CALIFORNIA COASTAL COMMISSION

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Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER:

5-03-521

RECORD PACKET COPY

APPLICANT:

Ruby's Diner Restaurant

PROJECT LOCATION:

Seal Beach Municipal Pier, Seal Beach (Orange County)

PROJECT DESCRIPTION:

The project consists of: 1) conversion of 691 square feet of public pier area adjacent to the existing 2,995 square foot Ruby's

restaurant into outdoor dining area (15 counter seats and 34 table seats) associated with Ruby's restaurant; 2) removal of an existing trash enclosure; 3) remodel of the existing 474 square foot bait and tackle shop to house a new trash enclosure, public restrooms and a fish cleaning sink; 4) remodel and addition of the existing Ruby's restaurant including patron restrooms, walk-in cooler, and exterior ramps and 5) upgrading of the existing pier bench at the end of the

pier.

SUMMARY OF STAFF RECOMMENDATION:

The subject site is the seaward end of the Seal Beach Municipal Pier in the City of Seal Beach. The major issues before the Commission relate to public access, water quality and marine resources. Staff is recommending the Commission <u>APPROVE</u> the proposed development with Seven (7) Special Conditions which requires 1) submittal of revised project plans to limit restaurant encroachments upon public pier area; 2) future improvements return to the Commission for review; 3) timing of construction to be outside of peak beach use season; 4) submittal of and conformance with a construction staging plan; 5); use of construction best management practices (BMPs); 6) the debris disposal site to be located outside the coastal zone; and 7) submittal of post-construction best management practices.

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept dated December 22, 2003.

SUBSTANTIVE FILE DOCUMENTS: Letter from the California Department of Fish & Game to the City of Seal Beach dated November 20, 2003; Letter to Ruby's from Commission staff dated January 21, 2004; Letter from the U.S. Army Corps. Of Engineers to Steven Langford Architects, Inc. dated February 23, 2004; Letter to Commission staff from the city of Seal Beach dated March 2, 2004; Letter from the California State Lands Commission to Steven Langford Architects, Inc. dated March 16, 2004; Information from Ruby's submitted

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to Commission staff dated March 22, 2004; and Information from Ruby's submitted to Commission staff dated April 28, 2004.

EXHIBITS

- 1. Assessor Parcel Map
- 2. Vicinity Map
- 3. Site Plans
- 4. Existing Floor Plan
- 5. Floor Plan
- 6. Demolition Plan
- 7. Elevations
- 8. Commission Staff's Reduced Outdoor Dining Plan

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following motion and resolution:

MOTION:

"I move that the Commission approve Coastal Development Permit No. 5-03-521 pursuant to the staff recommendation."

Staff recommends a <u>YES</u> vote. Passage of this motion will result in approval of the 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.

I. APPROVAL WITH CONDITIONS

The Commission hereby <u>APPROVES</u> a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit 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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. <u>Notice of Receipt and Acknowledgment.</u> 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.

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- 2. <u>Expiration.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment.</u> 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. <u>Terms and Conditions Run with the Land.</u> 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. Submittal of Revised Plans

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised project r ans, which reflect the following:
 - 1) The limits of allowable encroachment for restaurant uses upon existing public pier area shall be confined within the space generally depicted in Exhibit #5 of this staff report. Furthermore, the height of proposed development shall not exceed the height of the roofline of the existing restaurant.
 - 2) The removal of the 56 square foot trash enclosure depicted on the project plans but which are not a part of the proposed project.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan 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.

2. <u>Future Improvements</u>

This permit is only for the development described in Coastal Development Permit No. 5-03-521. Pursuant to Title 14, California Code of Regulations, Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code, Section 30610(b) shall not apply. Accordingly, any future improvements to the development authorized by this permit that would result in an increase in square footage or any other change in the intensity of use of the property including, but not limited to, repair and maintenance identified as requiring a permit in Public Resources Code, Section 30610(d) and Title 14, California Code of Regulations, Sections 13252(a)-(b), shall require an amendment to Permit No. 5-03-521 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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3. Timing of Construction and Public Access

By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the pier, adjacent beaches, or public parking lots resulting from construction activities as required below:

- A. No construction shall occur during the "peak use" beach 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.
- B. Pedestrian access to the pier shall be maintained at all times during construction, except for limited periods of closure during the non-peak use beach season upon the portion of the pier within the immediate vicinity of the proposed construction.

4. Staging Area For Construction

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director, which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts upon public access at the Seal Beach Municipal Pier, the beach and the public beach parking lots.
 - (1) The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
 - (b) Construction equipment, materials, or activity shall not be placed in any location which would result in impacts upon public access at the Seal Beach Municipal Pier, the beach and the public beach parking lots, other than as allowed under Special Condition 3.
 - (2) The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 - limits of the staging area(s);
 - construction corridor(s);
 - 3. construction site;
 - location of construction fencing and temporary job trailers with respect to the Seal Beach Municipal Pier, the beach and the public beach parking lots.
- B. 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

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Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
- **B.** Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- C. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- **D.** Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.
- E. Netting, tarps and/or other forms of barriers shall be installed between the water and the work areas to prevent any unpermitted material from entering the Pacific Ocean.
- F. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlet protection with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting shall be held to review procedural and BMP/GHP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- G. Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris, which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone, pursuant to Special Condition No. 5.

6. <u>Location of Debris Disposal Site</u>

The applicant shall dispose of all demolition and construction debris resulting from the proposed projects at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

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7. Post Construction Best Management Practices

The applicant shall implement structural and non-structural Best Management Practices (BMPs) designed to ensure that runoff from the Municipal Pier does not adversely affect water quality. These source control measures may include, but are not limited to, 1) routine inspection and cleaning of the outdoor patio dining area, including frequent sweeping, scrubbing, and trash removal; and 2) full enclosure of the proposed trash and recycling areas, which shall be covered, watertight, and designed to resist scavenging animals. These measures shall be carried out at frequencies sufficient to effectively minimize the accumulation of pollution, which could be washed into coastal waters.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION AND PREVIOUS COMMISSION ACTION ON SITE

1. Project location and Description

The project site is located at the end of the Seal Beach Municipal Pier in the City of Seal Beach (Exhibits #1-3). The pier serves as a popular destination point for the public to come and enjoy the low cost visitor and recreational facilities since it is surrounded by the beach and ocean and it is easily accessible to those people going to the beach. The pier is also located at the end of Main Street in the City's Old Town Area, which is the City's primary visitor serving commercial area. Thus, the pier is a draw for visitors to the commercial district as well.

Surrounding the restaurant/most seaward end of the Seal Beach Municipal Pier are the following: to the North and South is the public beach and ocean; to the West is the Pacific Ocean; and to the East are the remaining length of the Seal Beach Municipal Pier extending toward land, the 8th and 10th Street Beach Parking Lots that flank the pier and Main Street. The site is zoned by the City's uncertified planning documents as Public Land Use/ Recreation (PLU/R). This zone applies to publicly owned and publicly used buildings, public parklands and public open space areas.

The proposed project consists of a remodel of the seaward end of the Seal Beach Pier and the existing Ruby's restaurant (Exhibit #4) located there. The project will also make the area at the end of the pier more ADA compliant. The project consists of the following (Exhibit #5-7):

a) Conversion of 556 square feet of the seaward (west) portion of the public pier area adjacent to the existing 2,995 square foot Ruby's restaurant into an outdoor dining area. Also, an addition of a 135 square foot (24 feet long) (1:12 slope) ramp with access to patio elevation will be constructed and attached to the new patio and will conform to ADA standards. The 691 (556 sq. ft. patio + 135 sq. ft. ramp=691 square feet) square feet area will provide 15 counter seats and 34 table seats. The proposed patio area will be raised 1-foot above the existing pier elevation and will have a deck material of monolithic poured traffic deck or concrete material for ease

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of cleaning and will not allow seepage to the existing pier deck below. The restaurant finish floor will be 2-feet above the pier and the patio will be marked "exit only" and entry to the patio will be available through the restaurant. A 4-foot high patio wall with a 4-foot glass screen on top of the wall totaling 8-feet will enclose this new outdoor patio. In addition, a portion of the entrance stair will be removed and a railing will be installed.

- b) The existing trash enclosure located at the end of the pier will be demolished, as it has no protection against the ocean and will be replaced by the new enclosure within the remodeled 474 square foot former Bait and Tackle shop building (description below). The removal of the existing enclosure will allow for additional pier area and emergency vehicular turn-around area and pier railing area.
- c) The existing 474 square foot Bait and Tackle shop has been vacated and the lease has not been renewed. The existing building will be remodeled to house a new 183 square foot trash enclosure and a 291 square foot public restroom totaling 474 square feet. The floor will be constructed with concrete and drain to prevent seepage through the existing pier deck. The facility will contain a hose bib for cleaning the new restroom and trash enclosure. The drain/sediment basket will be connected to the existing sanitary sewer. The enclosure will be ventilated and have protection from birds entering into the trash enclosure. The restroom will be constructed and equipped with stainless steel fixtures and shall be maintained by the restaurant owner. A fish cleaning area will be added outside to the building's east side with direct drainage into a sediment basket that must be cleaned periodically. The cleaning area will consist of a new stainless steel sink and drain board and splash that is strictly for fish cleaning. Also, a visible sign will be posted over the sink indicating that this area is for "Fresh Fish Cleaning Only." An existing non-ADA drinking fountain will be relocated to the east side at the exterior of the proposed new public restrooms/trash enclosure and shall be equipped with a shutoff valve and shall be designed to meet ADA standards.

If in the future an enclosure is deemed necessary by the restaurant/Director of Public Works and the City Engineer, the applicant has stated that a future trash enclosure comprising of 56 square feet will be constructed at the location of the existing trash enclosure. This new trash enclosure will be smaller than the existing one. The enclosure will not allow any discharge into the ocean and would be used for recycling. However, the applicant is not proposing this structure at this time.

d) The project also includes a 130 square foot addition (Walk-In Cooler) to the east side of the existing restaurant (where the existing loading platform and ramp exist) with an added stair for exiting. Post project, the service area will be 2,679 square feet (660 square foot kitchen, 130 square foot proposed Walk-In Cooler and 1,889 square foot public area).

An exterior ADA ramp at the main entrance to the restaurant will be constructed. In addition a portion of the entrance stair to the restaurant will be removed and a railing will be installed.

The existing water meter in the existing electrical panel within the transformer room, including the installation of a new shutoff valve shall be relocated.

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The existing restroom within the Ruby's restaurant building, but accessible to the public from outside the restaurant, will be converted to a restroom for the restaurant patrons and will be accessed from within the restaurant. The restroom will meet current ADA requirements. These facilities will be used by restaurant patrons and will be maintained by the restaurant and will no longer be shared with the public. Currently, the restroom is being used by visitors to the pier as well as the restaurant patrons.

The proposed project will also include an enclosed trash area in the 8th Street Beach Parking Lot. None of the existing parking spaces will be lost due to the trash area. This is an existing trash area and a new enclosure will be constructed in the same location and sized per City requirements.

The existing pier bench at the end of the pier and wall at the end of the pier will be upgraded and an additional opening will be added to improve handicap access and circulation.

Additionally, though not part of this application, the City Manager's office has indicated that the boat ramp and hoist adjacent to the Bait & Tackle Shop will be removed during an upcoming Public works Project. Removal of the ramp and hoist would free up additional area on the pier for fishing and public use. However, this is not part of the proposed project.

2. Previous Commission Action On Site

On January 8, 1985, the Commission approved Coastal Development Permit Application #5-84-654-[City of Seal Beach]. The proposed project was for the replacement and reconstruction of an existing 2, 680+ square foot restaurant, which was storm damaged in February 1983 located at the end of the Seal Beach Municipal Pier. The new structure was to be located at the same site as the original structure and was to have substantially the same purpose and capacity as the replaced restaurant structure with no change in the footprint of the structure. One (1) Special Condition was imposed which required that determination be made as to whether there were conflicts or inconsistencies between the project as approved by the Commission and the provisions of the lease.

B. PUBLIC ACCESS AND LOWER COST VISITOR RECREATIONAL FACILITIES

Section 30213 of the Coastal Act states in relevant part:

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

Section 30221 of the Coastal Act states:

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.

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Section 30252 of the Coastal Act states in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by...

- (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads...
- (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.

The primary issues of concern to the Commission triggered by development at this location include 1) protection of lower cost visitor-serving public pier area and 2) potential adverse impacts on parking resulting in impaired access to the coast.

1. Access on the Pier

As cited previously, Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible, provided. Section 30221 requires that oceanfront land suitable for recreational use shall be protected for recreational use and development. The project involves improvements to an existing restaurant located at the end of the Seal Beach Pier as well as improvements to this end of the Seal Beach Pier. The project site is the City's primary lower cost, visitor-serving development. The pier provides public fishing opportunities, fresh ocean air, and an opportunity to walk and look out at the ocean and to get a panoramic view of the coastline.

The project involves improvements to an existing restaurant located at the end of the Seal Beach Pier as well as improvements to this end of the Seal Beach Pier where public circulation and gathering areas are already constrained by the small size of the pier end. The most seaward portion of the public pier area where the outdoor dining is proposed consists of approximately 1,195 square feet. A narrow walkway at a width of approximately 5-feet with a bench and railing that follows the edge of the pier, which are at times used by fishermen, comprises of approximately 328 square feet of this deck area. Therefore, there is approximately only 867 square feet of deck area for non-angling pier visitors to gather and circulate around the end of the pier without becoming encumbered by fishing tackle and other equipment used by fishermen in the narrow walkway described above. Along the Northern end of this end of the pier is an approximately 10-foot walkway and to the South is an approximate 5-foot walkway and the existing Ruby's restaurant takes up the rest of the pier. This results in an existing public access area that is very small in size. Other similar pier ends with restaurants, such as the Huntington Beach Municipal Pier with a Ruby's diner located at the pier end has a minimum 21-foot wide walkway around its entire circumference.

The project includes the conversion of 556 square feet of the seaward (west) portion of the public pier area adjacent to the existing 2,995 square foot Ruby's restaurant into outdoor dining area. Also, an addition of a 135 square foot (24 feet long) (1:12 slope) ramp with access to patio elevation will be constructed and attached to the new patio and conform to ADA standards. These additions would take up approximately half of the available pier area for public access. The area for the public to enjoy the views and enjoy activities such as fishing would be significantly reduced and would also would give the impression that the end of the pier is reserved exclusively for restaurant patrons. The Commission finds that

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the proposed consumption of public pier deck for restaurant use would significantly encroach upon limited public circulation and gathering area at the end of the pier that visitors currently use for activities such as fishing and viewing the coast.

The proposed outdoor dining area and ramp extend approximately 7-feet seaward from the seaward most limit of the existing Ruby's restaurant. This proposed encroachment beyond the existing seaward most limits of the restaurant creates the most significant consumption of public pier deck area and is the element that would cause the most significant interruption to public circulation. There are in a sense two (2) sections of the deck in this area: 1) there is a narrow walkway with bench and railing that follows the edge of the pier, which are at times used by fishermen and 2) the remaining interior section of the deck. The interior section of the deck allows visitors to gather and circulate around the end of the pier without becoming encumbered by fishing tackle and other equipment used by anglers that makes passage using the narrow walkway described above difficult during the frequent periods these areas are occupied by anglers. Thus, the Commission requires the applicant to eliminate this 7-foot seaward extension.

However, the Commission finds that some, smaller component of the public pier area could be utilized by the restaurant without adversely impacting public circulation and gathering areas. The required change would reduce the outdoor dining area to approximately 300 square feet and the ramp area to approximately 111 square feet resulting in the reduction of adverse impacts to public access on the pier (Exhibit #8). The 300 square feet of encroachment that the Commission would allow is within two notches that flank the upcoast and downcoast sides of the existing restaurant building. Occupation of these areas by restaurant uses would be confined within the general limits of area presently occupied by the restaurant and would not extend the seaward limit of the restaurant. This design would avoid creating the physical impediments to public access described above, and limit the perception that the end of the pier is reserved exclusively for patrons of the restaurant. If the applicant continues to desire more outdoor patio area, such additional outdoor dining area could be obtained by converting indoor dining to outdoor dining through the selective removal of walls, in favor of doors and windows, and changes to the roof if open air is desirable. The Executive Director could accept, as part of the revised plans conversion of part of the existing enclosed restaurant area into outdoor dining area (Exhibit #8) involving exchanging wall for doors/windows and modifications to the roof so long as the resultant roof doesn't exceed the height of the existing roofline. Conversion of some indoor area into outdoor dining area would not result in any additional seaward encroachment and not result in any adverse impacts to public use of the pier. Therefore, the Commission imposes, Special Condition No. 1, which requires the submittal of revised project plans showing removal of the proposed outdoor dining area and ramp seaward of the existing restaurant building. Exhibit #5 depicts the limits of allowable public deck encroachment.

Separate from the above described issue, the applicant has stated that if in the future an enclosure is deemed necessary by the restaurant/Director of Public Works and the City Engineer, a future trash enclosure comprising of 56 square feet will be constructed at the location of the existing trash enclosure. However, since this aspect of the proposed project is not definite, it should be removed from the project plans. The project plans should only contain elements that are definitely part of the proposed project. Therefore, the Commission imposes, **Special Condition No. 1**, which requires the submittal of revised project plans showing removal of the 56 square foot trash enclosure that is depicted on the plans, but not proposed at this time. If this element were proposed at a later time, the

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applicant would have to submit to the Commission for review as described below. It would have to be reviewed to analyze its impact to coastal access on site.

Without controls on future development, the applicant could construct amenities to the proposed restaurant and pier that would have negative impacts on coastal resources, and could do so without first acquiring a coastal development permit. Examples would include, but are not limited to, occupation of additional public pier deck area with tables, seating and other restaurant-oriented facilities. Such development would need to be reviewed for impacts upon public access. In order to prevent the current authorization from being perceived by the applicant or others as allowing such future development, it is necessary to ensure that any future development -- including the development of amenities that would otherwise normally be exempt -- will require a permit. Therefore, the Commission imposes **Special Condition No. 2**, which informs the applicant that any future development which changes the intensity of use of the site or which changes the use of the site requires an amendment to this permit or a new coastal development permit.

The Seal Beach Municipal Pier is a low-cost, visitor-serving facility, which provides public fishing opportunities, fresh ocean air, and an opportunity to walk and look out at the ocean and to get a panoramic view of the coastline. Any development on a public pier is therefore subject to scrutiny as to whether the development would affect the public's recreational interest. In order to ensure that access to the beach is not hindered during the peak summer season, the Commission finds it necessary to impose **Special Condition No. 3**, which prohibits construction to occur during the peak use summer season that would obstruct public access to the pier, adjacent beaches, or public parking lots. In addition, the Commission imposes **Special Condition No. 4**, which requires the permittee to submit a construction staging plan, which indicates construction staging area(s) and construction corridor(s) that would not obstruct public access to the pier, adjacent beaches, or public parking lots.

2. Parking

When development does not provide adequate parking, users of that development are forced to occupy parking that should be available to the public-at-large. This results in competition between users of private development and visitors to the coastal zone for available public parking spaces. An inadequate supply of public parking can deter the public from visiting the coastal zone. Consequently, it is important that all new development provide adequate parking to minimize adverse impacts on public access to, and use of, the coast.

Local Parking Requirements

The pier is flanked by the 8th and 10th Street Beach Parking Lots that are the main parking reservoir for the public visiting the pier and beach. The City does not have established parking requirements for the PLU/R zone within which the project site is located. Since there is no City-established parking requirement, the subject business meets all parking requirements of the City. However, a similarly sized restaurant in a commercial zone would be required by the City to provide 19 parking spaces for the 1,889 square feet of service area for the existing restaurant. This is based on the City's requirement of 1 parking space for every 100 square feet of building and outdoor dining area for restaurant uses. The proposed 556 square feet of outdoor dining area would require the provision of 6 additional

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parking spaces. However, no new parking is proposed to serve the expanded use of the restaurant.

The existing restaurant building is not served by an exclusive parking pool. Parking to serve the uses in this area such as the restaurant, pier and beach is provided at the 8th and 10th Street Beach Parking lots that flank the landward end of the pier and contains 462 parking spaces.

Previously in 1987, the Seal Beach City Council considered this matter of parking for the restaurant use and determined that restaurant patrons would utilize the beach parking lot and therefore on-site or in-lieu parking was not an issue. The Council treated the pier restaurant as a beach amenity; as such the restaurant is covered under the public beach parking at 8th and 10th Street. Based on this premise that established the restaurant and allowed it to open in 1988.

While the current proposed project would result in the need of 6 additional parking spaces, based on City criteria for commercial uses, the Seal Beach Planning Commission determined again that the project did not require the provision of any additional parking, under the same assumption adopted by the City in 1987, that the restaurant isn't an independent parking draw, but rather is an amenity used by visitors to the beach and pier.

Commission Parking Requirements

Public access to the coast can be adversely impacted by new development if adequate parking spaces are not provided. Patrons of the new development will compete with beach-goers for public parking spaces. In this case, the project is located immediately adjacent to the beach. As such, parking in the project area would generally be utilized for beach parking.

The Commission typically imposes a parking standard of 1 space per each 50 square feet of service area for restaurant uses. Based on this standard, the existing restaurant would require 38 parking spaces for the 1,889 square feet of public area for the existing restaurant. The proposed outdoor dining area would require the provision of 11 additional parking spaces for the new 556 square outdoor ding area. As stated previously, no new parking is proposed to serve the expanded use of the restaurant.

On the other hand, the Commission imposed Special Condition No. 1 above, that would limit the restaurant expansion to approximately 300 square feet. This would change the anticipated additional parking demand from 11 spaces to 6 spaces. Thus, an additional benefit of Special Condition No. 1 is a reduction of potential public access impacts associated with parking.

However, the Commission recognizes that the restaurant is located in an area that is frequented by visitors to the coast. The restaurant is located on the public pier, where visitors can go fishing or enjoy the view of the coast. Also, the pier is located adjacent to the public beach. Therefore, there is merit to the City's assumption that some component of the visitors to the restaurant on the pier would likely also be visiting the beach. Thus, in many respects the restaurant would operate more like a beach concession, than as a destination restaurant with a demand independent from the parking demand of beach visitors.

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It is anticipated that visitors may go to more than one destination in this area, thereby reducing parking demand through shared use. This is consistent with Section 30252, which requires that new development maintain and enhance public access to the coast by "providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads." The expanded restaurant will continue to cater to the beach-going public and will not serve as a sole destination for the area. As such, the reduced service area being allowed by the Commission will not create a significant additional parking demand. Those seats will serve the public that is already visiting the beach and the Pier.

3. California State Lands Commission

The California State lands Commission has reviewed the project and determined that it is not inconsistent with the Public Trust or otherwise in violation of the provisions of Tidelands Lease PRC 3729.1. However, this is not a declaration of consistency with Chapter 3 policies of the Coastal Act pertaining to public access.

Conclusion

To minimize the adverse impacts public access and lower cost visitor recreational facilities, three (3) Special Conditions have been imposed. Special Condition No. 1 requires the applicant to submit revised project plans. Special Condition No. 2 requires that the applicant submit any future improvements to the Commission for review. Special Condition No. 3 requires that the timing of construction to be outside of peak beach use season. Special Condition No. 4 requires that the applicant to submit and conform with a construction staging plan. Only as conditioned, the Commission finds that the proposed project is consistent with Section 30252, 30213 and 30221 of the Coastal Act.

C. WATER QUALITY AND MARINE RESOURCES

Section 30230 of the Coastal Act in relevant part 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 in relevant part 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,

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maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

1. Construction Impacts to Water Quality

Construction impacts have the potential to negatively affect water quality. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon manne resources, the Commission imposes **Special Condition No.**5, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris and **Special Condition No.**6 requires the debris disposal site to be located outside the coastal zone. These conditions ensure that construction activities will not have a negative impact on coastal resources.

2. Post Construction Impacts to Water Quality

Post-construction Best Management Practices (BMPs) must be incorporated into the proposed project to ensure that adverse impacts to water quality and marine resources caused by things like trash, restroom runoff, detergent use that would affect the project area do not occur.

To ensure that there are no adverse impacts to water quality and marine resources, the Commission imposes **Special Condition No. 7**, which requires implementation of BMPs designed to effectively minimize the accumulation of pollution which could be washed into coastal waters via stormwater and nuisance flow leaving the Municipal Pier. These source control measures shall include, but are not limited to, 1) routine inspection and cleaning of the outdoor patio dining area, including frequent sweeping, scrubbing, and trash removal; and 2) full enclosure of the proposed trash and recycling areas, which shall be covered, watertight, and designed to resist scavenging animals.

3. Regional Water Quality Control Board (RWQCB)

The Regional Water Quality Control Board (RWQCB) has reviewed the project and determined that no approval is necessary from their office.

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4. United States Army Corps of Engineers (USACOE)

The United States Army Corps of Engineers (ACOE) has reviewed the proposed project and determined that it would not affect the course, condition, and navigability capacity of a water of the United States, namely the Pacific Ocean, as the pier structure already exists and is not being modified in any way. Therefore, the proposed work would not constitute a regulated activity under Section 404 of the Clean Water Act and a Section 404 permit is not required from their office. In addition, since the proposed project would not result in the discharge of dredged or fill material to waters of the United States, the proposed work would not constitute a regulated activity under Section 404 of the Clean Water Act and a Section 404 permit is not required from their office.

5. The California Department of Fish and Game (CDF&G)

The California Department of Fish and Game (CDF&G) has reviewed the project and determined that there would be no significant impacts to recreational anglers as a result of the remodeling the restaurant. However, this was not an assessment of overall impacts to public access required by Chapter 3 policies of the Coastal Act.

Conclusion

To minimize the adverse impacts upon water quality and the marine environment, three (3) Special Conditions have been imposed. Special Condition No. 5 requires the applicant to adhere to construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris and also requires the applicant to incorporate Best Management Practices effective at mitigating pollutants of concern. Special Condition No. 6 requires the applicant to dispose all demolition and construction debris at an appropriate location. Special Condition No. 7 requires the applicant to submit post-construction best management practices. Only as conditioned, the Commission finds that the proposed project is consistent with Section 30230, 30231 and 30232 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with Section 30604 of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Executive Director finds that approval of the proposed development,

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as conditioned, would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

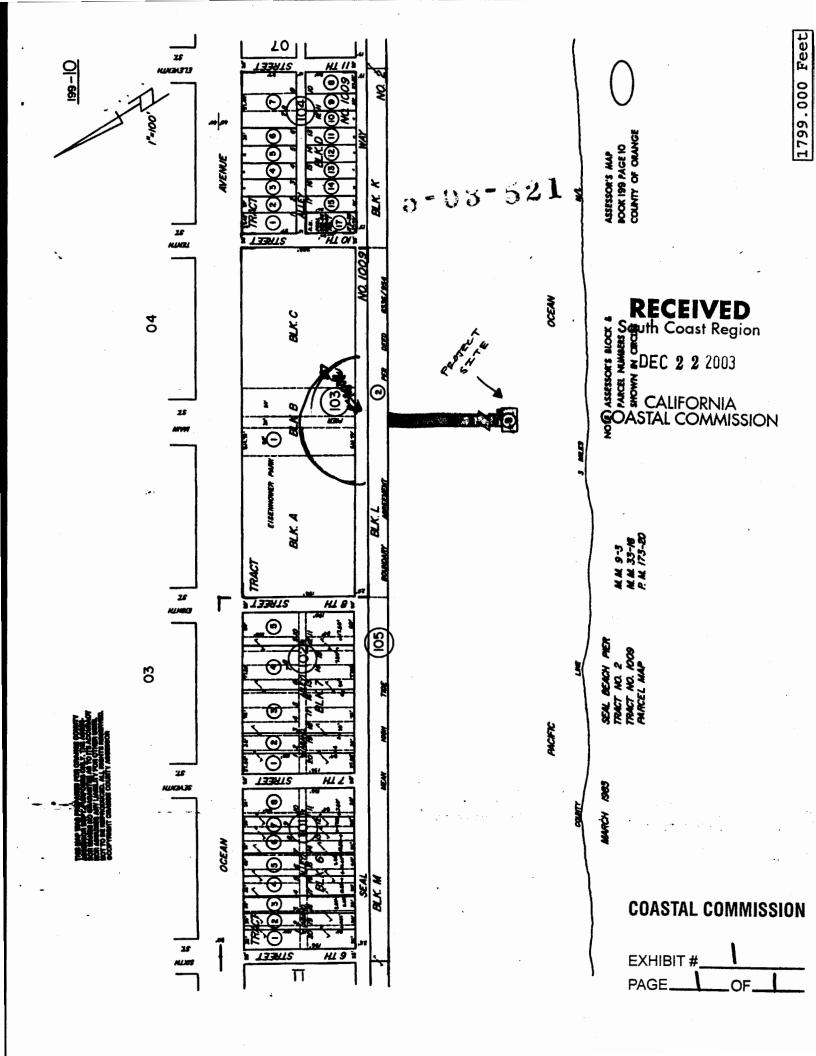
Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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 further feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

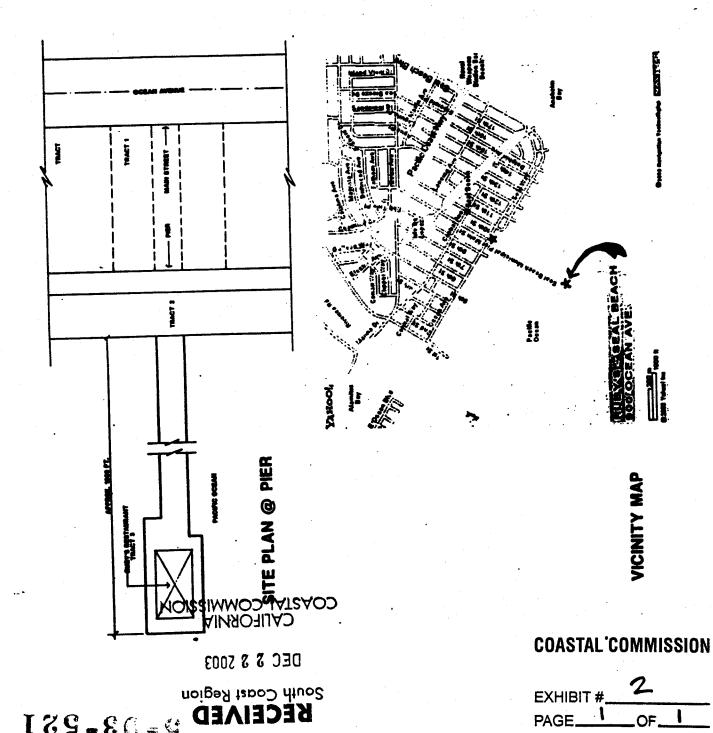
The project is located in an urbanized area and is an improvement and enhancement project for the area. The major issues of this staff report concern public access, water quality, and marine resources. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA.

Seven (7) Special Conditions are being imposed. The Special Conditions address: 1) submittal of revised project plans to limit restaurant encroachments upon public pier area; 2) future improvements return to the Commission for review; 3) timing of construction to be outside of peak beach use season; 4) submittal of and conformance with a construction staging plan; 5); use of construction best management practices (BMPs); 6) the debris disposal site to be located outside the coastal zone; and 7) submittal of post-construction best management practices.

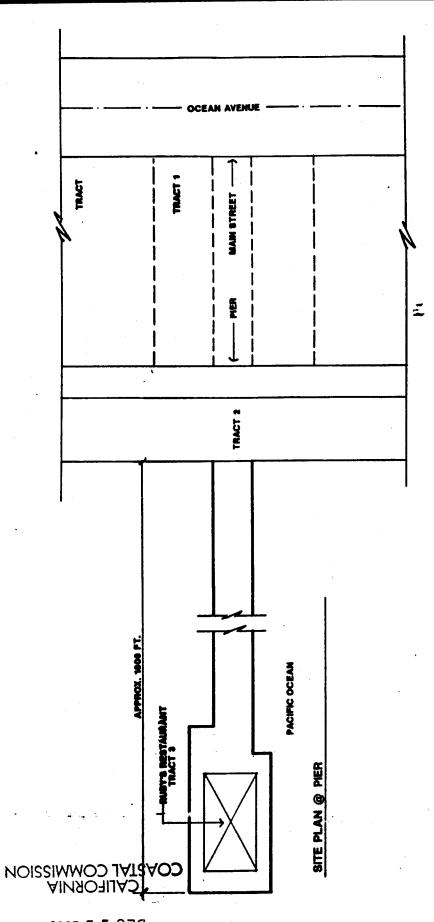
As conditioned, no feasible alternatives or further feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging alternative and is consistent with CEQA and the policies of the Coastal Act.

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COASTAL COMMISSION

EXHIBIT # 3
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