

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-03-402**APPLICANT:** Bubba Gump Shrimp Company & City of Santa Monica**AGENT:** Howard Laks**PROJECT LOCATION:** 301 Santa Monica Pier, Santa Monica

PROJECT DESCRIPTION: Demolition of an existing two story 6,859 square foot restaurant and construction of a new three story 8,955 square foot restaurant with 2,511 square feet of outdoor dining, 415 square feet of retail space, and a public elevator.

LOCAL APPROVALS RECEIVED: Approval in Concept; Development Review Permit 02-008; Conditional Use Permit 02-011.

SUBSTANTIVE FILE DOCUMENTS: Santa Monica certified Land Use Plan; Environmental Impact Report No. 03-002.

SUMMARY OF STAFF RECOMMENDATION:

The major issues of this staff report include possible geologic impacts and coastal access. Staff recommends **APPROVAL** of the proposed development with nine special conditions including: 1) signage plan; 2) submittal of final approval from State Department of Parks and Recreation; 3) compliance with City permit requirements; 4) compliance with City's water quality requirements; 5) Future Development restriction 6) written agreement to assume all risk for the lessee; 7) written agreement to assume all risk for the lessor; 8) conformance of design and construction plans to geotechnical report; 9) agreement that no future shoreline protective device shall be constructed; and 10) the implementation of construction material and debris Best Management Practices.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-03-402 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** 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.

RESOLUTION TO APPROVE THE PERMIT:

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

III. SPECIAL CONDITIONS

1. Public Signage

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the co-applicant, Bubba Gump Shrimp Company, will submit, for the review and written approval of the Executive Director, a signage plan showing the size, wording and location of signs. The size of the signs shall be at least 14" in height and 18" in length. The signage shall be located in conspicuous locations along the frontage of the building on the pier deck as well as on the western and eastern side of the building at beach level, informing the public of the availability and location of the public elevator.

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

2. Final Approval from State Department of Parks and Recreation

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants will submit, for the review and written approval of the Executive Director, written evidence from the State Department of Parks and Recreation indicating that the applicants have permission to encroach onto and use State Beach property for the proposed project as described under this permit.

3. Compliance with City Permit Requirements

With the acceptance of this permit the co-applicant, Bubba Gump shrimp Company, agrees to comply with all conditions of the City of Santa Monica's Development Review Permit 02-008 and Conditional Use Permit 02-011, as stated in the City's Statement of Official Action, certified on November 11, 2003 (see Exhibit No. 7).

4. Water Quality Standards

With the acceptance of this permit the co-applicant, Bubba Gump Shrimp Company, agrees to comply with all applicable City of Santa Monica water quality requirements under the City's Municipal Code, as required by the City, that are in effect at the time of approval of this permit.

5. Future Development

A. This permit is only for the development described in coastal development permit No. 5-03-402. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30610, including, but not limited to, a change in height, bulk or lot coverage, as shown on plans, dated May 2003, and any change to the density or intensity of use land, or change from the project description, as proposed by the applicant, shall require an amendment to Permit No. 5-03-402 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

By acceptance of this permit, the applicant-lessee, Bubba Gump Shrimp Company, and the applicant-lessor, City of Santa Monica, acknowledges and agrees to include a provision in any subsequent lease, sublease, or assignment of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of this condition.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant-lessee, Bubba Gump Shrimp Company, and the applicant-lessor, City of Santa Monica, shall submit a written agreement or agreements, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

6. Assumption of Risk, Waiver of Liability and Indemnity Agreement Applicable to Applicant-Lessee

A. By acceptance of this permit, the applicant-lessee, Bubba Gump Shrimp Company, on behalf of (1) itself; (2) its successors and assigns and (3) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action; (ii) to assume the risks to the applicant-lessee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including

costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent sublease or assignment of the leased land or the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the restrictions identified in (i) through (v).

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, Bubba Gump Shrimp Company, as applicant-lessee, shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement Applicable to Applicant-Lessor

A. By acceptance of this permit, the applicant-lessor, City of Santa Monica, acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action; (ii) to assume the risks to the applicant-lessor, City of Santa Monica, and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of the prior condition.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City of Santa Monica, as applicant/lessor, shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

8. Conformance of Design and Construction Plans to Geotechnical Report

A. All final design and construction plans, including foundations, floor plans and grading shall be consistent with all recommendations contained in the Engineering Geologic Reports prepared by Geotechnologies, Inc. dated June 8, 2001. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, evidence that an appropriate 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.

B. The permittees 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 legally required.

9. No Future Shoreline Protective Device

A. By acceptance of this Permit, the applicants agrees, on behalf of themselves and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. **5-03-402** in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

B. By acceptance of this Permit, the applicants further agrees, on behalf of themselves and all successors and assigns, that they shall remove the development authorized by this Permit, including the restaurant structure and pilings, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the applicants shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

10. Storage and Removal of Construction Material and Debris

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

- (a) No construction materials, debris, or waste shall be placed or stored outside the staging area where it may 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 and the site restored to its previous natural condition;
- (c) Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction related materials, sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.

- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The proposed project is the demolition of an existing 6,859-square foot, two-story restaurant structure located on the Santa Monica Pier and the construction of a three-story, 8,955 square-foot restaurant with two levels of outdoor dining decks, Pier level retail space, and public elevator. The restaurant would include 2,019 square feet of indoor service and seating, 386 square feet of bar area, 2,511 square feet of outdoor dining patios on the beach and pier levels, a 415 square-foot retail area opening onto the Pier, and 3,624 square feet of support area including kitchen and storage on the ground floor, service area on the main floor and storage space and offices on a mezzanine level. Outdoor dining areas will be protected with glass windscreens, with a solid roof covering over the second floor patio. The proposed structure will consist of three levels, with a total building height of 40.9 feet from the first level to the top of the parapet, and 27.8 feet in height as measured from the Pier deck to the top of the parapet (see Exhibits No. 2-4).

The new building will be constructed on new pilings with the old pilings removed or cut at or near the surface.

Construction staging is proposed on the beach immediately north of the building site and west of the beach parking lot and bike path. The staging area will occupy approximately 12,000 square feet, and measure approximately 91 feet wide by 130 feet long (see Exhibit No. 5). The applicant will install a temporary chain link fence with screening.

The subject site is located on the Santa Monica Pier, in the City of Santa Monica. The project is located on the north side of the pier. To the west is a public staircase from the beach level to the Pier deck. On the Pier deck to the south is a plaza area and Santa Monica Police sub-station, with a number of food service, retail and recreational uses, including Pacific Park, an amusement park, and a fishing pier and harbor office at the western end of the Pier. The National Historic Landmark Looff Hippodrome (Carousel) building is located to the east.

The existing restaurant (Boathouse) is the only structure located on the north side of the Santa Monica Pier. The restaurant closed in March 2002, and is currently vacant. The Bubba Gump Shrimp Company (co-applicant) has signed a lease with the City of Santa Monica (co-applicant) to construct and operate a new family-style restaurant in place of the Boathouse Restaurant.

The proposed 8,955 square-foot restaurant is larger than the existing two-story Boathouse Restaurant structure, which is 6,859 square feet including outdoor seating areas. However, the amount of serviceable area is approximately the same. The proposed structure would include two stories of customer area and a third story containing office and storage areas. Glass-enclosed outdoor seating areas would be located at the Pier level and at the lower level. A small retail store is proposed on the front façade on the Pier deck.

The existing building has existed on the Pier prior to the Coastal Act. In 1991, the Commission granted a permit to add a 1,457 square foot outdoor dining area to the restaurant [5-90-1148 (City of Santa Monica)]. The outdoor dining area is located on State beach property. The applicant received a lease for use of the property from State Lands.

B. Pier Background

In 1908, the first Municipal Pier was built at the present Pier location. The Pleasure Pier (also known as the Newcomb Pier) was built adjacent to the Municipal Pier in 1916. In 1920 the Pier failed and reconstructed in 1921. The Pleasure Pier featured the Loeff Hippodrome, which housed the famed carousel, as well as a roller coaster and other entertainment features. Throughout the 1920's and 1930's the Pier flourished as an entertainment and recreation center for visitors and tourists.

Succeeding decades, however, saw a decline in the Pier and in 1973, the City Council ordered its demolition. A citizen's group, interested in saving the pier, successfully placed an initiative on the ballot and the citizenry voted to save the Pier. Other measures to preserve the historical integrity of the Pier included its designation as a County of Los Angeles Historical Landmark in 1975, and a City of Santa Monica Landmark in 1976. In addition, the Loeff Hippodrome (carousel building) was designated a National Historic Landmark in 1988.

In 1981, the City Council created the Pier Task force to develop guidelines for the restoration of the pier. The guidelines that were developed had a historical perspective and allowed for the restoration of the Pier in a manner reflecting former uses as well as present ones.

However, in 1983, winter storms destroyed over 100,000 square feet of the western end of the wooden pier platform, and the remaining Pier suffered serious structural damage. In 1983, the Pier Restoration Corporation (PRC) was created to orchestrate reconstruction and redevelopment of the Pier. Reconstruction of the Pleasure Pier and the Municipal Pier was completed in 1991 (Coastal Development Permits 5-86-956 and 5-89-703).

The existing pier platform consists of 413,056 square feet of area. The Pier's current uses include a number of restaurants, fast food establishments, small retail shops, an arcade and an amusement ride area (CDP #5-92-345). The western end of the pier is used for

fishing and is improved with the Harbor Guard office and a display area for pier history and marine related issues, bait shop and a restaurant.

The Pier is owned by the City of Santa Monica and leases space on the pier to individual operators. The underlying property, on which the pier is located has been granted to the City by the State of California. The restaurant building space has been part of the pier since the 1930's. However, the existing outdoor dining area was added in 1991 (Coastal Development Permit No. 5-90-1148). In 1991, the State granted to the City of Santa Monica a lease to extend the restaurant seating out onto State beach property.

C. Public Beach Access

Section 30210 of the Coastal Act states:

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 of the Coastal Act states:

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

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.

In addition policy #47 of the Santa Monica LUP states in part that:

The Santa Monica Pier shall be maintained as a recreational resource including amusements, public areas for low-cost recreational uses, fishing, and strolling, visitor-serving development and public parking. Commercial uses shall be visitor-serving consistent with the character of the Pier, shall preserve the Pier's historic ambience and shall be located and designed to complement the public areas. New development on the platform of the Pier may be permitted up to a maximum of 140,000 square feet.

The Santa Monica Pier is a regional coastal visitor-serving recreational resource. According to the City of Santa Monica's certified Land Use Plan (LUP), the Pier attracts approximately 3 million visitors each year. The pier provides primarily low-cost public recreational opportunities. The pier's current uses include a carousel, amusement ride

area, food service establishments, retail shops, and fishing. The Pier provides pedestrian access throughout its length and along its perimeter.

The proposed project will replace an existing restaurant that extends from the pier deck to the sand below. The project site is located on the north side of the pier and immediately west of the beach parking lot (1550 Lot) and the beach bike path. The main restaurant building has existed on the Pier prior to the Coastal Act. In 1991, the Commission granted a permit to add a 1,457 square foot outdoor dining area to the restaurant over the beach sand.

A wooden boardwalk exists along the northern and western portion of the restaurant (see Exhibit No. 2). The boardwalk extends from the adjacent public beach lot (1550 Lot), located northeast of the project site, to a stairway that provides beach level access to the pier deck. The boardwalk also extends to the northwest to allow handicap access closer to the water. The boardwalk also provides outdoor showers at the foot of the stairs.

As proposed, the new restaurant will be sited within the same footprint as the existing restaurant, except for minor changes to the stairs in the northeast corner, for compliance with American Disability Act (ADA) requirements, which includes a public walkway leading to the proposed elevator, along the western portion of the building. The walkway to the elevator along the western portion of the building will be 3 to 4 feet wide and ADA compliant, and will require minor modification to the base of the adjacent public stairway that leads to the pier deck. The elevator will be incorporated into the design of the restaurant. Although the elevator entrance will be within the building, it will be designed to be separate from the restaurant so that one will not need to enter into the restaurant to use the elevator. The elevator will connect the beach boardwalk, beach parking lot, and the restaurant on the Pier deck, in a manner that is accessible to the handicapped.

The demolition and new construction on the Santa Monica Pier and adjacent to the public beach, will have the potential to impact beach access and recreational activities. The environmental analysis and the City's local review of the project considered these impacts, with particular concern regarding the summer months. Of major concern was the location and operation of the staging area. Because of the location of the site and potential for impacts to public access, possible staging areas were limited. Initially, the project contractor and City considered using the adjacent 1550 beach parking lot for staging. However, due to the potential temporary loss of public parking during high use periods in the winter and summer, and conflicts that would be created by movement of materials across the bike path that runs between the parking lot and project site, that would cause numerous disruptions throughout the day to users of the bike path, the City decided that this alternative would have significant impacts to public access that could not be mitigated. The Pier deck was another alternative considered, but due to pedestrian circulation impacts and load capacity of the Pier, the Pier could not be used. Therefore, the City selected the beach area directly north of the restaurant and west of the parking lot and bike path.

The staging area will measure approximately 91 feet by 130 feet. The City will require the applicant to construct a temporary pedestrian path around the staging area, connecting the parking lot and beach with the public pier stairway located to the west of the building site. The City is also requiring the applicant to cover the staging area with a wood platform for water quality purposes. The temporary path and wood platform will be removed at the end of construction. To further mitigate construction activity and pedestrian/bikepath conflicts on the bike path, the City is restricting the number and duration of equipment crossings across the bike path. According to the City's permit condition, after 9:00 A.M. Monday through Saturday, equipment is allowed to be moved across the bike path five times daily for a maximum of two minutes per interruption.

The location of the staging area on the sand north of the site and west of the beach bike path minimizes movement of construction equipment that would inconvenience or endanger pedestrians and users of the bike path. Together with the restriction on hours in which the bike path may be closed in order to allow movement of construction equipment, the proposed location avoids the need to redirect the bike path and avoids interference with the emergency vehicle lane that passes under the Pier.

However, the use of sandy beach for construction staging, will temporarily remove the area from public use during the construction period, which could have an adverse impact on public beach access and recreation use on the beach. The construction period will last approximately 6 to 7 months and is planned to commence in February or March of this year. Therefore, construction will continue into the summer period. However, in this particular case this alternative has the least impact to public access, by avoiding the use of the parking lot and minimizing access conflicts with the bike path.

The beach parking lot (1550 Lot) is the most heavily used parking lot in Santa Monica because of its shared use with the Pier, which is the major attraction in the area. During the winter months the lot occasionally reaches capacity (1,173 spaces) during warm weekends. During summer weekends the lot is also heavily used. However, because of the approximately 300 foot wide beach in front of the parking lot, the staging area, which will measure approximately 91 feet wide by 130 feet long, and approximately 12,000 square feet in total area, will leave a width of approximately 209 feet of beach area between the staging area and water. Furthermore, this back beach area, although it is used by beach goers for beach activities, because of the distance from the water's edge is not heavily used by beach goers. Moreover, as the beach continues to the north it widens to over 400 feet to the north of the 1550 Lot. Therefore, there is adequate open beach area in front of the staging area and to the north to mitigate the temporary loss of beach area during construction.

To possibly further mitigate the use of the beach, Commission staff asked the applicant to reduce the staging area as work progressed, with the assumption that the need for space would be less as work progressed and that the framed building could be used as staging space as well. The contractor, however, stated that since the City is limiting disruptions to the bike path and prohibiting the use of the adjacent public parking lot, all staging activity must be provided within the area in front of the restaurant and, as proposed, the staging

area is the minimum space needed to be able to store supplies, contractor trailers, service trucks, and to provide adequate space for delivery trucks that will be delivering large items up to the end of 6-7 month construction period (see Exhibit No. 8 for letter from contractor).

The location of the staging area on the sand north of the site and west of the beach bike path minimizes movement of construction equipment that would inconvenience or endanger pedestrians and users of the bike path. Together with the City's restriction on hours in which the bike path may be closed in order to allow movement of construction equipment, the proposed location avoids the need to redirect the bike path and avoids interference with the emergency vehicle lane that passes under the Pier. Furthermore, the use of the beach area for staging will not have a significant adverse impact on beach access and recreational activities. However, to ensure that the proposed project will comply with the City's permit requirements, as current approved, to limit disruptions to the public bike path and parking area, Special Condition No. 2, requiring the applicant to comply with the City's permit conditions, is required.

Furthermore, the only current access from the beach along the northern side of the pier is the stairway located to the west of the project site. The provision of an elevator, as proposed by the project, will enhance public access in the area and will provide alternative access, especially for the handicapped. However, as located and designed, the visibility of the elevator will be limited. The City has required that the applicant provide signage to notify the public of the availability and location of the elevator. In addition, the applicant has provided a preliminary signage plan showing the location and types of signs that are proposed. As currently located, the signs will be located on the proposed building along the Pier deck and at the beach level on the western side of the building. These locations are appropriate, however, signage should also be provided on the east side of the building to be visible from the bike path and parking lot to maximize public notification and use of the elevator. Therefore, as a condition (Special Condition No. 1), the applicant shall provide a signage plan indicating signs will be located and visible along the Pier deck, western side of the building and eastern side.

The applicants are in the process of obtaining encroachment permits from the California State Department of Parks and Recreation, for the walkway along the western side of the building leading to the elevator, minor modifications for ADA requirements to the stairs in the northeast corner leading to the patio area, and for the trash enclosure located along the eastern portion of the building. The Department's has indicated that preliminary approval has been given and final approval is pending. To ensure that the applicant has final approval from the Department of Parks and Recreation, Special Condition No. 2 requires the submittal of the Departments approval prior to issuance of this permit.

The Commission, therefore, finds, that only as conditioned is the project consistent with Section 30210, 30211, 30212, 30213, and 30221 of the Coastal Act and all applicable policies of the certified LUP.

E. Parking

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.

Policy #26 of the City's certified LUP states:

A minimum of 471 parking spaces shall be provided to serve the Pier. This is the amount of parking which existed on the Pier before it was damaged by storms in 1983. The provision of this parking may be phased as redevelopment of the Pier occurs, as long as adequate parking to serve Pier development is provided prior to or concurrent with the occupancy of any new development on the Pier. Parking may be relocated off the Pier, either within reasonable walking distance to the Pier, or in remote parking lots, if an effective shuttle system is implemented to transport people from the remote lots to the Pier. If a parking fee is charged at the remote lots, the fee shall not exceed that which is charged at the public beach parking lots. Relocation and replacement of parking spaces off the Pier shall be done on a one-to-one basis. Intensity of new development on the Pier shall correspond to that which can be accommodated by 471 parking spaces, as determined by the parking analysis. Additional parking demand created by further development shall be mitigated with additional parking, shuttle program, or other measure(s).

Because of the Pier's proximity to the State beach and to the public parking lots, development on the Pier could adversely impact public access to the beach. If the parking demand generated by new commercial development on the Pier exceeds the supply of parking that is available for the Pier, patrons of the Pier will utilize the parking that is needed to support general beachgoers, strollers, bicyclists, and joggers that depend on and use the parking that is available in the general vicinity of the Pier. Therefore, in order to determine if the proposed project is consistent with the access policies of the Coastal Act, the Commission must find that the parking demand generated by the proposed development is adequately supported by the supply of parking available for Pier use.

Prior to the 1983 storms that destroyed portions of the Pier, there were 79,488 square feet of development supported by 471 parking spaces on the Pier (area of development is based on the Pier Restoration Corporation's figures). In the certified LUP the Commission

agreed with the City that the Pier should be allowed to be reconstructed to the level of development that existed prior to the 1983 storm with the same amount of parking that also existed in 1983. In the certified LUP the Commission found that the Pier could be allowed to be built back to the pre-1983 storm intensity as long as the 471 parking spaces that were serving the pre-1983 storm level of intensity were provided either on or off the Pier. A development cap, based on pre-storm development, was set at 140,000 square feet. If new development exceeded the level of intensity that existed prior to 1983, the parking demand generated by the new development beyond the 1983 level must be mitigated with additional parking, shuttle program, or other measure(s).

Based on the City's current inventory of commercial uses on the Pier, there are 122,347 square feet of commercial space, including the existing Boathouse restaurant (see Exhibit No. 6). The new restaurant, which will replace the Boathouse, will be approximately 2,096 square feet larger. Therefore, with the new restaurant, the total commercial space on the Pier increases from 122,347 square feet to 124,443 square feet. With the proposed development, the Pier's commercial space will be 15,557 square feet below the 140,000 square foot cap.

Furthermore, as designed the amount of square footage for the dining area for the new restaurant will be 4,916 square feet. This is approximately 286 square feet less than the existing restaurant. The new restaurant will also add a 415 square foot retail space for the sale of restaurant merchandise. Based on the Commission's parking standard of 1 parking space per 50 square feet of public serviceable area for restaurant use and 1 parking spaces per 225 square feet the net change in parking demand over the previous use is 4 spaces less than the previous use. Therefore, since the new restaurant will replace the existing restaurant with a similar parking demand, there will be no net increase in the demand on the Pier's parking supply. The Commission, therefore, finds that the proposed project will be consistent with the Commission's past permit action for Pier development and with Section 30252 of the Coastal Act and with all applicable policies of the certified LUP.

D. Visual Impacts

Section 30251 of the Coastal Act states:

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

In addition policy #93 of the certified LUP states that:

Building height shall not exceed 2 stories, 30 feet, and the floor area ratio shall not exceed 1.0. Amusement rides shall not exceed a height of 115 feet above the Pier deck.

Major scenic resources in the City of Santa Monica are identified in the City's Local Coastal Land Use Plan and the City's Scenic Corridor Element. Scenic resources include the coastline, beach and bay, the Santa Monica Pier, Palisades bluff, and the Santa Monica Mountains. The project site is located on the Santa Monica Pier, where views of these scenic resources are visible from.

The viewsheds of the vicinity of the proposed project can basically be divided into two separate viewsheds. The first viewshed are those views from the area surrounding the Pier. The second viewshed are views from the Pier. View points from the surrounding area include Palisades Park, the beach, the Promenade, bike path, and portions of Ocean Avenue and Colorado Boulevard. From these surrounding areas the coastline and the ocean horizon are visible. However, because of the size and location of the Pier, the Pier is a significant, if not a central, element in the viewshed.

The Pier is developed with a number of structures, including a number of food service, retail and recreational buildings, including Pacific Park-- an amusement park-- and the Loeff Hippodrome (Carousel) building. Existing development includes 20-40 foot buildings and large amusement rides extending to 30 and 85 feet. Development on the Pier extends from the promenade to the western end of the Pier. The existing restaurant is the only development located on the north side of the Pier, but is located in an area of the Pier that contains a large amount of Pier development.

The LUP limits development on the pier to a height of 30 feet, as measured from the Pier deck; however, amusement rides, are allowed a maximum height of 115 feet. The existing restaurant building extends approximately 28 feet from the beach level and 18 feet above the Pier deck. The proposed restaurant building will extend 40.9 feet from the first level to the top of the parapet and 27.8 feet in height as measured from the Pier deck to the top of the parapet. The proposed building would maintain the same footprint and would be similar to the existing structure in mass, bulk and height. Furthermore, according to the applicant, the project has been designed with materials and articulation to be compatible with the character of existing development on the Pier.

The building's facades will be constructed of corrugated metal panel and horizontal lap sidings. Other materials will include painted metal veneer, clear tempered glass, and blue canvas awnings. The building design has gone through extensive design review by the City's Design Review Board to ensure that the building conforms to the character of the area and minimizes visual impacts.

The partial third level floor with storage and office area would result in a taller structure than currently exists on the site. However, the additional floor allows the design to incorporate all mechanical equipment under the roof so that the equipment will not be

visible from the surrounding area. As designed, the proposed building is low-scale and below the maximum height limit of 30 feet from the Pier deck level. From the Pier deck and south viewpoints of the Pier, it appears to be a two-story building. This is compatible in scale with surrounding structures on the Pier's southern side, which are one or two stories in height from the Pier deck. The architect has designed the building to be viewed from 360 degrees, with each façade treated as significant because the building is visible from many vantage points that are considered to be significant view sheds.

Views of the ocean immediately south and east of the project site are partially obstructed by the existing structure. Since the proposed project would be constructed within the same footprint as the existing structure, additional height of the proposed structure would not result in further obstruction of ocean views.

The proposed project will add a new second level deck over the existing beach level deck. The deck will extend approximately 18 feet out from the main building, with an overhead cover. This new deck will add to the bulk of the building and have an impact on views. However, views that will be obstructed will be limited to the views from the Pier's access ramp. To minimize the impact, the decks will be of an open design with glass windscreens. As designed view obstruction of the beach and ocean due to the added second level deck will be minimal. Furthermore, the pier will continue to provide additional viewing along the entire north side of the pier since this is the only structure located on the north side. Ocean views from Palisades Park and Ocean Boulevard will not be obstructed because of the elevation difference.

As designed, the building will be compatible with the surrounding uses and with other structures on the Pier. Although the proposed building will be visible from the surrounding area, the visual impact of the project will not be significant and by replacing the existing building, the new building will enhance the visual quality of the area. However, to ensure that future development will not have an adverse visual impact, a future improvement condition (Special Condition No. 5) is required. The Commission, therefore, finds that as conditioned the proposed project is consistent with Section 30251 of the Coastal Act.

G. Hazards

Section 30253 of the Coastal Act provides in part:

New Development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazards.*

The subject site is located on the Santa Monica Pier and extends from the pier deck down to the sandy beach below. The building is located approximately 300 feet from the mean high tide.

Even though the site is currently protected by a wide sandy beach, this does not preclude wave uprush damage and flooding from occurring during extraordinary circumstances. Strong storm events like those that occurred in 1982-83 and 1988 can cause large waves to flood the beach. Though the subject site could be exposed to wave run-up, the Geotechnical Engineering Investigation prepared by Geotechnologies, Inc. did not identify wave run-up or flooding as a potential development concern at the subject site.

The applicant has submitted a wave run-up analysis study dated December 2003, prepared by Skelly Engineering. The analysis examined the impact of wave run-up and wave induced flooding (i.e. overtopping) upon the subject site under extreme oceanographic conditions over the next 75 years. The analysis determined that the subject site is located on a wide sandy beach and upon a portion of the beach that is approximately 300 feet wide. The study states that, based upon beach width monitoring data prepared by the U.S. Army Corps of Engineers, and aerial photographs, and the presence of the pier structure and a breakwater located northwest of the pier, it is extremely unlikely that the shoreline will erode significantly in the next 75 years. The study states that the subject site was not subject to wave attack during the 1988 storm event, which was considered a "400 year" wave event with an 18-year recurrence interval extreme high tide level.

The study analyzes the potential effects of wave run-up and overtopping for eroded beach conditions, including adverse conditions such as a 12 inch sea level rise over the next 75 years, super-elevation of the sea surface caused by wave set up, wind set up, inverse barometer conditions, wave group effects, and El Nino and sea level effects. The study states that the site is protected by the offshore breakwater and the beach is held in place by the shoreward end of the Santa Monica Pier. The runup analysis shows that the 75 year recurrence wave runup event may reach the site but due to the fact that the structure is constructed on caissons and the first floor elevation is about 1.5 feet above the adjacent beach grade no flooding or damage will occur.

Beach areas are dynamic environments which may be subject to unforeseen changes. Such changes may effect beach processes, including sand regimes. The mechanisms of sand replenishment are complex and may change over time, especially as beach process altering structures, such as jetties, are modified, either through damage or deliberate design. Therefore, the presence of a wide sandy beach at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future. The width of the beach may change, perhaps in combination with a strong storm event like those which occurred in 1982-83 and 1988, resulting in future wave and flood damage to the proposed development.

Although the proposed project will not be located any further seaward than the existing structures footprint, the proposed development is still subject to significant wave hazards, as described previously. Therefore, the Commission finds it necessary to require the recordation of an assumption-of-risk lease restriction (Special Condition No. 6) by the applicant, Bubba Gump Shrimp Company, and acknowledgment and acceptance from the Pier owner, City of Santa Monica (Special Condition No. 7), that the project is located in

an area that is potentially subject to flooding and wave uprush hazards that could damage the applicant's property. The applicants are also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that future lessees of the property will be informed of the risks and the Commission's immunity of liability.

Foundation Design

The proposed project requires construction of a foundation system. The proposed structure will be supported by new concrete caissons or piles tied together with grade beams. A *Geotechnical Engineering Investigation* prepared by Geotechnologies, Inc. dated June 8, 2001 was submitted by the applicant. The report indicates that the site is suitable for the proposed development. The *Geotechnical Engineering Investigation* includes certain recommendations to increase the degree of stability of the proposed development. The recommendations included in the *Geotechnical Engineering Investigation* address foundation design, earth pressure, seismic conditions, and liquefaction.

In order to assure that risks are minimized, the recommendations of the geotechnical consultant must be incorporated into the design of the project. As a condition of approval (Special Condition No. 8), the applicant shall submit final, foundation plans, site plans, floor plans, elevation plans, signed by the appropriately licensed professional indicating that the recommendations contained in the *Geotechnical Engineering Investigation* have been incorporated into the final design of the proposed project.

As conditioned by both Special Conditions No. 6, 7, and 8, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act which requires that geologic and flood hazards be minimized, and that stability and structural integrity be assured.

Future Shoreline Protective Devices

The Coastal Act limits construction of protective devices because they have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if all of the following conditions are met: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for development only for existing principal structures. The construction of a shoreline protective device to protect new development would not be required by Section 30235 of the Coastal Act. Proper coastal planning mandates that

structures be sited far enough back from hazards to minimize the potential that they would be in danger and require a protective device. In addition, allowing new development that requires the construction of a shoreline protective device would be inconsistent with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including beaches which would be subject to increased erosion from such a device.

In the case of the current project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as previously discussed, the subject beachfront area has experienced flooding and erosion during severe storm events. It is not possible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, it is conceivable the proposed structure may be subject to wave uprush hazards which could lead to a request for a protective device.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach.

Third, shoreline protective devices such as revetments and bulkheads cumulatively effect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. As discussed earlier this portion of the beach is a wide sandy beach. However, the width of the beach can vary, as demonstrated by severe storm events. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach

area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the proposed structure requires a protective device in the future it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion.

In addition, the construction of a shoreline protective device to protect new development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from shoreline protective devices. The applicant is constructing the proposed residence using a caisson and grade beam foundation. The applicant's wave run-up analysis has indicated that the development is not subject to wave run-up and flooding. Based on the information provided by the applicant, no other mitigation measures, such as a seawall, are anticipated to be needed in the future. The coastal processes and physical conditions are such at this site that the project is not expected to engender the need for a seawall to protect the proposed development. There is currently a wide sandy beach in front of the proposed development, including the Pier and breakwater, that currently provide substantial protection from wave activity. However, the continued presence of a wide beach cannot be guaranteed.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes Special Condition No. 9 which requires the applicant to record a lease restriction that would prohibit the applicant from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, as conditioned, the development can be approved subject to Sections 30251 and 30253 of the Coastal Act.

By imposing the "No Future Shoreline Protective Device" special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. The Commission also requires that the applicant remove the structure if any government agency has ordered that the structure be removed due to wave uprush and flooding hazards. In addition, in the event that portions of the development are destroyed on the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

Conclusion

Therefore, to ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, Special Conditions No. 6, 7 and 8, require the applicants to agree to record a lease restriction in any subsequent leases or subleases for an Assumption-of-Risk and No Future Shoreline Protective Devices restrictions. In addition, Special Condition No. 5 requires the applicant to submit final grading, foundation, site, floor, elevation plans, and drainage plans along with evidence that such plans conform with the recommendations of the geotechnical consultant. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30235, 30251 and 30253.

D. Control of Polluted Runoff

Section 30230 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 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project poses a potential source of pollution due to contaminated runoff from the proposed from the proposed restaurant use. To mitigate potential water quality impacts, the City has adopted an Urban Runoff Ordinance. The ordinance requires projects to incorporate best management practices with extensive recommendations and measures to reduce or prevent contaminants from running off the site. The City requires all new development to achieve twenty- percent reduction of the projected runoff for the site and the use of oil and water separators or clarifiers to remove petroleum-based contaminants and other pollutants. All restaurants and other commercial cooking facilities are required to use grease interceptors and wash areas designed for washing floor mats with wastewater discharged directed to the City sewer. Furthermore, the City has required

that the applicant cover the entire staging area with a wood platform to control debris and sand contamination from the construction activities.

Coastal Commission water quality staff has previously reviewed the City of Santa Monica's water quality standards for similar projects and have determined that the City's standards are consistent with standards imposed by the Commission. To ensure that the development complies with the City requirements, a special condition (Special Condition No. 4) is necessary that requires the applicant to agree to comply with the water quality requirements of the City. Furthermore, Special Condition No. 10 is necessary to ensure that Best Management Practices are implemented for the storage of construction material and debris, and that all material and debris is removed from the site after construction and the site is restored. The Commission, therefore, finds that, as conditioned, the development will be consistent with Section 30230 and 30231 of the Coastal Act.

E. Local Coastal Program

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson Way (Beach Overlay District), the Santa Monica Pier and the Civic Center. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. The proposed project is located west of Ocean Avenue and is located in the area of deferred certification.

The proposed project is located on the Pier which was included in the certification. As conditioned the project will not adversely impact coastal resources and beach access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. CEQA

Section 13096 of the Commission's 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)(i) 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 impact, which the activity may have on the environment.

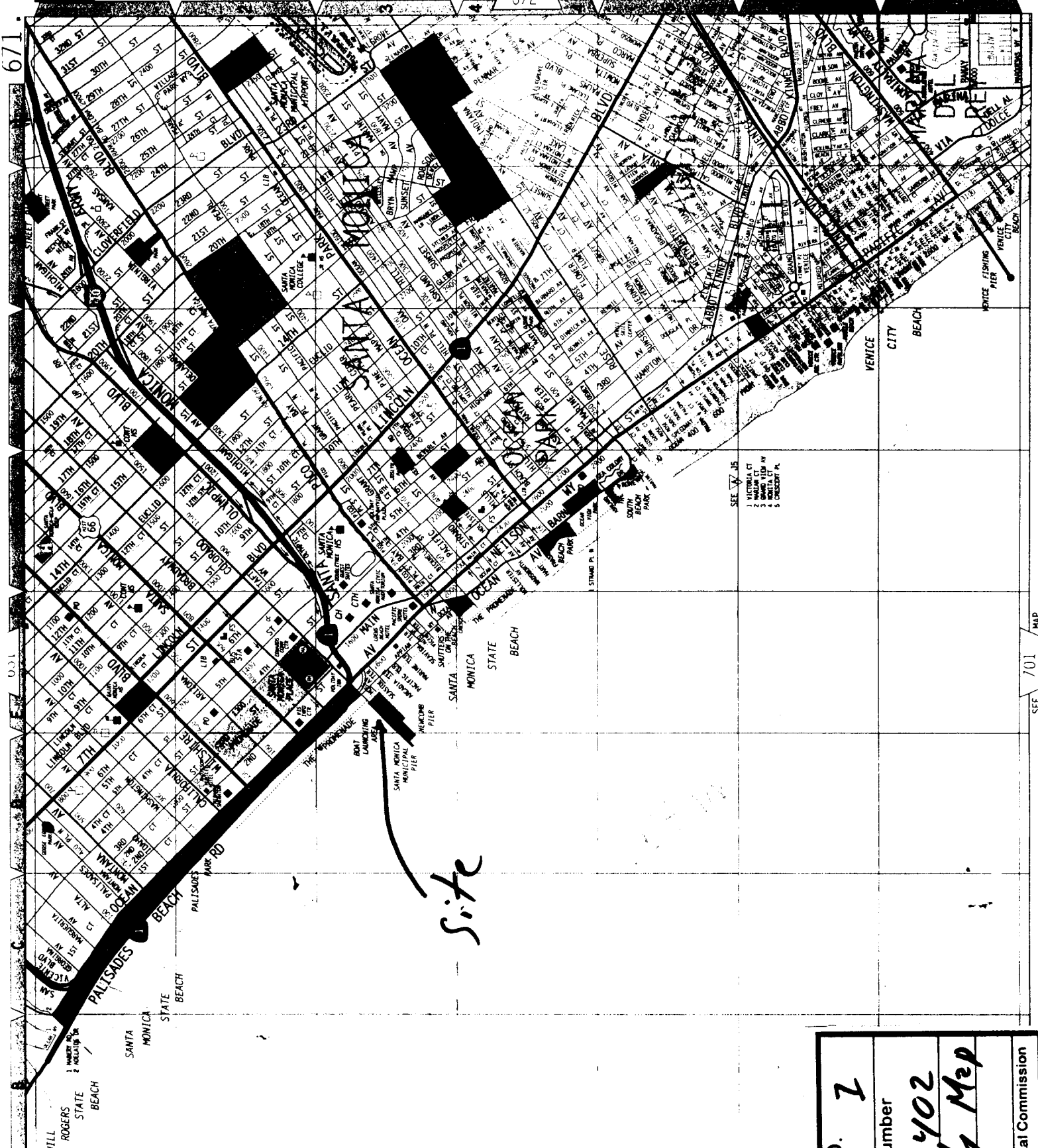
There are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.



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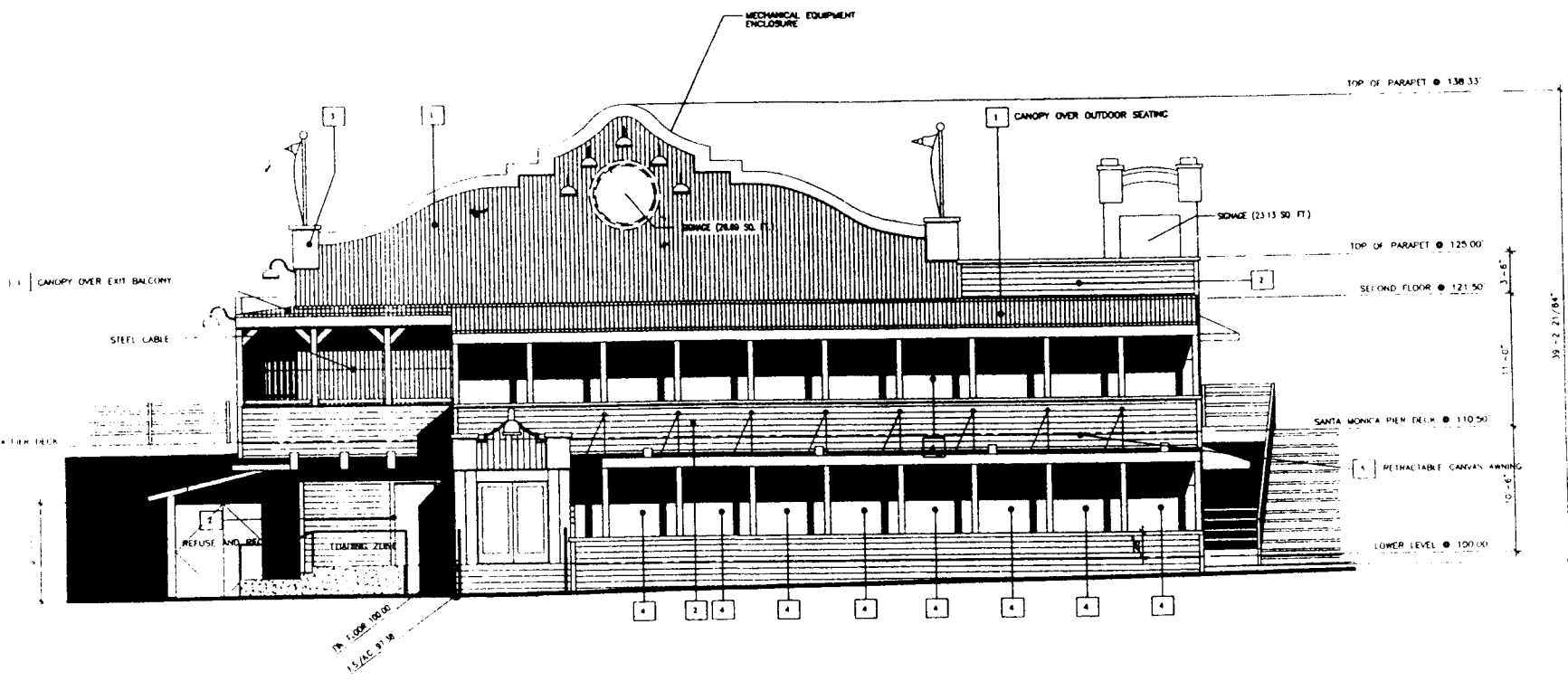
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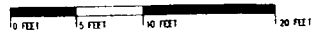


SEE V-15
 1 VICTORIA CT
 2 WILSON CT
 3 SANTA ST
 4 CRENSHAW PL

EXHIBIT NO.	7
Application Number	5-03-402
	Vicinity Map
California Coastal Commission	



NORTH ELEVATION



FINISH LEGEND	
1	CORRUGATED METAL PANEL
2	HORIZONTAL 4" LAP SIDING (PAINTED SILVER CLOUD K3446)
3	METAL VENER (PAINTED WINTER SNOW BENTHAM MOORE OK 63)
4	1/2" CLEAR TEMPERED GLASS
5	BLUE CANVAS AWNING (COLOR: SUNBRIELLA MEDITERRANEAN BLUE 4657)
6	GALVANIZED METAL ROOF
7	GALVANIZED METAL MARQUEE (EXTENDED 4' FROM F.O. PLASTER)

EXHIBIT NO. 3
 Application Number:
5-03-402
North Elevation
 California Coastal Commission

Date _____
 Scale _____
 Drawn _____
 Job _____
 Sheet _____ of _____

KEY NOTES

- ① RELOCATE EXISTING SAND FROM SURROUNDING AREA TO PROVIDE A LEVEL STAGING AREA AT SAME LEVEL AS WOOD WALKING PATH.
- ② PROVIDE 2 X 12 (FACE DOWN) ON SAND W/ 3/4" ACY PLYWOOD ATTACHED BY WOOD SCREW (ZINC COATED #10 2" (L) @ 16" O.C.). (PLYWOOD ONLY AT SIDEWALK)
- ③ CHAIN LINK FENCE 6' (H) WITH VISION SCREEN NETTING. COLOR: GREEN.
- ④ SIGN TO REMAIN. TO BE PROTECTED BY CONTRACTOR.
- ⑤ ACCESS GATE.
- ⑥ SOLID CONSTRUCTION BARRICADE 10' (H) PLYWOOD PAINTED WHITE.

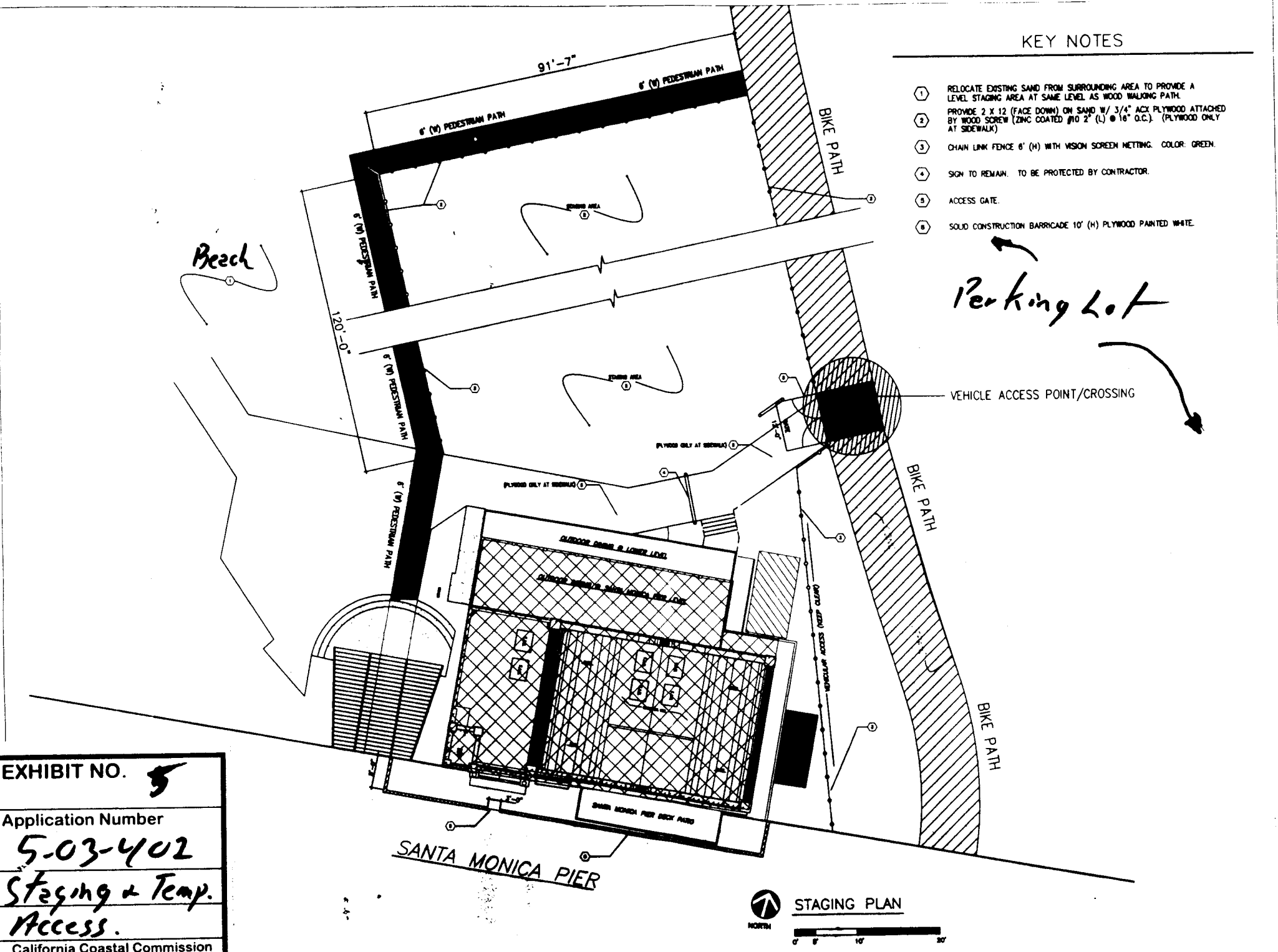


EXHIBIT NO. **5**
 Application Number
5-03-402
Staging & Temp. Access.
 California Coastal Commission

STAGING PLAN
 NORTH
 0' 5' 10' 20'

Santa Monica Pier Commercial Inventory 2003
Source: Leases Prepared by: Elana Buegoff

Tenant	Address	Sf.(existing)	Sf. (leased)	Use
Santa Monica Pier Aquarium	1600 Ocean Front Walk	4,533	4,533	Marine learning center
Carousel	200 Santa Monica Pier	8,236	8,236	Carousel, gift shop, city offices
Vacant- Arcadia	250 Santa Monica Pier	6,079	6,079	Vacant- Restaurant
Rusty's Surf Ranch	256 Santa Monica Pier	4,309	4,309	Restaurant
Santa Monica Seafood	258 Santa Monica Pier	3,300	3,300	Restaurant
Vacant - Boathouse	301 Santa Monica Pier	6,732	6,732	Vacant- Restaurant
Blazing Saddles	320 Santa Monica Pier	1,292	1,292	Retail
Surfview Café	330 Santa Monica Pier	2,192	2,192	Restaurant
Playland Arcade	350 Santa Monica Pier	7,963	7,963	Arcade
Route 66 project suspended	370 Santa Monica Pier	0	12,300	Suspended- Restaurant
Pacific Park	380 Santa Monica Pier	70,000	70,000	Amusement Park
Mariasol	401 Santa Monica Pier	6,788	6,788	Restaurant
Bait and Tackle	404 Santa Monica Pier	273	273	Retail
Vending Program	up to 13 vendors	650	650	Retail
		122,347	134,647	

EXHIBIT NO. 6

Application Number

5-03-402

Pier Commercial
Inventory

California Coastal Commission

Item 1-C

November 11, 2003

Santa Monica, California

TO: Mayor and City Council

FROM: City Staff

SUBJECT: Certification of the Statement of Official Action for Appeal 03APP-012 Certifying Final Environmental Impact Report 03EIR-002, Adopting a Statement of Overriding Considerations and Approving Development Review Permit 02-008, Conditional Use Permit 02-011, and Reduced Parking Permit 02-001 for a New Restaurant Building Located at 301 Santa Monica Pier.

INTRODUCTION

This staff report transmits for City Council certification the Statement of Official Action for Appeal 03-012 of conditions included in the Planning Commission's Certification of a Final Environmental Impact Report, Adoption of a Statement of Overriding Considerations, and approval of Development Review Permit 02-008, Conditional Use Permit 02-011, and Reduced Parking Permit 02-001 to allow the construction of a new 3-story, 8,955 square-foot restaurant building located at 301 Santa Monica Pier.

On September 9, 2003 the City Council upheld in part the Planning Commission's approval of the project, modifying conditions regarding alcohol beverage service and construction period mitigation measures, and adding a condition to lower the elevator tower by two feet. The City Council's decision was based upon the findings contained in the attached Statement of Official Action.


BUDGET/FINANCIAL IMPACT

The recommendation presented in this report does not have any budget or fiscal impact.

RECOMMENDATION

It is recommended that the City Council approve the attached Statement of Official Action.

Prepared by: Suzanne Frick, Director
Jay M. Trevino, AICP, Planning Manager
Amanda Schachter, Principal Planner
Kimberly Christensen, AICP, Senior Planner
Elizabeth Bar-El, AICP, Associate Planner
Planning and Community Development

EXHIBIT NO. 7
APPLICATION NO. 5-03-402
City's Statement of Official Action
 California Coastal Commission



CITY OF SANTA MONICA
CITY COUNCIL

**STATEMENT OF OFFICIAL
ACTION**

PROJECT

CASE NUMBER: 03APP-012

LOCATION: 301 Santa Monica Pier

APPLICANT: Bubba Gump Shrimp Company

APPELLANT: Bubba Gump Shrimp Company

PROPERTY OWNER: City Of Santa Monica

CASE PLANNER: Elizabeth Bar-El, AICP

REQUEST: Appeal of Planning Commission's approval of Development Review Permit 02-008, Conditional Use Permit 02-011, and Reduced Parking Permit 02-001 for a New Restaurant Building Located at 301 Santa Monica Pier.

CEQA STATUS: An Environmental Impact Report was prepared for this project in compliance with The California Environmental Quality Act (CEQA). The Environmental Impact Report was certified by the City Council on September 9, 2003 by Resolution No. 9887. A Statement of Overriding Considerations and Mitigation Monitoring Plan were also approved on September 9, 2003 by Resolution No. 9888.

CITY COUNCIL ACTION

September 9, 2003 Date.

Approved based on the following findings and subject to the conditions below.

_____ Denied.

_____ Other.

EFFECTIVE DATE OF ACTION:

September 9, 2003 Development Review Permit 2-008, Conditional Use Permit
02-011, and Reduced Parking Permit 02-001

EXPIRATION DATE OF ANY PERMIT GRANTED:

March 9, 2005 Development Review Permit 02-008, Conditional Use Permit
02-011, and Reduced Parking Permit 02-001

LENGTH OF ANY POSSIBLE EXTENSION OF EXPIRATION DATES:

6 months Development Review Permit 02-008, Conditional Use Permit
02-011, and Reduced Parking Permit 02-001

Each and all of the findings and determinations are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Project. All summaries of information contained herein or in the findings are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

FINDINGS

DEVELOPMENT REVIEW PERMIT

1. The physical location, size, massing, and placement of proposed structures on the site and the location of proposed uses within the project are compatible with and relate harmoniously to surrounding sites and neighborhoods because the project is consistent with the height and density standards set forth in the Zoning Ordinance for the Pier specifically and the RVC District generally. The building relates to the Pier activity by providing retail activity that opens directly onto the Pier at Pier level. Dining activities within the building face west towards the continuation of the Pier and north towards the beach, creating further connection between the Pier and beach areas. Furthermore, the proposed structure is within the footprint of the existing structure. A restaurant structure at the location contributes to the historic character of the Landmark Santa Monica Pier.
2. The rights-of-way can accommodate autos and pedestrians, including adequate parking and access in that the project site is accessed from the Santa Monica Pier and patrons of the project will utilize existing access to Pier and beach parking lots.
3. The health and safety services (police, fire etc.) and public infrastructure (e.g., utilities) are sufficient to accommodate the new development in that sufficient infrastructure currently serves the Pier and served the previous restaurant on the site, including a Police sub-station almost directly across from the restaurant site.
4. The project is generally consistent with the Municipal Code and General Plan in that it meets the goals and purpose of the RVC Zone and is consistent with Objective 1.5 for the Oceanfront

Special District because the restaurant anchors the Pier with a strong visitor-oriented use and does not have negative effects on the existing residential mix in the district. The proposed project also meets all Code requirements with the exception of parking, for which a Reduced Parking Permit is approved herein allowing shared parking with other Pier and beachfront uses.

5. Reasonable and feasible mitigation measures have been included for all adverse impacts identified in an Initial Study or Environmental Impact Report, such that all identified impacts are reduced to a less than significant level except for the cumulative impacts of traffic at the intersection of Ocean Avenue and Colorado Avenue in conjunction with development of the Pier Ramp project. Because the Pier Ramp project is still in development and a feasible mitigation measure cannot be identified and applied to the proposed project, a Statement of Overriding Considerations has been adopted with certification of the EIR.

CONDITIONAL USE PERMIT

1. The proposed use is one conditionally permitted within the subject district and complies with all of the applicable provisions of the "City of Santa Monica Comprehensive Land Use and Zoning Ordinance" in that an alcohol license in conjunction with food service is conditionally permitted in the Residential-Visitor-Commercial (RVC) Zoning District.
2. The proposed use would not impair the integrity and character of the district in which it is to be established or located, in that the RVC district and the Santa Monica Pier in particular permits food uses, and alcohol service will be ancillary to the food service function of the establishment.
3. The subject parcel is physically suitable for the type of land use being proposed, in that the parcel is the Santa Monica Pier and the proposed restaurant with alcoholic beverage service will replace an existing structure that has contained a restaurant and bar with alcoholic beverage service.
4. The proposed use is compatible with any of the land uses presently on the subject parcel if the present land uses are to remain, in that the issuance of an alcohol license is compatible with the allowed restaurant use and with other uses on the Santa Monica Pier.
5. The proposed use would be compatible with existing and permissible land uses within the district and the general area in which the proposed use is to be located, in that the zoning of the site conditionally permits the issuance of an alcohol license for food service establishments. Other food service establishments, some of which serve alcoholic beverages, are located on the Pier and in the vicinity and together constitute an area of regional entertainment and recreational opportunities. Additionally, the proposed use is compatible in that the operating hours are consistent with surrounding food service establishments with alcoholic beverage licenses.
6. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety, in that the site is located in an urbanized area adequately served by existing infrastructure.
7. Public access to the proposed use will be adequate, in that parking will be provided in the Pier deck parking lot and in surrounding beach lots and adequate pedestrian access is provided from the Pier deck. In addition, an elevator for compliance with ADA requirements will be installed to allow adequate access from beach level to the restaurant and will be open to all disabled visitors to the Pier as well as patrons.
8. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding neighborhood, in that the proposed alcohol license will be for a restaurant which is a permitted use in the RVC zoning district.

9. The proposed service of alcoholic beverages as an accessory to the primary service of food is consistent with the goals, objectives, and policies of the General Plan, in that the Land Use Element of the General Plan's Objective 1.5 for the Oceanfront Special District encourages visitor-serving uses that do not impact the existing residential mix and the proposed restaurant anchors the Pier with a strong visitor-oriented use that does not have negative effects on the existing residential mix in the district. Furthermore, it is normal and customary for a restaurant of this type to serve alcoholic beverages with meals.
10. The proposed use would not be detrimental to the public interest, health, safety, convenience, or general welfare, in that the proposed alcoholic beverage service would be secondary to the primary service of food. The floor plan permits only 12 bar seats out of a total of 314 seats and the proposed bar area is located within the dining area.
11. The proposed use conforms precisely to the applicable performance standards contained in Subchapter 9.04.12 of the City of Santa Monica Comprehensive Land Use and Zoning Ordinance, in that no performance standard permit is required.
12. The proposed use will not result in an over-concentration of such uses in the immediate vicinity, in that the proposed alcohol license will be for a restaurant and in that the area is on the visitor-serving Santa Monica Pier, which is frequented by large numbers of local residents as well as office workers, shoppers, and visitors from outside the City. Furthermore, this type of outlet has not contributed significantly to alcohol related problems in the area.

ALCOHOL OUTLET

1. The proposed use will not adversely affect the welfare of neighborhood residents in a significant manner in that the use will be located on the Santa Monica Pier, away from any major residential uses and is conditioned herein to mitigate any noise impacts during construction and operation of the restaurant. Furthermore, parking is available at the Pier and beach lots so that patrons will not impact neighborhood parking utilization.
2. The proposed use will not contribute to an undue concentration of alcohol outlets in the area in that a restaurant with only a small separate bar area and no entertainment or other use is not typically considered to contribute to objectionable problems associated with alcohol outlets, and in that the area is on the Santa Monica Pier which is frequented by large numbers of local residents as well as office workers, shoppers, and visitors from outside the area. Furthermore, this type of outlet has not contributed significantly to alcohol-related problems in the area.
3. The proposed use will not detrimentally affect nearby neighborhoods considering the distance of the alcohol outlet to residential buildings, churches, schools, hospitals, playgrounds, parks, and other existing alcohol outlets in that the Pier location provides sufficient distance from sensitive residential and community uses and because conditions for approval, such as restrictions on entertainment, will minimize the potential effect on the residential uses in the vicinity.
4. The proposed use is compatible with existing and potential uses within the general area in that the restaurant is located on the Santa Monica Pier in the RVC district, and a restaurant with an alcohol license is compatible with other permitted uses on the Pier such as Mariasol, Rusty's and Santa Monica Pier Seafood, all of which have ABC licenses. Furthermore, the proposed use is compatible with other Pier activities because alcoholic beverage service will be secondary to food service.
5. Traffic and parking congestion will not result from the proposed use in that parking for the use is available on the Pier deck lot and adjacent beach lots.

6. The public health, safety, and general welfare are protected in that the project is consistent with the provisions of the Zoning Ordinance, the Pier Design Guidelines and the Land Use Element of the General Plan. Furthermore, the floor plan permits only 12 bar seats out of a total of 314 seats and the proposed bar area is located within the dining area, ensuring that the service of alcoholic beverages remains secondary to the primary service of alcoholic beverages.
7. No harm to adjacent properties will result in that the conditions of approval will ensure that the establishment operates as a restaurant with no live entertainment.
8. The proposed restaurant with accessory alcoholic beverage service is consistent with the objectives of the General Plan in that the Land Use Element of the General Plan designates the area as Oceanfront Special District, which is "intended to take advantage of the special potential of this prime opportunity area as a revenue generator, an amenity to Santa Monica residents, and a producer of entry-level or low-skilled jobs."

REDUCED PARKING PERMIT

Shared Parking

1. A sufficient number of spaces are provided to meet the greater parking demand of the participating uses including existing beach and Pier uses and the proposed restaurant. The parking analysis conducted as part of the project's Environmental Impact Report (EIR) found that parking availability exceeds demand with the exception of four hours without the Pier Ramp or five hours with the Pier Ramp on the peak day(s) of the year (Sunday of Labor Day Weekend and on the July 4th weekend when the holiday falls on a Friday or Monday). This parking provision meets the greater parking demand of the participating uses because it meets the daily needs of all uses for most days of the year. Furthermore, City policy has generally been to plan for the typical needs of a project and not for the peak day exception.
2. Satisfactory evidence has been submitted by the parties operating the shared parking facility, describing the nature of the uses and times when the uses operate so as to demonstrate the lack of conflict between them in that the City Of Santa Monica operates all parking lots involved in the parking calculations and a shared parking analysis was conducted as part of the project's Environmental Impact Report (EIR). The parking study indicated that supply exceeded demand when the project was considered together with existing uses, entitled uses and the proposed Pier Ramp with the exception of one or possibly two peak days a year, which satisfies the greater parking demand of these uses.
3. Additional documents, covenants, deed restrictions or other agreements as may be deemed necessary by the Zoning Administrator are executed to assure that the required parking spaces provided are maintained and uses with similar hours and parking requirements as those uses sharing the parking remain for the life of the building in that the proposed use is on the Pier and served by parking lots that are all operated by the City of Santa Monica. The City will continue to operate these lots to serve all beach and Pier uses, as is required by previous City and Coastal Commission permits as well as lease agreements held between the City and Pier tenants.

CONDITIONS

Plans

1. This approval is for those plans dated July 28, 2003, a copy of which shall be maintained in the

files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval. The elevator tower on the western side of the structure shall be lowered two feet to a total of 22 feet in height as measured from the Pier deck.

2. The Plans shall comply with all other provisions of Chapter 1, Article IX of the Municipal Code, (Zoning Ordinance) and all other pertinent ordinances and General Plan policies of the City of Santa Monica.
3. Minor amendments to the plans shall be subject to approval by the Director of Planning. An increase of more than 10% of the square footage, an increase of seating, or a significant change in the approved concept shall be subject to Planning Commission Review. Construction shall be in substantial conformance with the plans submitted or as modified by the Planning Commission, Architectural Review Board, or Director of Planning. No expansion in number of seats, intensity of operation, or outdoor areas shall occur without prior approval from the City of Santa Monica and State ABC.

Landmarks Commission

4. Prior to consideration of the project by the Landmarks Commission, the applicant shall review disabled access requirements with the Building and Safety Division and make any necessary changes in the project design to achieve compliance with such requirements. The Landmarks Commission, in its review, shall pay particular attention to the aesthetic, landscaping, and setback impacts of any ramps or other features necessitated by accessibility requirements.
5. Plans for final design, landscaping, screening, trash enclosures, and signage shall be subject to review and approval by the Landmarks Commission.
6. The Landmarks Commission, in its review, shall pay particular attention to the project's compliance with the Pier Design Guidelines, pedestrian orientation and amenities; scale and articulation of design elements; exterior colors, textures and materials; window treatment and glazing. The Landmarks Commission shall also consider whether the east elevation as proposed is sufficiently articulated to provide interest, since this is the view that is seen upon approach to the Pier.
7. Refuse areas, storage areas and mechanical equipment shall be screened in accordance with SMMC Section 9.04.10.02.130-90.04.10.02.150. Refuse areas shall be of a size adequate to meet on-site need, including recycling. The Landmarks Commission in its review shall pay particular attention to the screening of such areas and equipment. Any rooftop mechanical equipment shall be minimized in height and area, and shall be located in such a way as to minimize noise and visual impacts to surrounding properties. Unless otherwise approved by the Landmarks Commission, rooftop mechanical equipment shall be located at least five feet from the edge of the roof.
8. Construction period signage shall be subject to the approval of the Landmarks Commission.

Demolition

9. Until such time as the demolition is undertaken, and unless the structure is currently in use, the existing structure shall be maintained and secured by boarding up all openings, erecting a security fence, and removing all debris, bushes and planting that inhibit the easy surveillance of the property to the satisfaction of the Building and Safety Officer and the Fire Department. Any landscaping material remaining shall be watered and maintained until demolition occurs.
10. Immediately after demolition (and during construction), a construction period security fence as

specified in the Environmental Impact Report shall be erected maintained around the perimeter of the lease area.

11. Prior to issuance of a demolition permit, applicant shall prepare for Building Division approval a rodent and pest control plan to ensure that demolition and construction activities at the site do not create pest control impacts on the project neighborhood.
12. No demolition of buildings or structures 40 years of age or older shall be permitted until the end of a 60-day review period by the Landmarks Commission.
13. All applicable permits shall be obtained from the California State Department of Parks and Recreation prior to demolition.

Construction

14. Unless otherwise approved by the Department of Environmental and Public Works Management, the Pier Deck and all public areas shall be kept clear and passable during the grading and construction phase of the project.
15. Sidewalks, curbs, gutters, paving and driveways which need replacing or removal as a result of the project as determined by the Department of Environmental and Public Works Management shall be reconstructed to the satisfaction of the Department of Environmental and Public Works Management. Approval for this work shall be obtained from the Department of Environmental and Public Works Management prior to issuance of the building permits.
16. Vehicles hauling dirt or other construction debris from the site shall cover any open load with a tarpaulin or other secure covering to minimize dust emissions. Immediately after commencing dirt removal from the site, the general contractor shall provide the City of Santa Monica with written certification that all trucks leaving the site are covered in accordance with this condition of approval.
17. A construction period mitigation plan including all mitigation measures identified in the EIR shall be prepared by the applicant for approval by the Department of Environmental and Public Works Management prior to issuance of a building permit. The approved mitigation plan shall be posted on the site for the duration of the project construction and shall be produced upon request. In addition to the mitigation measure specifications, as applicable, this plan shall 1) Specify the names, addresses, telephone numbers and business license numbers of all contractors and subcontractors as well as the developer and architect; 2) Describe how demolition of any existing structures is to be accomplished; 3) Indicate where any cranes are to be located for erection/construction; 4) Describe how much of the public street, alleyway, or sidewalk is proposed to be used in conjunction with construction; 5) Set forth the extent and nature of any pile-driving operations; 6) Describe the length and number of any tiebacks which must extend under the property of other persons; 7) Specify the nature and extent of any dewatering and its effect on any adjacent buildings; 8) Describe anticipated construction-related truck routes, number of truck trips, hours of hauling and parking location; 9) Specify the nature and extent of any helicopter hauling; 10) State whether any construction activity beyond normally permitted hours is proposed; 11) Describe any proposed construction noise mitigation measures; 12) Describe construction-period security measures including any fencing, lighting, and security personnel; 13) Provide a drainage plan; 14) Provide a construction-period parking plan which shall minimize use of public streets for parking; 15) List a designated on-site construction manager.
18. A sign shall be posted on the property in a manner consistent with the public hearing sign requirements which shall identify the address and phone number of the owner and/or applicant

for the purposes of responding to questions and complaints during the construction period. Said sign shall also indicate the hours of permissible construction work.

19. A copy of these conditions shall be posted in an easily visible and accessible location at all times during construction at the project site. The pages shall be laminated or otherwise protected to ensure durability of the copy.

Environmental Mitigation

20. Ultra-low flow plumbing fixtures are required on all new development and remodeling where plumbing is to be added. (Maximum 1.6 gallon toilets and 1.0 gallon urinals and low flow shower head.)
21. Parking areas and structures and other facilities generating wastewater with significant oil and grease content are required to pre-treat these wastes before discharging to the City sewer or storm drain system. Pretreatment will require that a clarifier or oil/water separator be installed and maintained on site. In cases where settleable solids are present (or expected) in greater amounts than floatable oil and grease, a clarifier unit will be required. In cases where the opposite waste characteristics are present, an oil/water separator with automatic oil draw-off will be required instead. The Environmental and Public Works Management Department will set specific requirements. Building Permit plans shall show the required installation.
22. To mitigate solid waste impacts, prior to issuance of a Certificate of Occupancy, project owner shall submit a recycling plan to the Department of Environmental and Public Works Management for its approval. The recycling plan shall include 1) list of materials such as white paper, computer paper, metal cans, and glass to be recycled; 2) location of recycling bins; 3) designated recycling coordinator; 4) nature and extent of internal and external pick-up service; 5) pick-up schedule; 6) plan to inform tenants/occupants of service.
23. The restaurant has more than 50 seats and is therefore required to install an interceptor with 1000 gallons minimum holding capacity. The Environmental and Public Works Management Department may modify the above requirements only for good cause. Specifically, the facility must demonstrate to the satisfaction of the Industrial Waste Section and Building and Safety Division that interceptor installation is not feasible at the site in question. In such cases where modifications are granted, grease traps will be required in the place of an interceptor. Building permit plans shall show the required installation.

Miscellaneous

24. The building address shall be painted on the roof of the building and shall measure four feet by eight feet (32 square feet).

Validity of Permits

25. In the event permittee violates or fails to comply with any conditions of approval of this permit, no further permits, licenses, approvals or certificates of occupancy shall be issued until such violation has been fully remedied.
26. Within ten days of City Planning Division transmittal of the approved Statement of Official Action, project applicant shall sign and return a copy of the Statement of Official Action prepared by the City Planning Division, agreeing to the Conditions of approval and acknowledging that failure to comply with such conditions shall constitute grounds for potential revocation of the permit approval. By signing same, applicant shall not thereby waive any legal rights applicant may possess regarding said conditions. The signed Statement shall be returned to the City

Planning Division. Failure to comply with this condition may constitute grounds for potential permit revocation.

27. This determination shall not become effective for a period of fourteen days from the date of determination or, if appealed, until a final determination is made on the appeal. Any appeal must be made in the form required by the Zoning Administrator. The approval of this permit shall expire if the rights granted are not exercised within 18 months from the permit's effective date. Exercise of rights shall mean issuance of a building permit to commence construction. However, the permit shall also expire if the building permit expires, if final inspection is not completed or a Certificate of Occupancy is not issued within the time period specified in SMMC Section 8.08.060, or if the rights granted are not exercised within one year following the earliest to occur of the following: issuance of a Certificate of Occupancy or, if no certificate of Occupancy is required, the last required final inspection for the new construction. One six-month extension may be permitted if approved by the Director of Planning. Applicant is on notice that time extensions may not be granted if development standards or development process relevant to the project have changed since project approval. Additionally, the rights associated with this approval shall expire if the establishment ceases operation for a period of one year or longer.
28. Within thirty (30) days after final approval of the project, a sign shall be posted on site stating the date and nature of the approval. The sign shall be posted in accordance with the Zoning Administrator guidelines and shall remain in place until a building permit is issued for the project. The sign shall be removed promptly when a building permit is issued for the project or upon expiration of the Conditional Use Permit.
29. The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking, or other actions.
30. No exterior activities such as deliveries, trash disposal or other maintenance activity generating noise audible from the exterior of the building shall be conducted between 12:00 AM and 7:00 am, Monday through Friday, and between 12:00 AM and 9:00 AM, Saturday and Sunday. Trash containers shall be secured with locks. All deliveries shall take place in accordance with the rules governing deliveries on the Pier.
31. Pursuant to Municipal Code Section 9.04.10.02.420, a sign shall be posted stating that the establishment is limited to 314 seats. The sign shall be a minimum of twelve inches by eighteen inches, and shall be posted by the restaurant entrance or other such location as required by the Zoning Administrator.
32. Final approval of any mechanical equipment installation will require a noise test in compliance with SMMC Section 4.12.040. Equipment for the test shall be provided by the owner or contractor and the test shall be conducted by the owner or contractor. A copy of the noise test results on mechanical equipment shall be submitted to the Community Noise Officer for review to ensure that noise levels do not exceed maximum allowable levels for the applicable noise zone.
33. Final building plans submitted for approval of a building permit shall include on the plans a list of all permanent mechanical equipment to be placed outdoors and all permanent mechanical equipment to be placed indoors which may be heard outdoors.
34. Applicant is advised that this project is located in the California Coastal Zone and requires approval of the California Coastal Commission prior to issuance of any building permits by the City of Santa Monica. Applicant is responsible for obtaining any such permits.

35. Customers shall be permitted to order meals at the bar at all times the bar or restaurant is open for business.
36. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.
37. The primary use of the premises shall be for sit-down meal service to patrons. Alcohol shall not be served to persons except those intending to purchase meals.
38. The establishment shall maintain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises.
39. The establishment shall serve food to patrons during all hours the establishment is open for customers.
40. Seating arrangements for sit-down patrons shall not exceed 314 seats. Bar area seating shall not exceed 12 seats; restaurant seating shall not exceed 302 seats (186 outdoors, 116 indoors).
41. Take out service shall be only incidental to the primary sit-down use.
42. No alcoholic beverage shall be sold for consumption beyond the premises.
43. No dancing or live entertainment beyond that allowed in the restaurant definition contained in the Zoning Ordinance shall be permitted on the premises.
44. The primary use of the outdoor dining area shall be for seated meals service. Patrons who are standing in the outdoor seating area shall not be served.
45. The permitted hours of alcoholic beverage service shall be 9:00 a.m. to 12:00 midnight Sunday through Thursday, and 9:00 a.m. to 1:00 a.m. Friday and Saturday with complete closure and all employees vacated from the building by 1:00 pm Sunday through Thursday, and 2:00 am Friday and Saturday. The restaurant shall not serve alcoholic beverages in the bar area after midnight but may continue to sell alcoholic beverages in the dining area along with meal service.
46. Prior to issuance of a Certificate of Occupancy, a security plan shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.
47. Prior to issuance of a Certificate of Occupancy, the operator shall submit a plan for approval by the Director of Planning regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete a California Department of Alcoholic Beverage Control (ABC) sponsored alcohol awareness training program within 90 days of the effective date of this approval. In the case of new employees, the employee shall attend the alcohol awareness training within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director of Planning and Community Development. The operator shall provide the City with an annual report regarding compliance with this condition. This project shall be subject to any future Citywide alcohol awareness training program condition affecting similar establishments.

48. Prior to issuance of a Certificate of Occupancy, the operator shall also submit a plan describing the establishment's designated driver program, which shall be offered by the operator to the establishment's patrons. The plan shall specify how the operator will inform patrons of the program, such as offering on the menu a free non-alcoholic drink for every party of two or more ordering alcoholic beverages.
49. Except for special events, alcohol shall not be served in any disposable container such as disposable plastic or paper cups.
50. Any minimum purchase requirement may be satisfied by the purchase of beverages or food.
51. The establishment shall not provide video or other amusement games on the premises.
52. No more than 30% of total gross revenues per year shall be from alcohol sales. The operator shall maintain records of gross revenue sources, which shall be submitted annually to the City of Santa Monica City Planning Division at the beginning of the calendar year and also available to the City of Santa Monica and the State ABC upon request.
53. The project shall at all times comply with the provisions of the Noise Ordinance (SMMC Chapter 4.12).
54. Within thirty (30) days from date of the approval of the Statement of Official Action, the applicant shall provide a copy of the approved Statement of Official Action for this project to the local office of the State Alcoholic Beverage Control department.
55. Applicant is on notice that all temporary signage is subject to the restrictions of the City sign ordinance.
56. Prior to issuance of a Certificate of Occupancy Permit, the applicant shall post a notice at the building entry stating that the site is regulated by a Conditional Use Permit and Development Review Permit and that the Statement of Official Action, which includes the establishment's conditions of approval, is available upon request. This notice shall remain posted at all time the establishment is in operation.

Miscellaneous Conditions

57. The project shall comply with the following mitigation measures identified in the project Environmental Impact Report (EIR):
 - (a) A temporary sound barrier shall be erected along the project site boundary, such that the "line of sight" between construction activity and the commercial/pedestrian uses on the Santa Monica Pier and beachgoers is obstructed to the degree feasible. The sound barrier shall consist of a plywood fence in the portion located on the Pier and chain link with plastic slats or screening along the remainder of the construction area's perimeter. The height of the fence in all locations shall be ten feet along the southern and western boundaries, where the wall shall step down from the Pier deck to the first level immediately adjacent to the access stairs, and shall be eight feet along the eastern and northern boundaries.
 - (b) A construction mitigation plan shall be submitted to the City to minimize interruption of beach activities, including the use of the bicycle path, emergency access, and public access to the beach and the Pier. Details of this plan shall be approved by the City's Open Space Management Division, Transportation Management Division, Environmental and Public Works Management Division, Planning Division and Economic Development Division and shall at a minimum include the following:

- A construction fence shall be erected around the project site along the lease lines and staging areas and including up to 1/3 of the width of the steps located immediately west of the project site, which may be included in the construction site. The other 2/3 of the width of the steps shall remain open and unobstructed for public use at all times. Such fence shall include portals for viewing at eye level and the plywood fence to be installed along the south elevation shall be decorated with a beach, ocean or amusement park theme on all sides. All decoration shall be approved by the Pier Restoration Corporation. This fence shall serve as both a temporary screening device to reduce the visual distraction associated with construction activities and equipment and as a barrier for public safety and security purposes.
- All work shall be staged from the beach level and not the Pier deck. Equipment shall not be brought onto the Pier deck at any time. The City Environmental and Public Works Management Division may allow the contractor to work outside of the southern construction fence boundary on or below the Pier deck if such activity is deemed necessary to complete work to improve/repair the Pier sub-structure. The project contractor shall be thoroughly informed of the weight and time limits on the Pier deck and that all off-loading of construction materials be done from the 1550 PCH parking lot to minimize disruption of regular Pier activities (i.e., pedestrian access, vehicular circulation, operation of commercial uses on the Pier).
- The staging area shall be located on the beach to the north of the site. No construction materials or equipment may be placed directly on the sand. The applicant may use the existing wood deck on the beach. If this area is insufficient to accommodate all materials, the applicant shall be required to install additional wood deck area on the sand. Prior to issuance of a Certificate of Occupancy, all preexisting deck materials shall be replaced so that the deck and pedestrian path are restored at the same location and in the same condition as they were prior to the demolition of the Boathouse building. Notwithstanding the above, the applicant shall install the path with a new design/location if requested to do so by the City, which shall be cost-equivalent to the replacement in-kind of the path.
- A temporary pedestrian path as shown on the applicant's proposed mitigation plan shall be constructed north of the staging area to connect the parking lot, beach and steps west of the site leading to the Pier deck with the approval of the Open Space Management Division and relevant State department(s). This path shall be removed when the existing pedestrian path is replaced prior to issuance of a Certificate of Occupancy.
- Fire lanes to the east of the site shall not be blocked by construction equipment at any time. Construction equipment shall not be permitted to be parked on the beach parking lots at any time.
- The Santa Monica Pier sign located north of the project site over the pedestrian walk shall remain in its current location during construction and shall be wrapped within a solid frame to protect it from damage to the satisfaction of the City of Santa Monica City Planning and Community Development Department. City Planning and Community Development Department staff shall verify that the sign is intact and in good condition prior to issuance of a Certificate of Occupancy.
- Signage for public convenience shall be posted as deemed necessary by the City.
- After 9:00 A.M. Monday through Saturday, equipment shall only be allowed to be moved across the bike path five times daily for a maximum of two minutes per interruption.
- All required permits shall be obtained from Los Angeles County authorities prior to any interruption to the bike path.
- Movement of equipment across the bike path shall require intermittent traffic control at the applicant's expense, subject to determination by the City's Police Department.

(c) Consistent with the Secretary of the Interior's Standards, the proposed project development on and adjacent to the Santa Monica Pier shall be differentiated from the old structure and shall be

compatible with the historic materials, size, scale, proportions, massing, context, design, color, and texture of the Pier and its environment. In addition, the new building shall retain the same orientation as the prevailing buildings in relationship to the Santa Monica Pier; that is, the front of the building shall face south and the rear of the building shall face north.

58. If any archaeological remains are uncovered during excavation or construction, work in the affected area shall be suspended and a recognized specialist shall be contacted to conduct a survey of the affected area at project's owner's expense. A determination shall then be made by the Director of Planning to determine the significance of the survey findings and appropriate actions and requirements, if any, to address such findings.
59. Mechanical equipment may be located on the rooftop only when it is installed within a sound-rated parapet enclosure.
60. Final approval of any mechanical equipment installation will require a noise test in compliance with SMMC section 4.12.040. Equipment for the test shall be provided by the owner or contractor and the test shall be conducted by the owner or contractor. A copy of the noise test results on mechanical equipment shall be submitted to the Community Noise officer for review to ensure that noise levels do not exceed maximum allowable levels for the applicable noise zone.
61. Final building plans submitted for approval of a building permit shall include on the plans a list of all permanent mechanical equipment to be placed outdoors and all permanent mechanical equipment to be placed indoors which may be heard outdoors.
62. The doors to the retail area on the east elevation of the structure shall be kept open during all hours of the restaurant's operation to allow direct access from the Pier.
63. Prior to issuance of Building Permits, the plans shall be amended to add an elevator door on the exterior of the building at beach level in addition to interior access.
64. Prior to issuance of Building Permits, the project plans shall be amended consistent with the applicant's proposal to reflect that the restaurant's elevator is available for public access during all hours of the restaurant's operation. The signage shall indicate that exterior access is available during daytime hours only.
65. Prior to issuance of Building Permits, the south elevation of the project plans shall be amended consistent with the applicant's proposal to reflect that a public notice board will be installed, subject to Landmarks Commission approval, that will display announcements and news to the public regarding activities on the Pier and at other City locations. Said notice board shall be maintained and updated on a regular basis.

Monitoring of Conditions

66. Pursuant to the requirements of Public Resources Code Section 21081.6, the City Planning Division will coordinate a monitoring and reporting program regarding any required changes to the project made in conjunction with project approval and any conditions of approval, including those conditions intended to mitigate or avoid significant effects on the environment. This program shall include, but is not limited to, ensuring that the Planning Division itself and other City divisions and departments such as the Building Division, the Environmental and Public Works Management Department, the Fire Department, the Police Department, the Community and Economic Development Department and the Finance Department are aware of project requirements which must be satisfied prior to issuance of a Building Permit, Certificate of Occupancy, or other permit, and that other responsible agencies are also informed of conditions relating to their responsibilities. Project owner shall demonstrate compliance with conditions of

approval in a written report submitted to the Planning Director and Building Officer prior to issuance of a Building Permit or Certificate of Occupancy, and, as applicable, provide periodic reports regarding compliance with such conditions.

Certification of Environmental Impact Report 03-002 and Adoption of Statement of Overriding Considerations:

VOTE

Ayes: Feinstein, Genser, Holbrook, Katz, McKeown, O'Connor, Mayor Bloom
Nays: None
Abstain: None
Absent: None

Approval of 02DR-008, 02CUP-011 and 02RPP-001:

VOTE

Ayes: Feinstein, Genser, Holbrook, Katz, McKeown, O'Connor, Mayor Bloom
Nays: None
Abstain: None
Absent: None

NOTICE

If this is a final decision not subject to further appeal under the City of Santa Monica Comprehensive and Zoning Ordinance, the time within which judicial review of this decision must be sought is governed by Code of Civil Procedures Section 1094.6, which provision has been adopted by the City pursuant to Municipal Code Section 1.16.010.

I hereby certify that this Statement of Official Action accurately reflects the final determination of the City Council of the City of Santa Monica.

MARIA M. STEWART, City Clerk

Date

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JAN 26 '00 08:55AM ADLIN CONSTRUCTION



January 26, 2004

Howard Laks
Howard Laks Assoc. Architects
1545 Twelfth Street
Santa Monica, CA 90401

RE: Bubba Gump - Santa Monica Pier

Dear Howard:

Regarding your question about the possibility of reducing the staging area footprint, as currently approved the staging area is 120' x 91'. Within this area we need to fit one (1) office trailer that is 8' x 40', five (5) storage containers that are 8' x 40'; 1 for the plumber, 1 for the electrician, 1 for HVAC, 1 for Adlin, 1 for finish carpentry and framing contractor, plus 10 to 15 working services trucks for subcontractors. Then we will still need room for delivery trucks that could reach up to 66 feet long including their trailers. As you can see, the space allocated barely makes it.

With regard to reducing the staging area once framing is complete will not work either due to the fact that all the above will need to be there until two weeks before opening. All finish materials; kitchen equipment, booths, tables, chairs, etc. get delivered on large trucks that will have a total length of 66' +/- . We have to get these trucks into our staging area, unload them and then back them out.

As you can see, in reality, we would like the staging area to be larger but reducing it at any time during construction is not an option.

Sincerely,

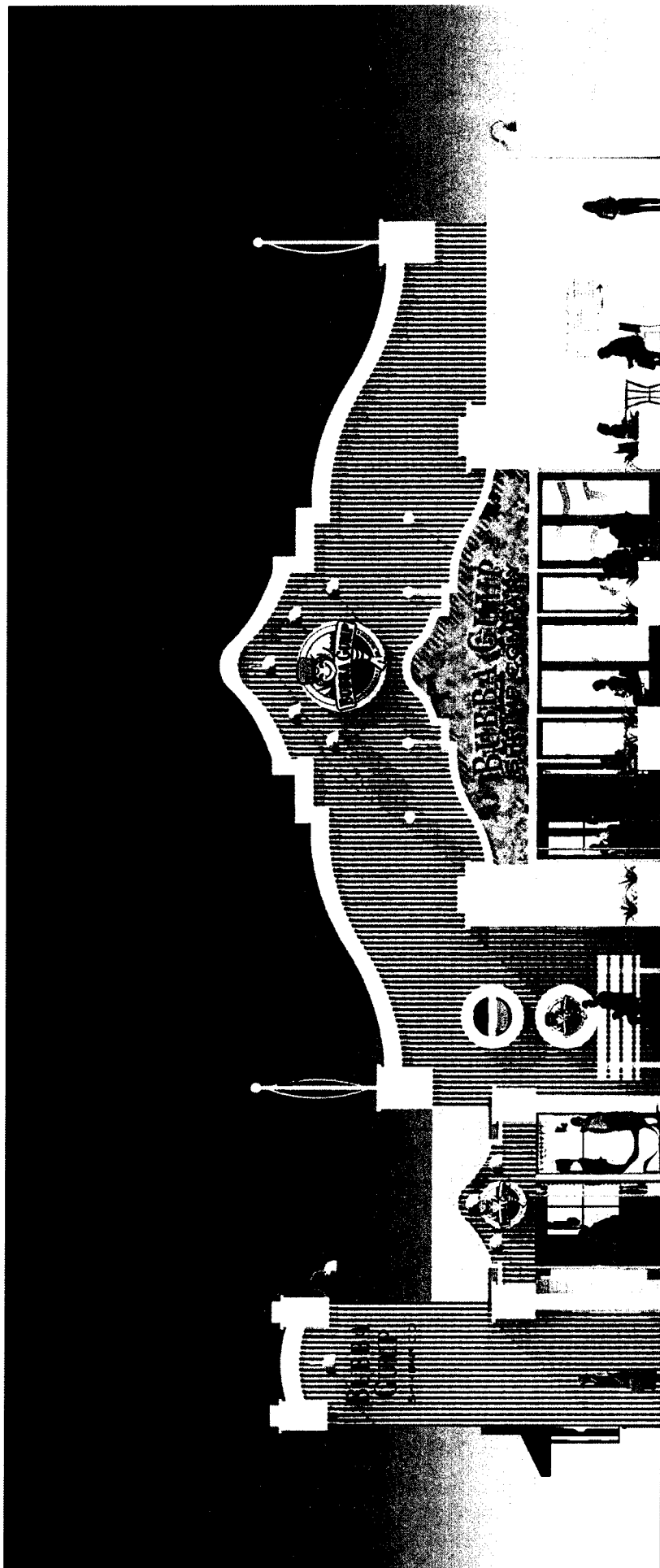
Kevin R. Walker
President

KRW:sg

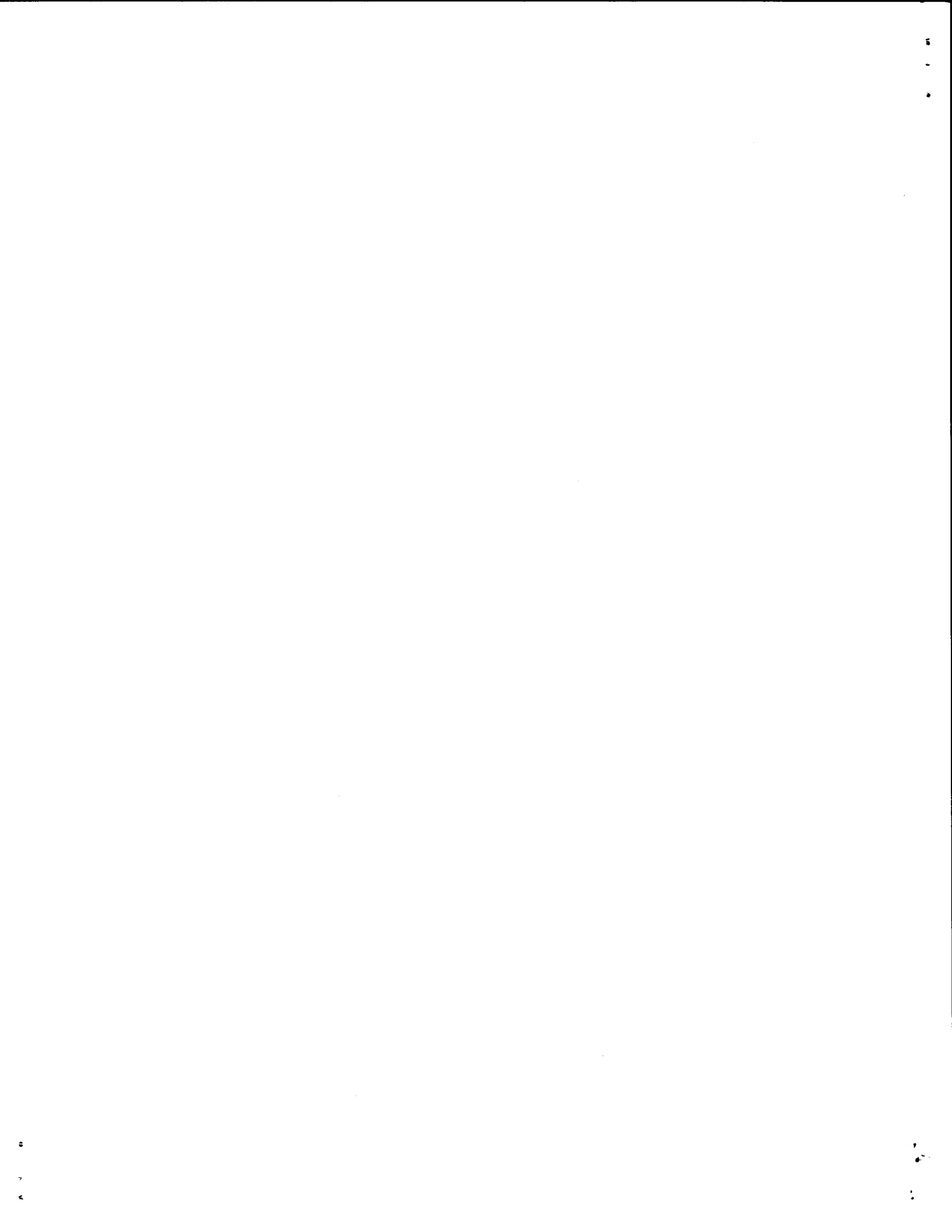
cc: Scott Barnett
Ted McWhorter

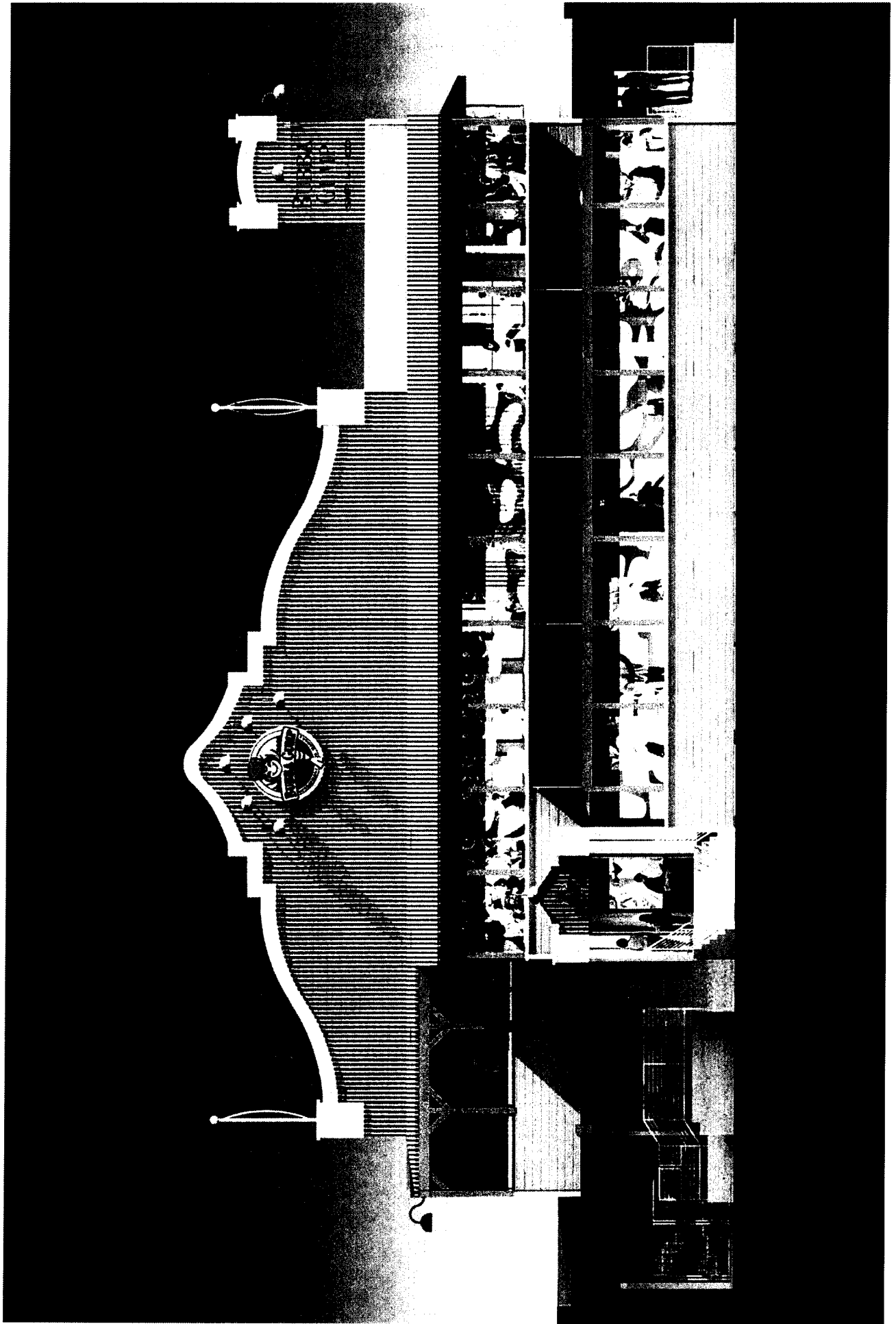
EXHIBIT NO. 8
APPLICATION NO. 5-03-402
Contractor Letter

Exhibit 9
S-03-4102



BIBBA





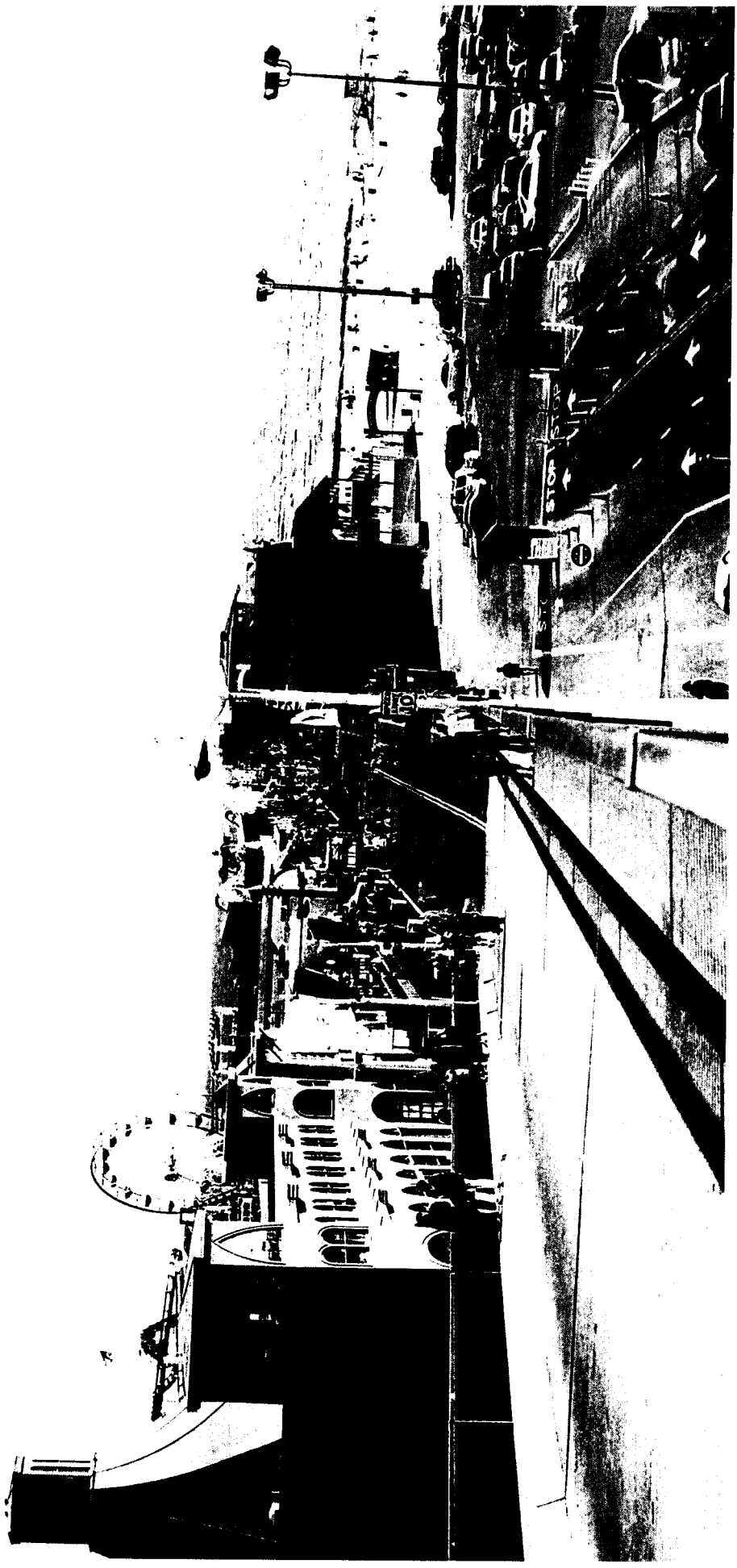
Pa 2





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