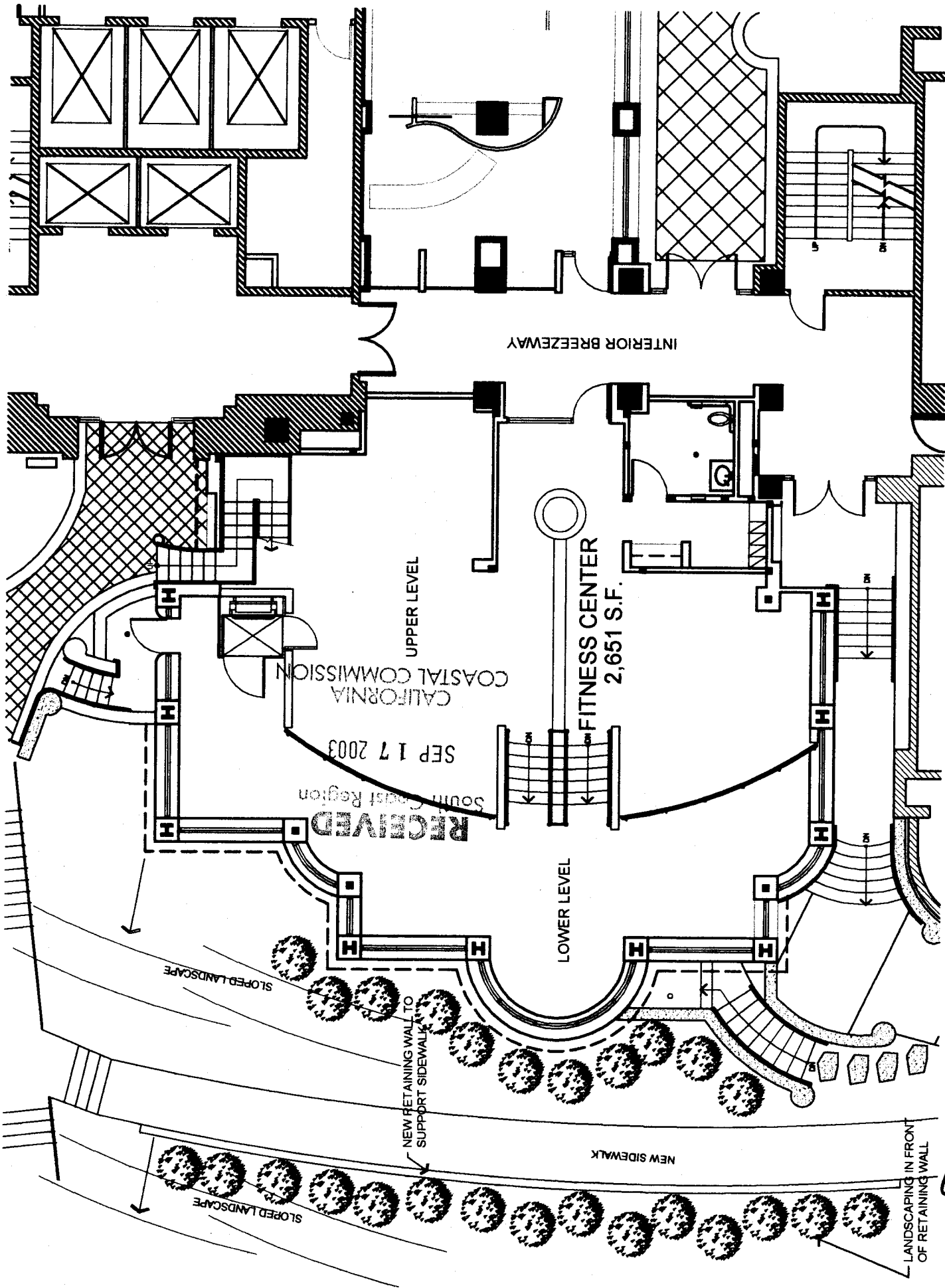
Patricia Moore Shaffer McCabe  
Architects Interior Designers  
Architects  
10000 Wilshire Boulevard  
Suite 1000  
Beverly Hills, California 90210  
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**EXISTING SITE PLAN**

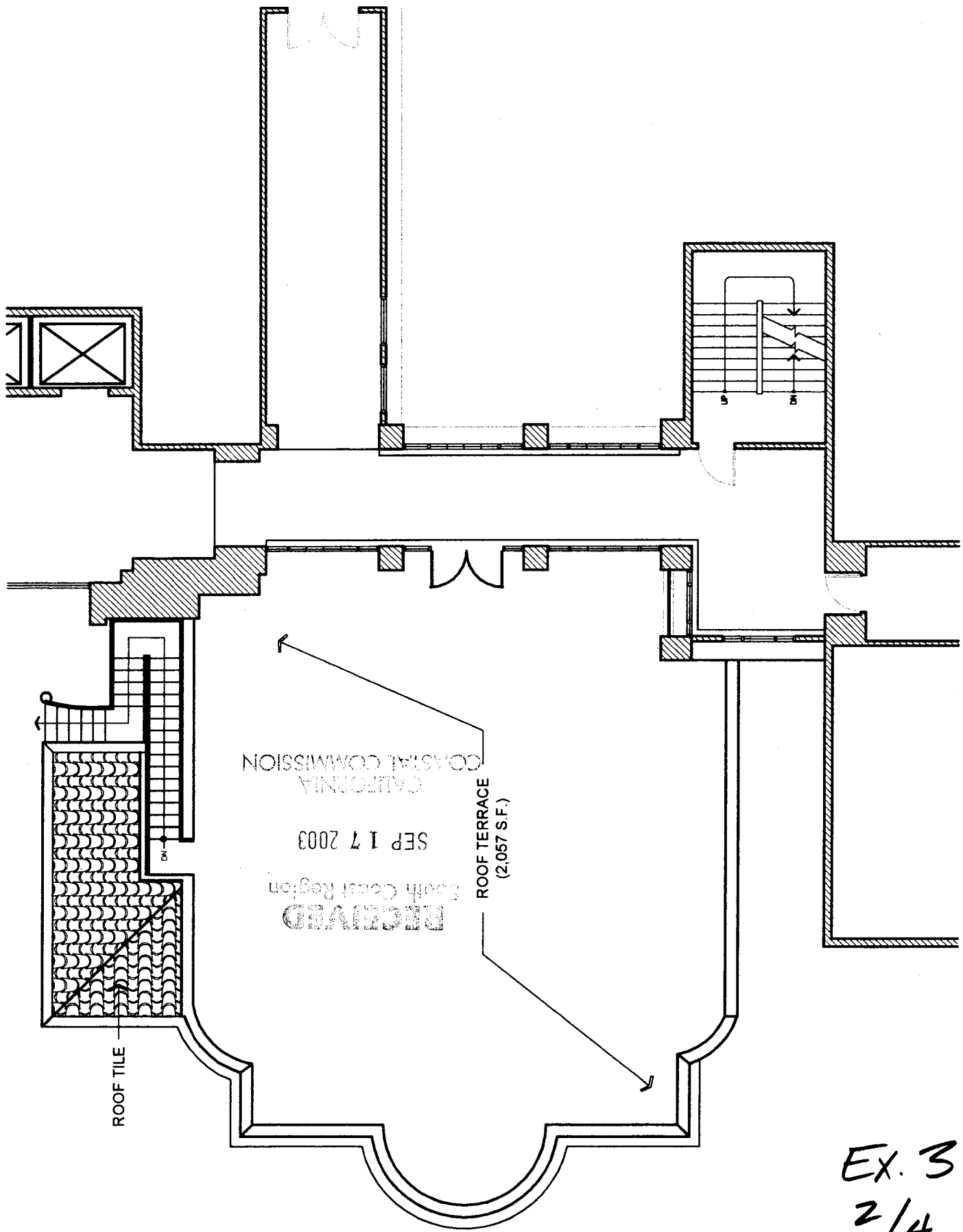


**COASTAL COMMISSION**  
**5-82-291-A3**  
**EXHIBIT # 2**  
**PAGE 1 OF 1**

PROPOSED FLOOR PLAN



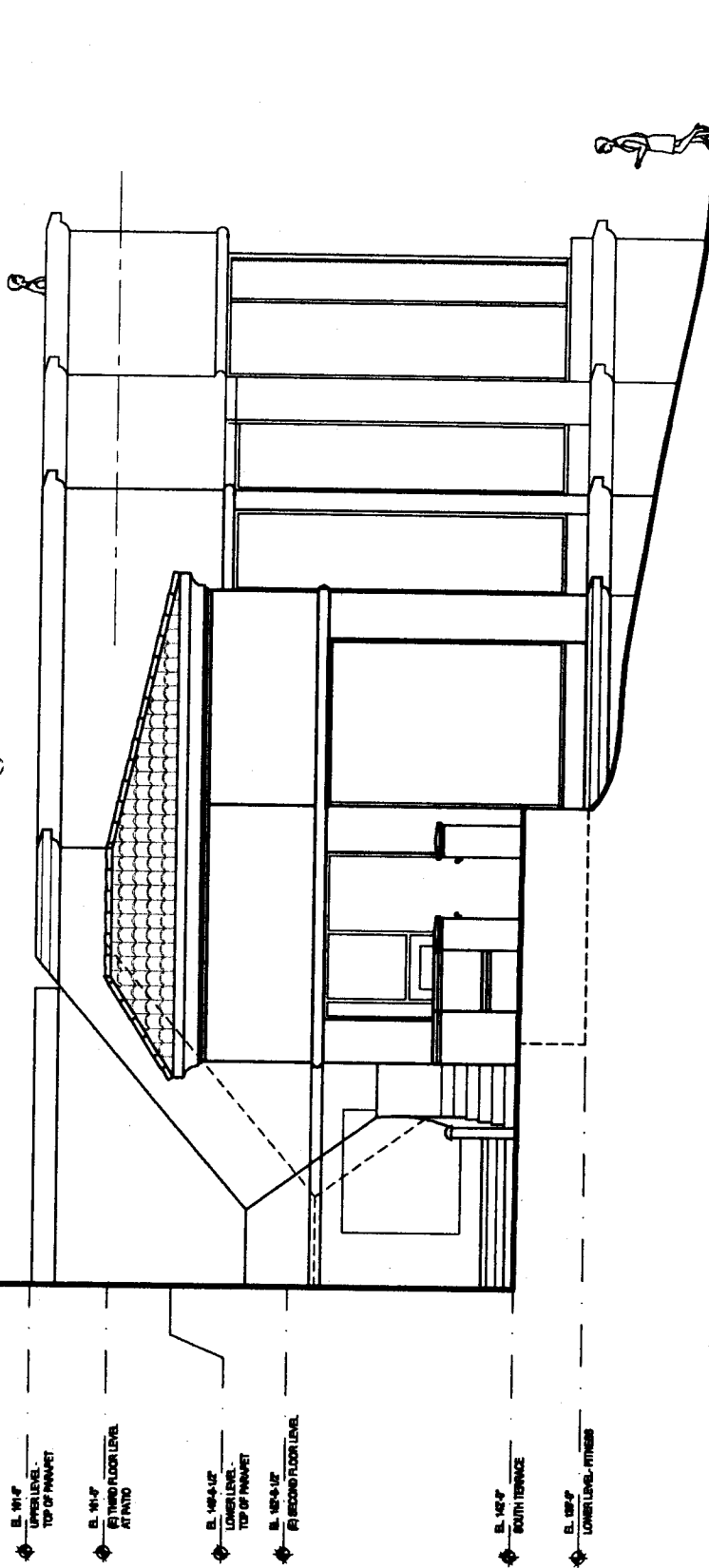
Ex. 3  
1/4



PROPOSED ROOF / TERRACE PLAN

EX. 3  
2/4

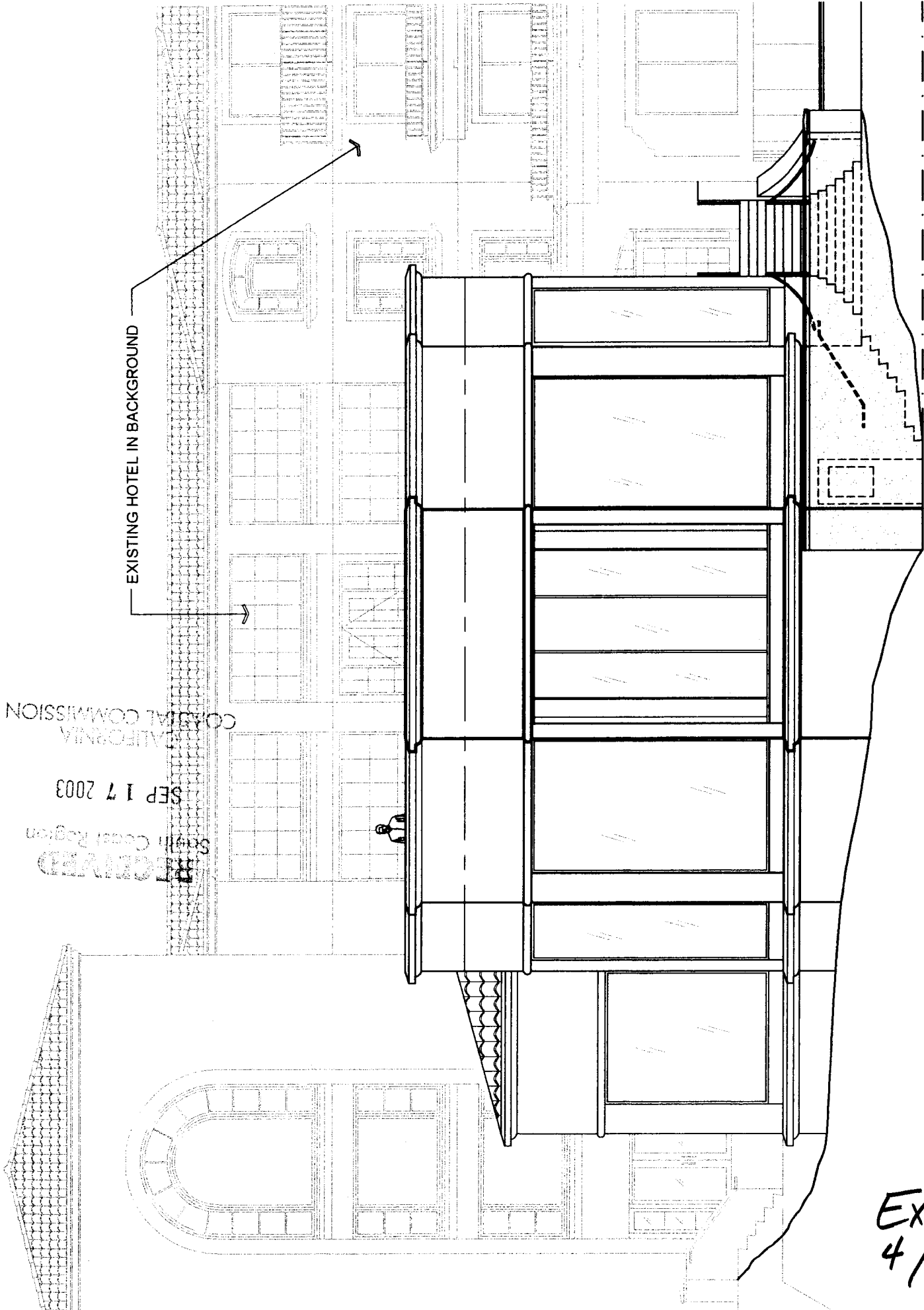
PROPOSED NORTH ELEVATION



- EL. 111'-7" UPPER LEVEL - TOP OF PARAPET
- EL. 111'-7" (3) THIRD FLOOR LEVEL AT PATIO
- EL. 108'-4 1/2" LOWER LEVEL - TOP OF PARAPET
- EL. 108'-4 1/2" (2) SECOND FLOOR LEVEL
- EL. 102'-7" SOUTH TERRACE
- EL. 102'-7" LOWER LEVEL - FITNESS

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SEP 17 2003  
CALIFORNIA  
COASTAL COMMISSION

EX. 3  
3/4



EXISTING HOTEL IN BACKGROUND

RECEIVED  
South Coast Region  
SEP 17 2003  
CALIFORNIA  
COASTAL COMMISSION

PROPOSED SEAWARD ELEVATION

4

EX. 3  
4/4

