

CALIFORNIA COASTAL COMMISSION

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**W8b**

Filed: 08/11/03
49 day waiver: 08/14/03
Staff: M. Watson
Previous Commission Action and Dates
SI and Project Denied 4/15/04

RECORD PACKET COPY

Revised Findings
Revised Findings Staff report: 05/20/04
Revised Findings Hearing date: 06/09/04

APPEAL STAFF REPORT -REVISED FINDINGS

Appeal number A-3-MRB-03-081, Reddell
Applicants Dan Reddell
Appellants George Contento
Local government City of Morro Bay
Local decision On May 19, 2003, the Planning Commission approved with conditions an application for a lot line adjustment, conditional use permit, and coastal development permit to construct a three and four story mixed use building along the bluffs at 215 Harbor Street. The Planning Commission's decision was appealed on July 3, 2003 and subsequently upheld by the City Council on July 28, 2003.
Project location 215 Harbor Street, Morro Bay, San Luis Obispo County (APN: 066-291-013). See Exhibit 1.
Project description As approved by the City of Morro Bay, the project involves adjusting the lot line of six existing parcels totaling 17,182 square feet and construction of a three and four story mixed use building on the reconfigured lots, resulting in six new visitor-serving commercial uses on the ground floor totaling 5,133 square feet and six single-family residences with garages totaling 17,549 square feet on the upper floors for a total of 22,682 square feet.
File documents City of Morro Bay Permit Numbers TTM 02-02, CUP 08-02, and CDP 35-02R; January 26, 2003 Initial Study and Draft Mitigated Negative Declaration; and the City of Morro Bay certified Local Coastal Program.
Commissioner's on prevailing side: Burke, Iseman, Kruer, Nava, Nichols, Allgood, Potter, Wan, Wooley, Reilly



California Coastal Commission
June 9, 2004 Meeting in San Pedro

Staff: M. Watson Approved by: *MW*

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 2

Staff note: The Coastal Commission found substantial issue and denied this proposed project after public hearing on April 15, 2004 by a vote of 10-0. Because the staff recommendation had been for approval with conditions, this report contains revised findings reflecting the Commission's action. For this same reason, the findings have been modified throughout from the previous version of the staff report, including changes to the visitor serving priorities, community character, visual resources, parking, and bluff development findings.

Synopsis of the Coastal Commission's April 15, 2004 action: The Applicant's proposed project raised a substantial issue with respect to the certified LCP public viewshed, neighborhood compatibility, primary zoning, parking, and blufftop development policies. The Commission generally concluded that the scale of the proposed project was too large and generally inconsistent with the small town fishing character of Morro Bay and the Embarcadero. The mixed-use project was skewed too far in favor of residential development for a commercially zoned site. Excessive massing would obstruct significant coastal views of Morro Bay and Morro Rock. Parking was inadequate to serve the commercial aspects of the project and the proposed parking in-lieu fee was insufficient to offset the required parking. After public hearing, the Coastal Commission denied the Applicant's proposed project by a 10-0 vote.

Staff Report Contents

1. Staff Recommendation on Revised Findings.....	2
Recommended De Novo Findings and Declarations	3
2. De Novo Coastal Permit Findings	3
A. Visitor Serving Priorities.....	3
B. Community Character	8
C. Visual Resources	11
D. Parking.....	14
E. Bluff Development	16
3. California Environmental Quality Act (CEQA)	19

Exhibits

- Exhibit 1: Project Location Map
- Exhibit 4: Current Project Plans, Elevations, Lot Configuration
- Exhibit 5: Photos of Surrounding Area
- Exhibit 6: Bluff Alignment: Topography Map

1. Staff Recommendation on Revised Findings

Staff recommends that the Commission adopt the following revised findings in support of its denial of a



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 3

coastal development permit for the proposed development on April 15, 2004.

Motion. I move that the Commission adopt the revised findings in support of the Commission's action on April 15, 2004 denying the development proposed under appeal number A-3-MRB-03-081 pursuant to the staff recommendation.

Staff Recommendation of Adoption. Staff recommends a **YES** vote. Passage of this motion will result in adoption of the revised findings as set forth in this report. The motion requires a majority vote of the members from the prevailing side present at the April 15, 2004 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Burke, Iseman, Kruer, Nava, Nichols, Allgood, Potter, Wan, Woolley, and Reilly. If the motion fails, the revised findings are postponed to a later meeting.

Resolution. The Commission hereby adopts the findings set forth below for denial of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on April 15, 2004 and accurately reflect reasons for it.

Recommended De Novo Findings and Declarations

The Commission finds and declares as follows:

2. De Novo Coastal Permit Findings

By finding a substantial issue in terms of the project's conformance with the certified LCP, the Commission takes jurisdiction over the CDP for the proposed project. The standard of review for this CDP determination is the City LCP and the Coastal Act access and recreation policies. The substantial issue findings above, including all citations and analysis, are incorporated directly herein.

A. Visitor Serving Priorities

The City's certified zoning standards detail specific uses and guidelines for development within visitor serving commercial (C-VS), Planned Development (PD), and Special Design Criteria (S.4) overlay zones. Those policies state:

17.24.120 Visitor-serving commercial (C-VS) district.

Purpose. The purpose of the visitor-serving commercial (C-VS) district is to provide a district for commercial uses intended primarily to serve the needs of tourists and other visitors to the city and not to include commercial uses of a more general nature which are oriented towards residents. Uses in this tourist-oriented district shall also provide for landscaping and related aesthetic improvements which create and enhance the visual attractiveness of the city.



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 4

Table 17.24.120 (I)

Unless otherwise designated, the following uses, or other uses which are found to be similar and consistent with the general plan and local coastal plan may be allowed with the appropriate permits and licenses:

A single apartment unit or security quarters only when secondary to permitted commercial uses and on the rear one-half of a lot or upper story.

17.40.030 Planned development, (PD) overlay zone.

A. Purpose. The purpose of the planned development (PD) overlay zone, is to provide for detailed and substantial analysis of development on parcels which, because of location, size or public ownership, warrant special review. This overlay zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit.

D. General Development Standards. The standards for development within a PD overlay zone shall be those of the base zoning district, provided however, that standards may be modified by the planning commission or city council as they relate to: building heights; yard requirements; and minimum lot area for dwelling units in the density range provided that any specific design criteria of the general plan and coastal land use plan, applicable to the property, is not exceeded. For those areas of the city which are covered by the waterfront master plan, all new development projects requiring discretionary permits (conditional use permits, etc.) shall be consistent with the design guidelines contained in Chapter 5 of the waterfront master plan. Modifications of standards shall only be approved upon a finding that greater than normal public benefits may be achieved by such deviations. Such benefits may include, but are not limited to improved or innovative site and architectural design, greater public or private usable open space and provisions of housing for the elderly or low/moderate income families, provision of extraordinary public access, provision for protecting environmentally sensitive habitat (ESH) areas, but in all cases these provisions shall meet the coastal land use policies.

17.40.050 Special treatment (S) overlay zone.

G. S.4 Special Design Criteria Overlay Zone. In order to maintain and enhance the character and visual quality of these areas, special design review has been found to be necessary. Applications for development shall include (as appropriate) submittal of architectural, landscaping, lighting, signing and viewshed plans for review and approval.

Analysis

The development site is zoned C-VS with a planned development (PD) and special design criteria (S.4) district overlay. The primary purpose of the C-VS zoning as defined in the certified LCP is to provide uses that serve the needs of tourists and other visitors to the City and not to include uses of a more general nature that are oriented towards residents. Mixed-use development such as that proposed here may also be allowed with a conditional use permit. Table 17.24.120 (I) of the certified zoning establishes



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 5

that a single apartment unit or security quarters may be allowed only when secondary to permitted commercial uses and located on the rear one-half of the lot or upper story.

In this particular case, the approved project adjusts lot lines to create 6 modest building sites (2,200 – 3,665 square feet) with 6 commercial establishments on the ground floor of the building (615 – 1,520 square feet) and 6 single-family residential units on the second, third, and fourth floors (1,650 – 3,650 square feet). The total amount of floor area space dedicated to visitor-serving commercial uses is 5,135 square feet or roughly (23%) of the total enclosed building area. Roughly 14,405 square feet is dedicated to residential living space and another 3,150 square feet for enclosed residential garages. There is also more than 2,250 square feet of residential balconies, porches, walks, and decks proposed. Though there are not any specific size limits for residential units in the C-VS district, the current ratio of residential to commercial use is more than 3:1. Gross structural coverage attributed to the residential use approaches 79%. Table 1 provides a breakdown of the approved development (floor area space) by use.

The applicant maintains that the project's retail space compares favorably with other retail establishments along the Embarcadero and that all the residential uses are located on the upper floors and thus secondary to commercial uses. The project adds more than 5,000 square feet of new retail space to the waterfront, a multitude of public benefits, while also providing six single-family residences. Applicant further notes that the project will provide shopping, dining, and other amenities that will enliven the visitor experience and compliment nearby hotels.

TABLE 1: FLOOR AREA (SQ. FT.) BY USE

	LOT SIZE	COMMERCIAL FLOOR AREA	RESIDENTIAL FLOOR AREA	RES + GARAGE	TOTAL
UNIT A	3,667	887	3,102	3,651	4,538
UNIT B	2,902	1,522	2,680	3,220	4,744
UNIT C	2,262	706	1,651	2,191	2,897
UNIT D	2,951	740	2,409	2,949	3,689
UNIT E	2,200	664	2,167	2,659	3,323
UNIT F	3,200	614	2,396	2,879	3,493
TOTAL	17,182	5,133	14,405	17,549	22,684
		23%		77%	



Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 6

From the data provided in Table 1, the City-approved development is not consistent with the underlying zoning standard identified in Table 17.24.120 (I) that allows a single apartment unit or security quarters only when secondary to permitted commercial uses and [located] on the rear one-half of a lot or upper story. Applicant suggests that establishing secondary uses is as simple as determining that all uses will be located on the second floor. The applicant fails to observe that the standard has two criteria and clearly states the residential use must be secondary and located on the rear one-half of the lot or upper story, indicating that secondary implies some additional limitation on residential use. The descriptive terms "single apartment unit" or "security quarter" also imply a small residential unit. Secondary uses as it is interpreted within the context of the entire standard, implies that they are inferior or subordinate to primary uses. Clearly, based on floor area alone, the residential use is not subordinate to the commercial use. Similarly, with respect to height and massing, the residential uses are not subordinate. Even with respect to provision of off-street parking, the residential uses are not subordinate to the visitor-serving commercial aspects of the project.

The City's findings and approval was based largely on the conclusion that the residential uses were secondary because they could not be accessed from the ground floor along the primary elevations. Though a review of the project plans suggest that at least a portion of one residential unit and the enclosed residential parking garages will be located at grade. Ingress and egress will be accessed from Magilside Drive and Harbor Street (primary) elevations. The LCP standard requires that residential units be located on the rear one-half of the lot or on the upper story. In this case, the applicant has designed a project that does both.

Finally, the certified zoning allows a single apartment unit or security quarters to be permitted with a conditional use permit. It is, however, a stretch to conclude that the proposed residential units are similar to "single apartment units" or "security quarters." *Averaging* at just under 2,925 square feet, the residential units with garages are fairly large single-family residences by Morro Bay standards, where the average size home is 1,949 square feet.

The development site is also located in a planned development (PD) district overlay affording it modification or exemption from the development standards of the primary zone if it would result in a better design or other public benefit. Section 17.40.030 D of the zoning provides for modification of building heights, yard requirements, and minimum lot area. Modifications of these standards can only be approved upon a finding that greater than normal public benefits may be achieved by such deviations. Examples of those benefits include: innovative site and architectural design, greater public or private usable open space, provision of housing for low income families and the elderly, provision of extraordinary public access and protection of environmentally sensitive habitat.

The City's approval includes an exemption from the 30' height limit for development within the visitor-serving commercial zone. In justifying the need to invoke the PD exemptions, the City found that the project provided an opportunity to master plan six parcels at once and obtain all of the street frontage improvements at the same time. The City also cited the project's site design and creative architecture, agreement to underground utilities, as well as an opportunity to advance community goals promoting mixed-use development that it believes will draw tourists from the Embarcadero to the downtown area.



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 7

The City's approval does not, however, demonstrate that the exemptions will result in greater than normal public benefits. For example, the identified public benefits include:

1. Improved public access by providing ADA accessible sidewalks and six street-level visitor serving retail shops with terraced mini-plazas.
2. Creation of a welcoming corridor between downtown Morro Bay and the waterfront. Harbor Street provides a direct link to the downtown. The idea is that the six retail shops will create a point of interest that draws persons up the hill and eventually to the downtown area.
3. An enlivened pedestrian experience.
4. Project revitalizes the neighborhood.
5. Establishing a strong visual connection between the downtown and the waterfront. The applicant claims the project will restore and enhance the visual quality in a visually degraded area.
6. Architectural Interest. The three and four story buildings step up the hill proportionate with the hillside corner itself. Scale of the buildings are minimized and made interesting through variations in depth and height, pop-outs, extensive use of windows.

As noted above, these improvements may, in fact, benefit the public, but they do not appear to constitute greater than normal public benefits and could be expected to be required of any proposal. With respect to creating a welcoming corridor to the downtown, Staff notes that the heart of the downtown is three to four blocks east of the development site with little draw for visiting tourists. The real attraction in Morro Bay is the working harbor of the Embarcadero and the visitor serving restaurants and retail shops along the waterfront. Staff also notes that the project site is zoned for visitor serving commercial and thus, the provision of commercial development, in and of itself, does not represent a greater than normal public benefit. With respect to revitalizing the neighborhood, the proposed building site has been dormant for some time and thus, the City-approved development will help to revitalize the area. However, the proposed project would do more to revive the City's revenue stream if more of the proposed development were devoted more toward visitor serving commercial uses as opposed to residential uses. Further, Staff disagrees with the applicant's characterization of the bluffs. The proposed development site is located at the southern end of an unbroken natural bluff designated as highly scenic in the certified LCP. Construction of the project, as proposed, will obstruct significant coastal views to Morro Rock and Morro Bay and further degrade the visual quality of the bluff site. The proposed architectural design is interesting, though the approved residences are not low cost and the exemptions are not necessary to protect public access or sensitive habitats. The project will provide open space (albeit paved), but the architectural design conflicts with other LCP resource protection requirements by blocking coastal views, and introducing a design and intensity of use that is not compatible with surrounding development or the character of the bluff setting.

As approved by the City, the proposed development is inconsistent with the underlying zoning standards of the LCP and a substantial revision of the project plans will be necessary to bring the project into



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development
Page 8

conformance with the certified LCP. These revisions are beyond the scope of the Commission's ability to redesign the project for the applicant, but if undertaken by the applicant, should include/require a more even balance between primary and secondary uses, address the overall height of the building, and limit the number of vertical stories on the primary elevations to ensure the project is consistent with the standards identified in the underlying visitor serving commercial zoning.

Accordingly, based on the findings discussed above, the project cannot be found consistent with the certified LCP policies and the project is denied.

B. Community Character

The LCP acknowledges the need of the City to preserve the unique character of its varied neighborhoods and to create a higher quality visual environment within them. The certified land use plan states,

Among some of the issues that predicate the establishment of policy to preserve neighborhood character are the following:

- (a) New residences and new residential additions are often out of scale and character with the residences in the vicinity,*
- (b) the current allowable height and bulk for residential development is not appropriate for some portions of the community. Such buildings would in many cases block important views and conflict with the character of individual neighborhoods.*

The LCP identifies 3 neighborhoods as primary candidates for protection of neighborhood character, including the Embarcadero.

Development of waterfront areas along the Embarcadero, as well as along the bluffs above the waterfront is an integral part of the views of the bay and Morro Rock and the views from this area should be enhanced.

The LCP policies applicable to this project require new development to be compatible with character of the surroundings by maintaining size, scale, and height relationships with existing development in the area. Those policies state in part:

Land Use Plan Policy 12.01

Permitted development shall be ... visually compatible with the character of surrounding areas.

Land Use Plan Policy 12.02

Permitted development shall be sited and designed to ...be visually compatible with the surrounding area. Specific design criteria shall be established for the following areas:



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 9

a. *The Embarcadero*

The criteria shall include the following specific requirements and shall be applied to proposed projects on a case by case basis during architectural review:

a. *Building height/bulk relationship compatible with existing surrounding uses;*

Land Use Plan Policy 12.06

New development in areas designated on Figure 31 as having visual significance shall include as appropriate the following:

a. *Height/bulk relationships compatible with the character of surrounding areas or compatible with neighborhoods or special communities which, because of their unique characteristics, are popular visit destination points for recreation uses.*

17.45.010 Bluff Development Standards: Purpose

Regulations and performance standards are herein specified to regulate development on coastal bluffs for the following purposes:

A. *Protect Public Views. To protect public views to and along the ocean and scenic coastal areas, maintain the character of the bluff setting...*

D. *Geographic Features. To maintain the unique geographic features of the bluffs and ensure development is subordinate to the character and form of the coastal bluff areas.*

17.45.040 Bluff Development Standards.

In addition to the primary base zoning district, and suffix zones, combining districts, specific plan requirements, the following standards shall apply within the bluff buffer area for development on coastal bluff properties:

C. *Permitted Development. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas, and shall be subordinate to the character of the setting.*

17.48.190 General Regulations

New development may be permitted only if the siting and design meet the following standards:

C. *Compatibility: the development is visually compatible with the character of the surrounding area and any design themes adopted for the area by the city.*

E. *Scenic area standards: in highly scenic areas, as depicted in the Morro Bay coastal land use plan/coastal element, the following additional standards shall also apply:*



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 10

1. *Character: the proposed development shall be subordinate in character to its surroundings.*
2. *Height/bulk: the height/bulk relationships in the development shall be compatible with the surrounding area.*

Analysis

The LCP policies above were adopted to protect the unique character and small town atmosphere of the City of Morro Bay. The town is made special by the style and character of development along the Embarcadero and the City's waterfront. In particular, the surrounding district is primarily characterized by elements of its commercial fishing roots and the visitor-serving shops, restaurants, and hotels that cater to thousands of out-of-town visitors annually. Development in the area adjacent to the project site tends to be a mix of residential and visitor-serving commercial uses, one and two stories in height. Building size and mass is largely defined by the underlying zoning standards, the location of the development (i.e., waterfront, blufftop, etc.), and the City's goals to preserve the character of the Embarcadero.

As noted in the adopted substantial issue findings and incorporated by reference into this portion of the staff recommendation, development of the bluffs north of the project site is limited to the blufftop with the natural landform of the bluff face unaltered. South of the project site, development is generally more intensive and follows the contour of the land stepping down the bluff. The Market Street frontage is characterized by single story development, such that existing views to and along the bay and Morro Rock are maintained. Please see Exhibit 5. At the toe of the bluff (Front Street), buildings often have multiple stories but are limited to less than 30 feet in height. Existing development along Harbor Street is currently limited to two stories or less.

The proposed project is an architecturally thoughtful design incorporating the use of numerous building offsets, appendages, and fenestrations to create patios, balconies, and walkways that break up mass. Unfortunately, the proposed development is still quite large and, in fact, much larger in size, scale, and height than all other existing development along the bluffs. As approved by the City, the commercial/residential mixed-use building is 2-stories in height along Magilside Drive, 3-stories along Market Street, 3 and 4-stories along Harbor Street, and 3-stories in height along Front Street. Overall building height is 24' at the north elevation (Magilside Drive), 34' at the east elevation (Market Street), 42' at the south elevation (Harbor Street) and 36' at the west elevation (Front Street). Structural development covers nearly 60% of the roughly 17,200 square foot site and non-structural impervious surfaces cover the balance of the site. Although the project will be constructed over 6 individual lots, the dwellings share common walls and the building appears to be one large structure -150' long x 82' wide. The height and mass of the approved project exceeds the height/bulk relationships of adjacent development and certainly is not subordinate to the character of the bluff setting at this location. This structure will loom over existing development and become the dominant feature of the site. As a result, the three and four story mixed-use structure is inconsistent with the certified LCP policies protecting the unique character of the Morro Bay's Embarcadero and surroundings.



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development
Page 11

As discussed in the finding above, a substantial revision of the proposed mixed-use project is necessary to bring the project into conformance with the certified LCP policy. As the revisions pertain to the community character arguments raised above, the revised plans should ensure compatibility with surrounding development by designing a project that reflects the mass and height relationships of adjacent development and protects the character and form of the coastal bluffs.

However, as submitted, the proposed project is inconsistent with Land Use Plan policies 12.01, 12.02, and 12.06, as well as zoning standards 17.45.010, 7.45.040, and 17.48.190 of the City's certified LCP. Therefore, the project must be denied.

C. Visual Resources

The certified LCP characterizes the City's visual resources as "unique" and of "spectacular visual quality," including views of the bay, sandspit, Morro Rock, and a picturesque collection of fishing and recreational boats. The site of the proposed development is on the western bluffs directly above the waterfront in the Embarcadero. The Embarcadero, as defined by LUP policy 2.03, is the area located between Beach Street on the north, Main Street on the east, Olive Street on the south, and the waterfront to the west. The LCP notes that the City should "conspicuously seek to take better advantage of its visual qualities while attempting to restore and repair damage done to those qualities. To achieve these goals, the City's certified LCP policies detail specific public viewshed protections, which state, in part:

Policy 12.01

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 and 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 on Figure 31, shall be subordinate to the character of its setting.

Policy 12.02

Permitted development shall be sited and designed to protect views to and along the coast and designated scenic areas and shall be visually compatible with the surrounding area. Specific design criteria shall be established for the following areas:

- a. The Embarcadero (as defined in Policy 2.03)*
- b. Downtown Commercial area.*

The criteria shall include the following specific requirements and shall be applied to proposed projects on a case by case basis during architectural review:

- a. Building height/bulk relationship compatible with existing surrounding uses;*
- b. Landscaping to restore and enhance visually degraded areas using native and drought resistant plant and tree species;*



Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 12

- c. Preservation and enhancement of views of the ocean, bay, sandspit and Morro Rock;*
- d. Any other requirements applicable from Coastal Commission conceptual approval of the Urban Waterfront Restoration Plan.*

Policy 12.06

New development in areas designated on Figure 31 as having visual significance shall include as appropriate the following:

- a. Height/bulk relationships compatible with the character of surrounding areas or compatible with neighborhoods or special communities which, because of their unique characteristics, are popular visit destination points for recreation uses.*
- b. Designation of land for parks and open space in new developments which because of their location are popular visitor destination points for recreation uses.*
- c. View easements or corridors designed to protect views to and along the ocean and scenic and coastal areas.*

17.48.190 General Regulations: Protection of visual resources and compatible design.

New development shall project and, where feasible, enhance the visual quality of the surrounding area. New development may be permitted only if the siting and design meet the following standards:

- A. Protection of public views: significant public views to and along the coast are protected.*
- B. Natural landform protection: alterations to natural landforms are minimized.*
- C. Compatibility: the development is visually compatible with the character of the surrounding area and any design themes adopted for the area by the city.*
- D. Visual quality: restores and enhances visual quality in visually degraded areas.*
- E. Scenic area standards: in highly scenic areas, as depicted in the Morro Bay coastal land use plan/coastal element, the following additional standards shall also apply:*
 - 1. Character: the proposed development shall be subordinate in character to its surroundings.*
 - 2. Height/bulk: the height/bulk relationships in the development shall be compatible with the surrounding area.*
 - 3. Parks and open space: parks or open space shall be designated and incorporated into new developments.*
 - 4. View corridors: view corridors shall be incorporated into the development to protect significant public views to and along the shoreline and other scenic areas.*
 - 5. Landscaping: landscaping shall be provided to restore and enhance visually degraded areas using native, if feasible, and drought-resistant plant and tree species.*
 - 6. Preservation and enhancement: preservation and enhancement of views of the ocean, bay,*



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 13

sandspit and Morro Rock.

The City's certified LCP policies and standards require that new development be designed to protect and preserve public views to and along the coast and be visually compatible with, and subordinate to, the character of the surrounding area. This includes maintaining / preserving height and bulk relationships with existing development, preservation and enhancement of views of the ocean and bay, sand spit and rock, landscaping to enhance and restore visually degraded areas, and designation of land for parks and open space in new developments.

The project approved by the City is located on the bluffs overlooking the waterfront in an area defined as visually significant in the certified LCP. The project site is located at the south end of a natural bluff in the heart of the Embarcadero, the most visited part of the City. Development in the area adjacent to the project site, generally follows the contour of the land and steps down the bluff. Looking towards the coast from the Market Street frontage, existing development is single story in height preserving views to and along the Bay and Morro Rock. Looking up from the Embarcadero and Front Street, the bluff face is undeveloped north of Harbor Street. Existing development is located on the top of the bluff and mainly small scale residential in nature. See Exhibit 5.

Because the site rises up to approximately 40 feet above sea level, there are views down Harbor Street towards Morro Rock, Morro Bay, and the sand spit. The City's LUP describes Morro Rock as "the landmark of the community" and "the most significant visual feature of the area." Morro Bay and the Embarcadero in particular is *the* major tourist attraction of the community and a prime coastal visitor-serving destination with an estimated 1.5 million visitors annually.

South of Harbor Street across from the project site, the bluff is more extensively developed with visitor-serving commercial structures that are larger than those to the north. Development such as Dorn's Restaurant and the Blue Sail Inn appear large from the Front Street elevation, but maintain a single story façade along the top of the bluff (Market Street elevation). By stepping down the bluff, development is accommodated without creating an overly massive and imposing façade that blocks public views or diminishes the small town character of the Embarcadero.

Along its primary elevations, the mixed-use building is 3 - 4 stories and 32' - 42' in height, exceeding the 30' height standard of the primary zoning. It is the largest development (size and mass) of its kind along the Embarcadero. The floor area ratio (i.e., ratio of floor area to lot size) ranges from 109% to 163%. Gross structural area (i.e., floor area, garages, balconies, decks) is more than 2.5 times the size of the building footprint. See Table 1 in section A above. In terms of permanent public viewshed impacts, the proposed mixed-use development will block coastal views to Morro Rock, the bay and the sand spit. Along the Market Street (east) elevation, the proposed structure is twice the height than the existing structure on site that will be demolished as part of this project. Because of this, motorists, pedestrians, and bicyclists will lose a portion of the important public view along Harbor Street. Harbor Street provides an important link from the downtown to the central Embarcadero and affords dramatic views of Morro Rock from atop the bluff. Please see Exhibit 5.



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 14

The City approval of such a large structure at this location concluded that even if the building height were restricted to 14', views to Morro Rock and along the coast would be similarly blocked. However, that is not the case. Fourteen feet is the approximate height of the existing structure located on site. Photo simulations provided by the applicant demonstrate that significantly more of Morro Rock will be blocked from view by the proposed 35-foot Market Street façade than is currently blocked by the existing structure.

The certified LCP requires permitted development to be sited and designed to protect and enhance views to and along the coast and designated scenic areas. The policies regarding visual compatibility are designed to avoid excessively large structures that would have significant adverse impacts on the public views. In this instance, rather than designing to minimize visual impacts, the applicant has chosen to design a project that because of its size and scale does not minimize impacts but instead will block views to and along the coast. The Commission notes that maximum zoning standards (height, FAR, coverage, etc) are exactly that, maximums. Depending on site characteristics and other factors (i.e., topography, public view considerations, and development standards), building to zoning maximums may not be consistent with the other provisions of the LCP.

As proposed, the mixed use project cannot be found to be consistent with the visual resource policies 12.01, 12.02, and 12.06, as well as zoning standard 17.48.190 of the City's certified LCP. Therefore, the project must be denied.

D. Parking

The City's certified LCP policies provide standards for the provision of parking in all new development. Those policies state:

Policy 1.07A

In reviewing all new development requests, provision shall be made for adequate off-street parking in order to serve the needs of the development. Once an approved parking management program for the City providing off-street parking resources has been developed and implemented as part of the LUP, new development shall be allowed to satisfy parking requirements through participation in such a program. If the program includes an in-lieu fee system, the new development shall provide an in-lieu fee of an amount equal to the purchase of land and construction of the number of spaces needed to serve the development's needs.

Policy 2.08

In reviewing visitor-serving development in the Embarcadero as defined in Policy 2.03, the City shall find that provision of off-street parking is sufficient to serve the development's peak demands as defined in Phase III of the Local Coastal Program. Parking demands shall be satisfied by the provision of off-street facilities on the development site or within 300 feet. Once a parking management program for the Embarcadero has been developed which provides off-street parking resources, and such a program is implemented, applications for development shall be allowed to satisfy their peak parking demands through participation in the program. If the



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development
Page 15

program includes an in-lieu fee system, the applicant shall provide the City an in-lieu fee of an amount equal to the purchase of land and construction of the number of spaces needed to serve the development's peak needs. The City shall use the fees to provide for parking support in the Embarcadero.

As noted in the Background section above, the approved project includes 6 two-car garages -one for each residential unit, one handicapped-accessible parking space, and two resident guest spaces for a total of 15 parking spaces. Though the applicant has adequately fulfilled the parking requirement for the residential (secondary) use, it falls short of providing adequate parking for the commercial (primary) uses. The first floor of the project is dedicated to commercial uses with a parking requirement of one space for every 300 square feet (17.44.020), the total parking demand for the commercial component of the project would be 17 spaces (5,135 s.f. / 300 s.f. = 17 spaces). The approved project does not include any parking for the required commercial spaces and was not conditioned to include a fee in-lieu of the required parking.

The City's certified LCP includes policies and standards relating to the provision of off-street parking for all new development and calls for the creation and implementation of a parking management program that provides parking resources throughout the City. New development is allowed to satisfy parking requirements through participation in such a program and if the program includes an in-lieu fee system, the new development shall provide an in-lieu fee of an amount equal to the purchase of land and construction of the number of spaces needed to serve the development's needs. See policies 1.07A and 2.08. As proposed, the project falls short of providing adequate commercial parking spaces on site. Applicant responds by stating that the required commercial parking is provided through an in-lieu fee and that the City of Morro Bay has actively pursued additional parking. Though the city staff report discusses the use of an in-lieu fee to mitigate for the lack of parking, the approval did not include a condition requiring payment of the fee.

The City of Morro Bay does not have a parking management program and thus, a strict interpretation of the standard would require all new development to provide on-site parking, until and unless, the City developed and implemented a parking program. That being said, the City does actively collect parking in-lieu fees to help purchase available land and provide parking along the City's Embarcadero. In May 1997, the City designated use of parking in-lieu fees to make improvements at an existing 100-space parking lot on Front Street. After rehabilitation, the parking facility provided an additional 26 public parking spaces. In 2001, the City purchased a property that provides 40 parking spaces on the blufftop above the Embarcadero at a cost of \$501,330 for an average cost of \$12,500 per parking space. The City has also acquired property that is currently being used for parking but that was not paid with by funds from the parking in-lieu fee program. Parking in-lieu fee funds weren't use because the long-term use of the property is still in question. The property is located on the Embarcadero and is appraised at \$2.7 million, and it provides 60 short-term parking spaces at an average cost of \$45,000 per space. Based on the data provided by the City, since 1995 the parking in-lieu fee program has funded a total of 66 new parking spaces. Another 60 spaces have been provided with other funds. Over the same time period, the



Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 16

total number of parking spaces required as a condition of development and mitigated by in-lieu fee is 159.

With respect to the approved project, the City's findings identify a parking in-lieu fee as the most appropriate vehicle for mitigating the public parking requirement associated with the new development and estimates an in-lieu fee equal to \$4,000 per required parking space. Staff notes that the proposed in-lieu fee is 3 to 10 times less than the demonstrated cost of acquiring a parking space near the Embarcadero lending credence to the contention that the parking in-lieu fee is inadequate to fund acquisition of available lands and provide parking. Since 1995, the City has been able to provide only 66 of the required 159 parking spaces through its in-lieu fee program, although an additional 60 have been provided by using public funds. As the property values along the Embarcadero continue to increase and the availability of suitable properties to establish parking sites becomes more limited, it will be more difficult and expensive to acquire property solely for the purpose of providing parking. Accordingly, it is incumbent upon the applicant (and future development proposals) to design a project that provides sufficient on-site parking for both the commercial and residential aspects of the project.

As proposed, the project is inconsistent with the above referenced LCP policies and must be denied.

E. Bluff Development

Policy 1.25

New developments on bluff tops shall not exceed a height of 14 feet above the existing bluff top. In addition, new developments shall be designed in such a manner as to avoid alteration of bluff faces, and where feasible given physical constraints, shall be designed to step down bluff faces.

17.12.66 Bluff top edge.

"Bluff top edge" means the upper termination of a bluff. When the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes, the edge shall be defined as that point beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a step like feature at the top of the bluff face, the landward edge of the topmost riser shall constitute the bluff top edge.

17.12.172 Coastal bluff area.

"Coastal bluff area" means that area commencing either between:

- 1. The landward edge of the rocky or sandy portion of the beach or bay; or*
- 2. Immediately landward of the Embarcadero or Front Street, to the nearest street right-of-way. A coastal bluff consists of rock, sediment or soil resulting from erosion, faulting, folding or excavation of the land mass and having vertical relief of ten feet or more as measured from the toe of the bluff to the bluff edge.*



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 17

17.12.310 Height of building.

A. "Height of building" means the vertical distance from the average level of the highest and lowest portion of the lot covered by the building, as measured to the topmost point of the roof but not including ventilation stacks and chimneys under six feet in width or length.

B. When measuring the various levels on a lot to calculate the height, the grades in existence on the lot on January 1, 1986, shall be used; any fill added to the site since that date shall be deducted from present grade elevations and any areas cut since that date may be added to the present grade elevations when calculating the height limit.

17.45.010 Bluff Development Standards: Purpose

Regulations and performance standards are herein specified to regulate development on coastal bluffs for the following purposes:

A. Protect Public Views. To protect public views to and along the ocean and scenic coastal areas, maintain the character of the bluff setting, not impair but facilitate public access, address environmental concerns as provided in the general and local coastal plans.

B. Protect the Coastal Bluffs. To protect the coastal bluffs in the city from future development which may damage such bluffs, and in an effort to minimize the hazards to life and property.

C. Adverse Visual Impacts. To mitigate the potential for adverse visual impacts that can be created by blufftop development and to preserve existing public coastal views for the future enjoyment of the city's residents and visitors.

D. Geographic Features. To maintain the unique geographic features of the bluffs and ensure development is subordinate to the character and form of the coastal bluff areas.

17.45.040 Bluff Development Standards.

In addition to the primary base zoning district, and suffix zones, combining districts, specific plan requirements, the following standards shall apply within the bluff buffer area for development on coastal bluff properties:

B. New Development Located Within Fifty Feet Of The Bluff Edge. New development located within fifty feet of the bluff edge shall not exceed a height limit of fourteen feet; provided, however, that for peaked roofs (4 in 12 or greater pitch) and other architectural features, a height of up to seventeen feet may be permitted.

C. Permitted Development. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas, and shall be subordinate to the character of the setting. Development shall not impair but facilitate public access, environmental concerns, and public views as provided in the general and local coastal plans. Development shall be coordinated with existing or planned future public facilities.

Analysis



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 18

As noted in the findings above, the City relied upon the planned development (PD) designation to grant an exemption to the overall height and setbacks. The exemption in combination with other actions taken by the City, allowed it to approve a three and four-story building as consistent with a 14-foot height limit.

As defined in section 17.12.310, the height of the building is measured as the vertical distance from the average grade of the lot in existence on January 1, 1986 to the topmost point of the roof. In 1986, a large retaining wall was located along the southwestern property line elevating the topographic condition to approximately 38 feet above mean sea level. The wall collapsed during a rainstorm in March 1995 and the fill material behind it subsequently washed away. Since that time, the bluff has equilibrated to its current topographic condition, which in some areas is more than twenty feet below the height of the grade when the retaining wall existed. Relying solely on this standard as the City did, creates an unintended and very special benefit to the applicant, and one that is inconsistent with all the other policy direction of the LCP.

Applicant responds that the bluff had been fully developed in the past and the bluff features have been damaged beyond recognition by that past development. The zoning ordinance allows for new development within 50 feet of the bluff edge to have a 14-foot flat roof or 17-foot high, pitched roof. The project site does not have recognizable natural landforms and the proposed architecture will serve to restore the lines of the bluff. The project does not exceed the height limitation except for a small portion of the overall project that extends into the bluff top area by 10 feet.

The purpose of the City's bluff development standards as stated in Section 17.45 of the zoning ordinance are to protect public views and maintain the character of the bluff setting. New development must mitigate potential adverse visual impacts, maintain the unique geographical features of the bluffs, and ensure development is subordinate to the character of the bluff area. Section 17.45.040B states that new development within 50 feet of the bluff edge shall not exceed a height limit of fourteen feet, providing however, that for peaked roofs and other architectural features, a height of up to seventeen feet may be permitted. Where the City's approval ran into trouble was in its determination of the bluff edge. The City's approval assumed that the bluff edge was coterminous with the retaining wall that was in place in 1995 prior to collapse. The certified LCP standard, however, specifically establishes the bluff top edge based on existing on-the-ground conditions (§ 17.12.66). The City's findings stated that after the collapse of the retaining wall, the bluff feature was destroyed beyond recognition and that for lack of any identifiable geographic feature, the prior location of the wall would serve as the bluff edge.

Staff disagrees with the City's findings for a couple of reasons. First, it is clear from aerial photos that the bluff feature is intact at this location. Further, the City could have simply looked to the LCP for a definition of the bluff to aid in its determination. Section 17.12.172 states that a Coastal Bluff Area is the area immediately landward of the Embarcadero or Front Street to the nearest street right-of-way and having a vertical relief of ten feet or more as measured from the toe of the bluff to the bluff edge. The western edge of the proposed development site is located along Front Street and has a vertical relief of approximate twenty feet from its toe to the bluff edge. Secondly, section 17.12.66 provides the criteria for establishing the blufftop edge but was not referenced in the City's staff report. And lastly, staff



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

Harborview Mixed Use Development

Page 19

compared the existing topographical conditions with old State Tidelands Maps and USGS photo-rectified topographical maps and found that the existing bluff edge position follows the same or similar alignment as the historical (pre-development) bluff edge. By making a finding that the bluff had been destroyed and then assuming the bluff edge was coterminous with the prior retaining wall excluded a large portion of the development site from the bluff top development standards of the LCP.

As a result, the City-approved project is inconsistent with the certified LCP because it is based on the maximum allowable height of the underlying visitor serving commercial zone rather than the maximum height allowed by the bluff top development standards, and an improperly defined the bluff edge (i.e., the location of the now non-existent retaining wall) rather than a delineation based on existing topographic conditions. As such, the approval results in a structure that exceeds the blufftop development standards and is inconsistent with the blufftop development, visual resource, and general development standards of the certified LCP. The approved project is larger in size, scale, and height than all other existing development along the bluffs in the Embarcadero. It is more massive than all other structures and will block public views of Morro Rock and the Bay from both Harbor and Market streets.

As noted in the Community Character section above, the approved development is out of character with the bluff setting north of Harbor Street. Development in this location is confined to the blufftop and typically one and two-story in height. Buildings are set back from the bluff edge to minimize hazards and preserve the natural geologic features of the bluff face. By contrast, the City approved structure will essentially replace the bluff by covering the entire lot including the area of the bluff face and become the dominant feature of the site. South of Harbor Street, development occurs on the bluff face, but it is generally limited to two stories in height and 30 feet overall from existing grade. Based on the City's interpretation of the average grade and bluff edge location, the approved development rises more than 40 feet from existing grade along Front and Harbor Streets. The City's approval did not adequately evaluate the project's impacts on the character of the bluffs or the coastal fishing village roots that attracts many visitors to the Embarcadero. And though while the City approval establishing the average grade of the site may be consistent with an outmoded zoning standard, the approval is inconsistent with many other LCP standards including those established to define the bluff top edge and limit the height of blufftop development (§ 17.12.66 and 1745.040B).

Accordingly, the project must be denied.

3. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.



California Coastal Commission

Appeal A-3-MRB-03-081 Staff Report

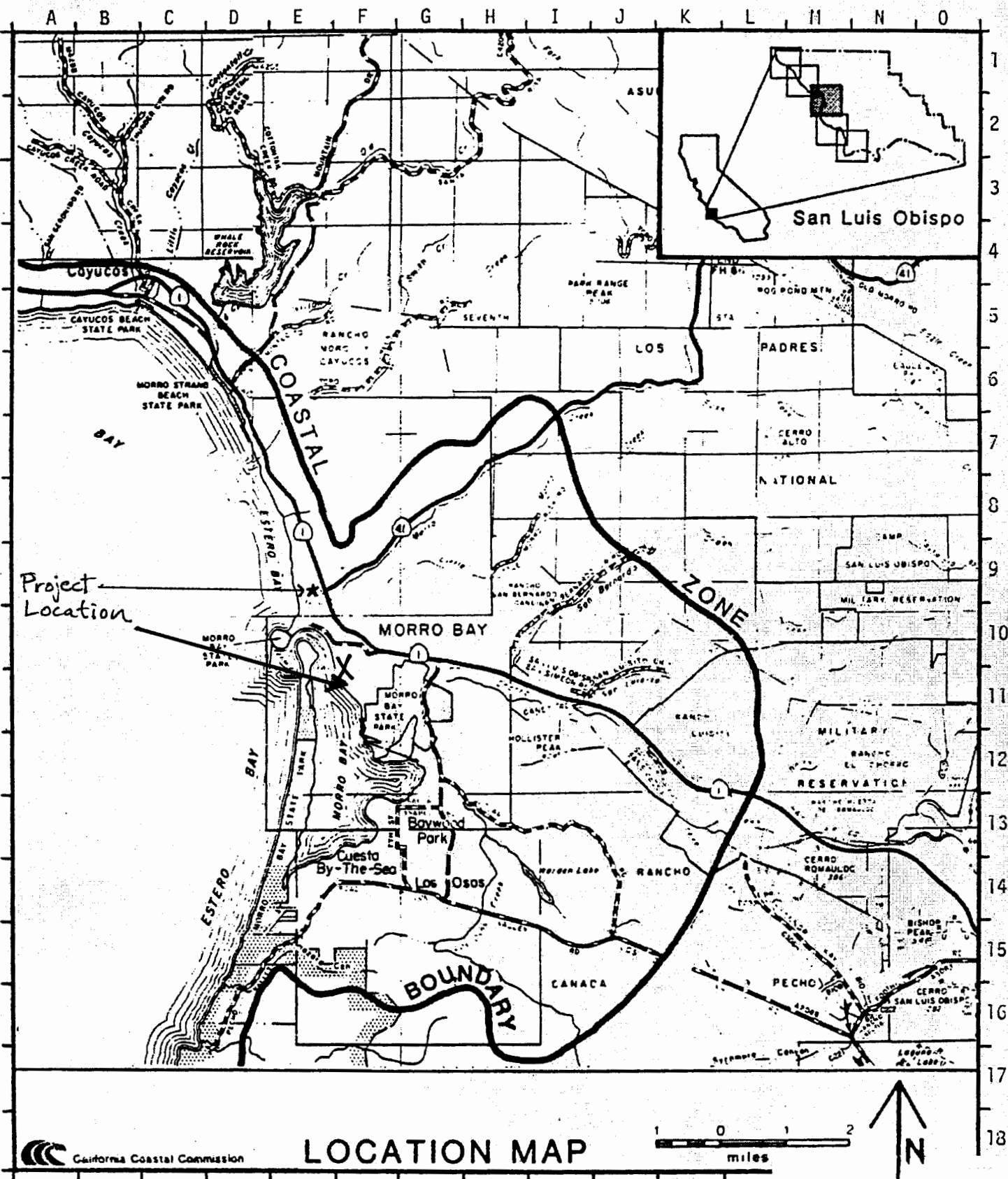
Harborview Mixed Use Development

Page 20

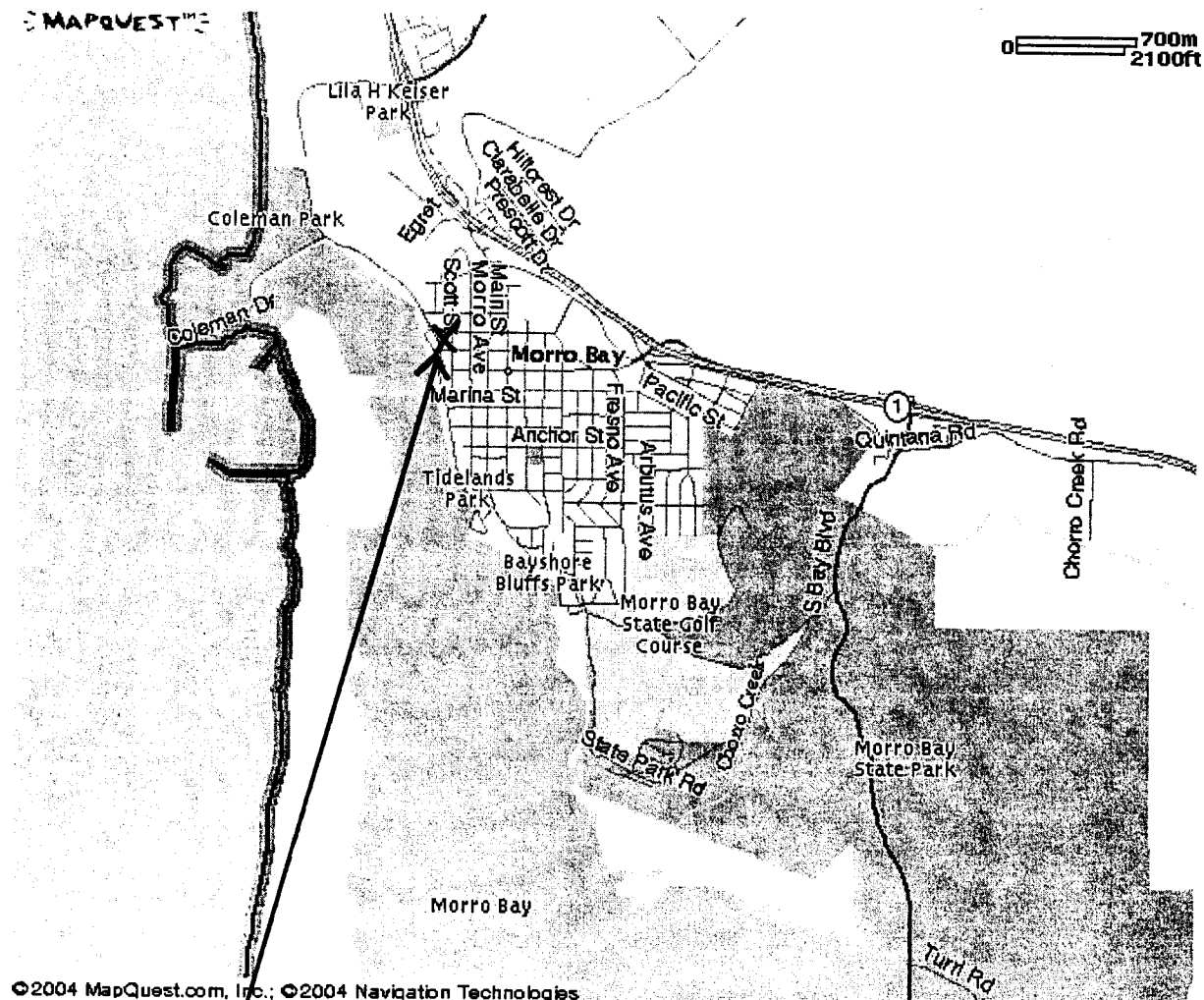
The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has identified and discussed certain additional potential adverse and unmitigated impacts not fully addressed by the local government. As illustrated by the findings above, the Commission finds that the environmentally sensitive habitat area (ESHA) impacts of the proposed project represent significant adverse effects on the environment within the meaning of CEQA. The proposed project does not include mitigation measures to substantially lessen these significant adverse effects. In addition, the application does not indicate whether or not any feasible mitigation measures or feasible alternatives that would substantially lessen these effects are available. Accordingly, the proposed project is not approvable under CEQA and is denied.



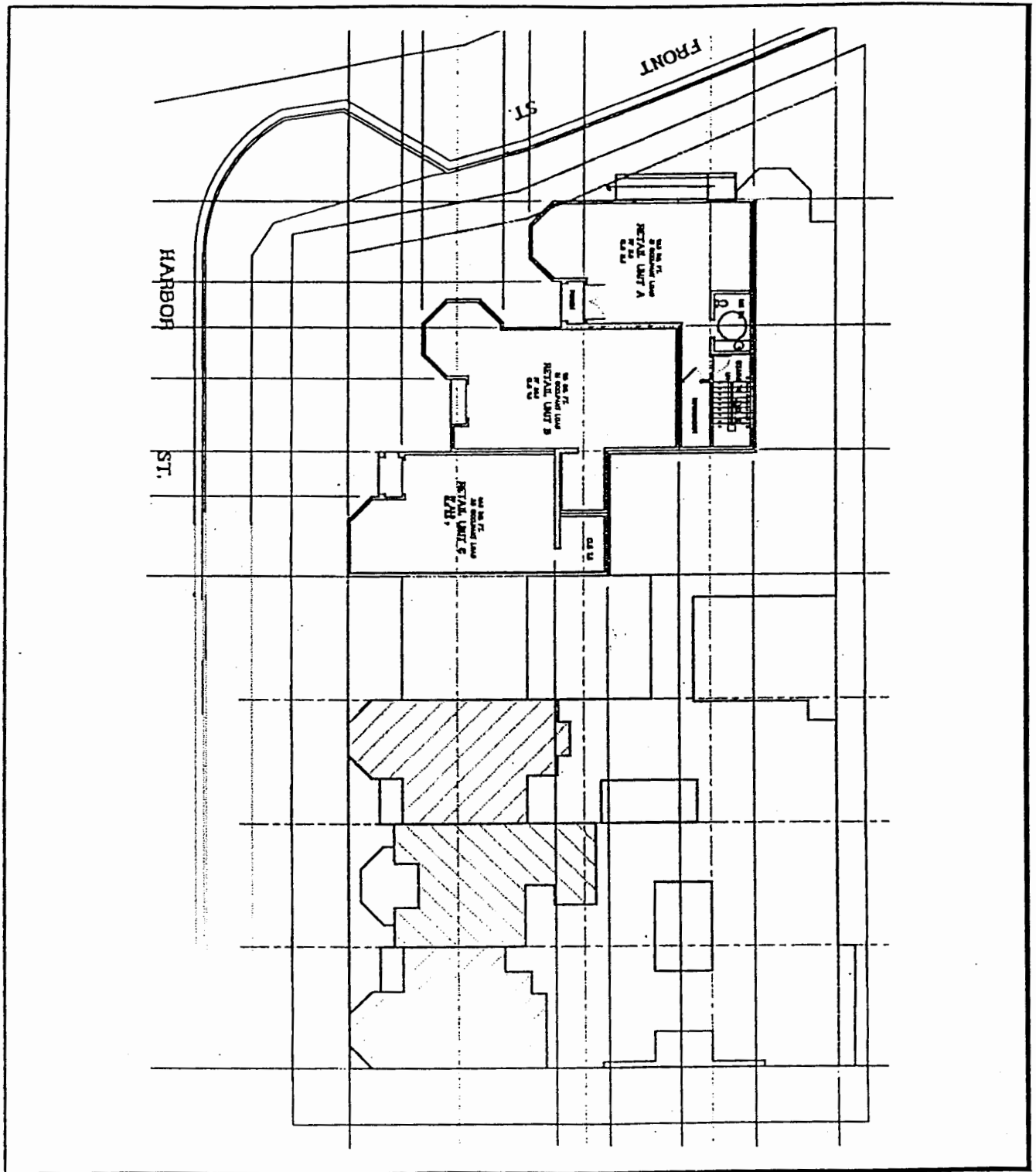
California Coastal Commission



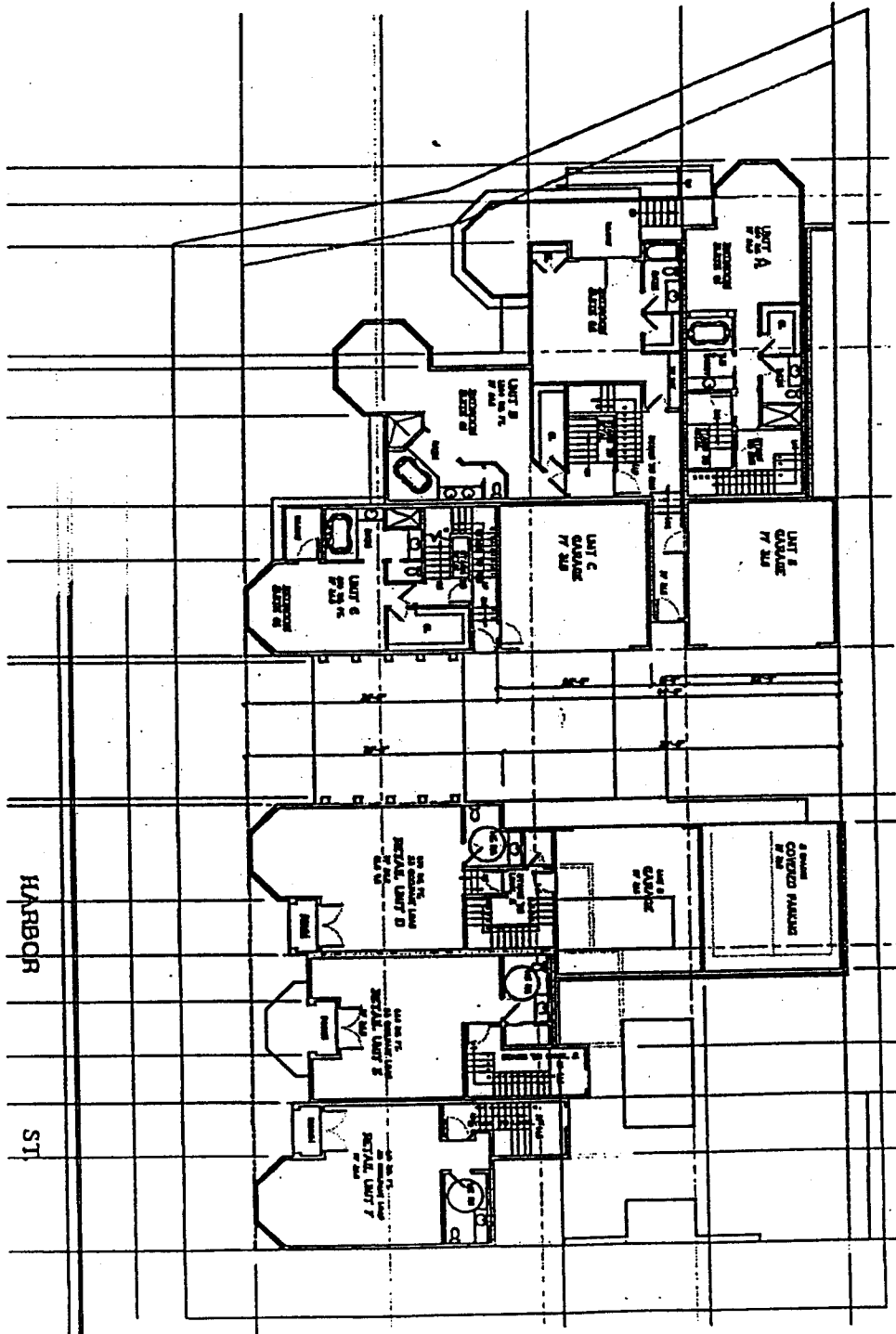
PROJECT LOCATION 215 HARBOR MORRO BAY



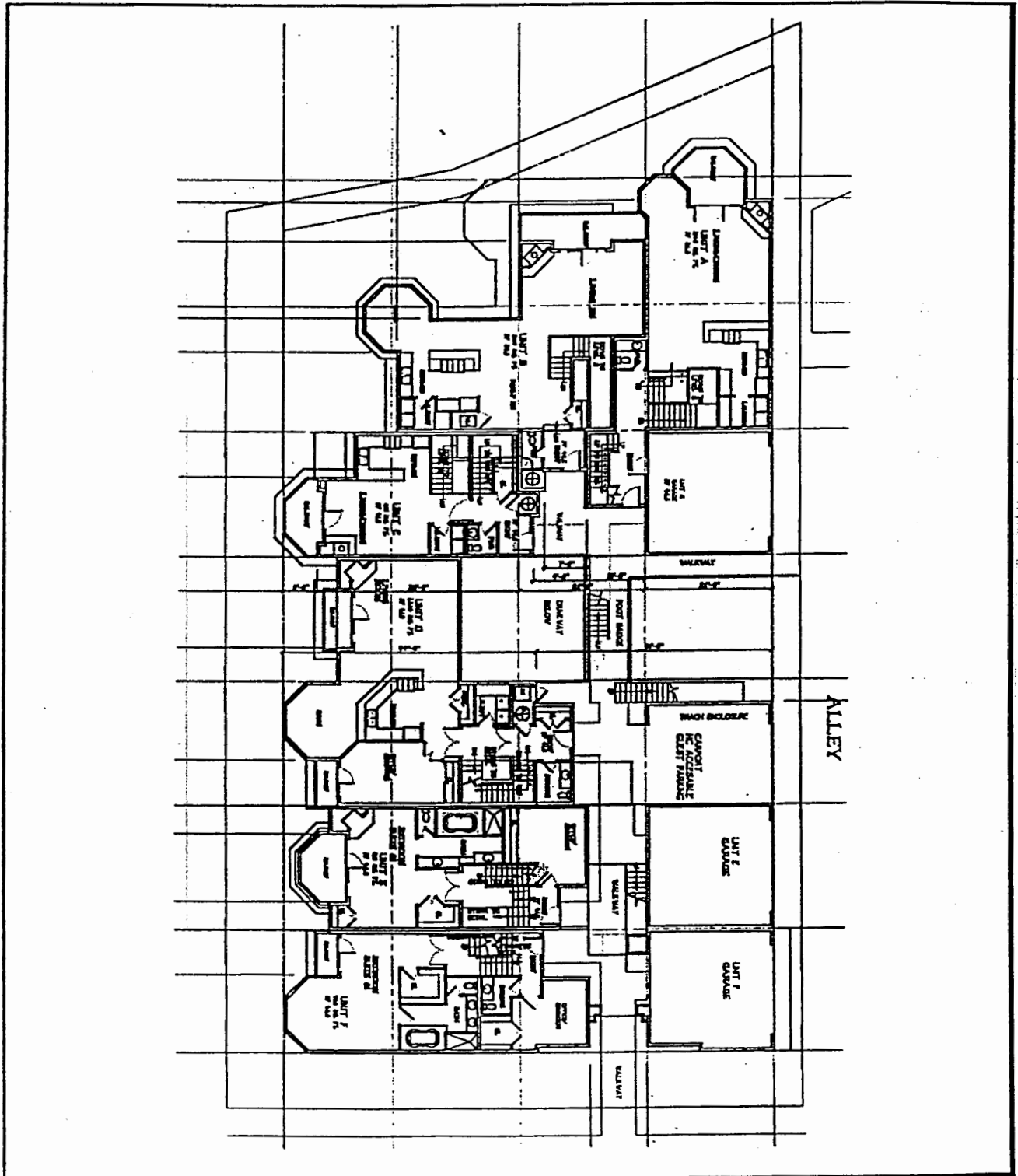
FLOOR PLAN - LEVEL 1



FLOOR PLAN - LEVEL 2

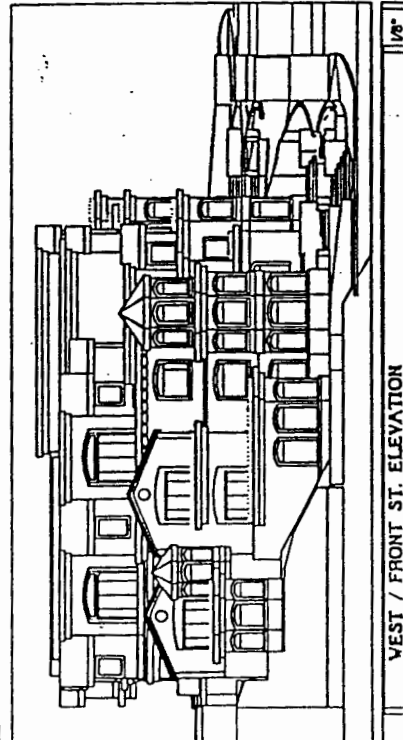
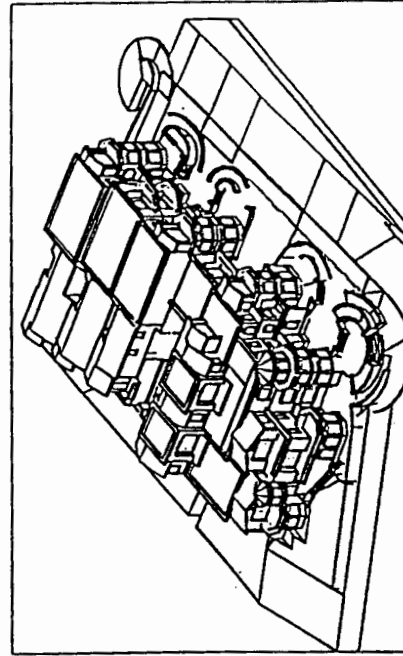
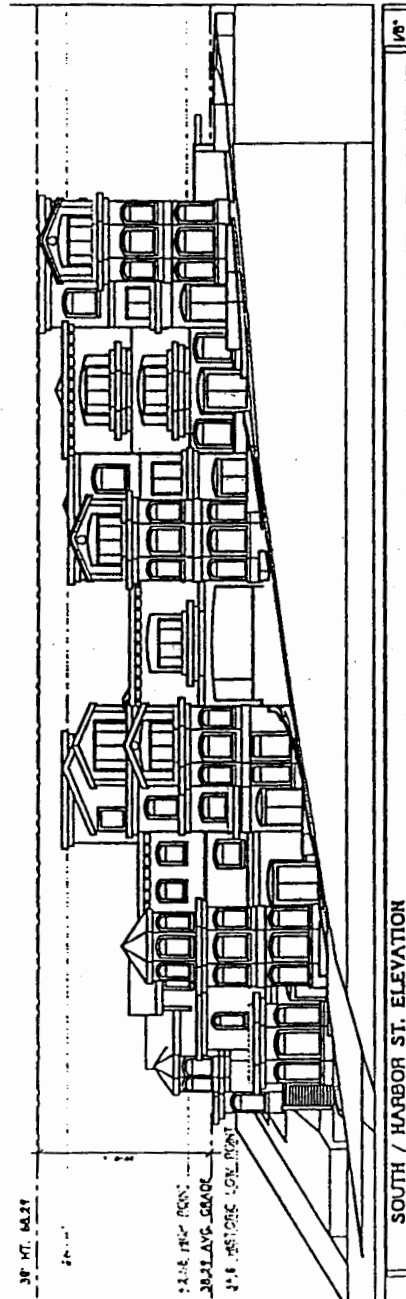


FLOOR PLAN - LEVEL 3



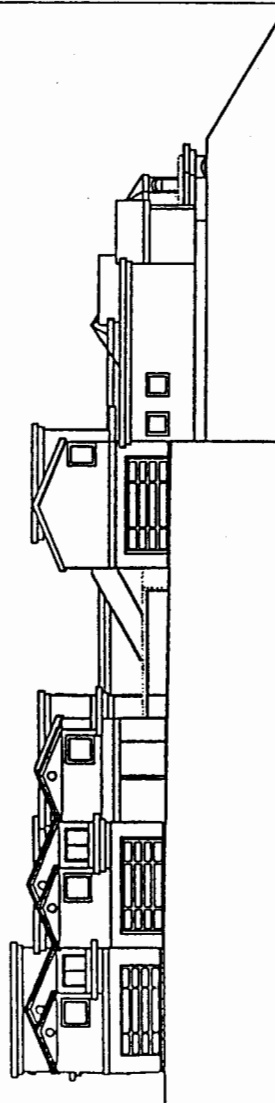
A detailed architectural floor plan of a building, oriented horizontally. The plan is divided into several distinct units and rooms. On the left side, there are three units labeled 'UNIT 1', 'UNIT 2', and 'UNIT 3', each with its own entrance and internal layout. To the right of these units is a large central area containing multiple rooms, including what appears to be a kitchen, dining area, and living space. Further to the right, there are more units labeled 'UNIT 4', 'UNIT 5', and 'UNIT 6'. The plan includes numerous doors, windows, and internal partitions. A grid of lines is overlaid on the entire drawing, likely for measurement or alignment purposes. The drawing is a black and white line drawing, typical of architectural blueprints.

ELEVATIONS, PAGE 1



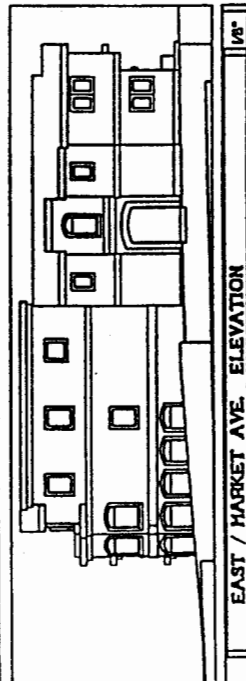
ELEVATIONS, PAGE 2

City of Los Angeles
Public Services Division



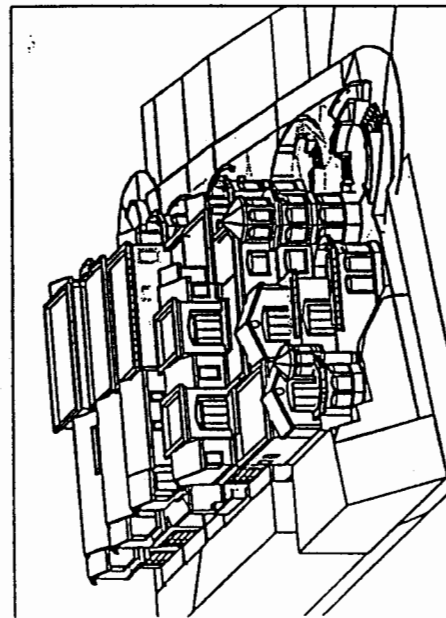
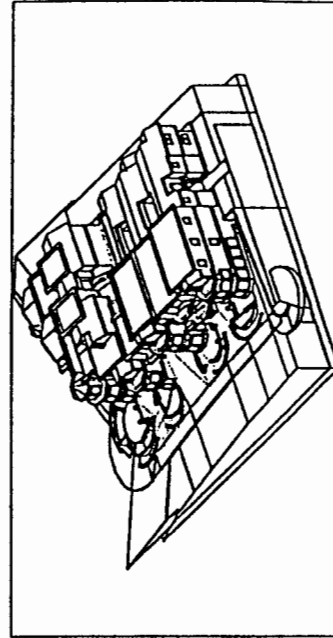
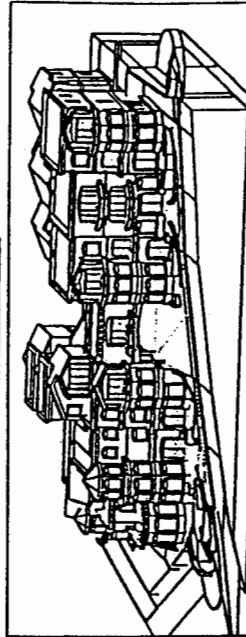
NORTH / ALLEY ELEVATION

1/8"

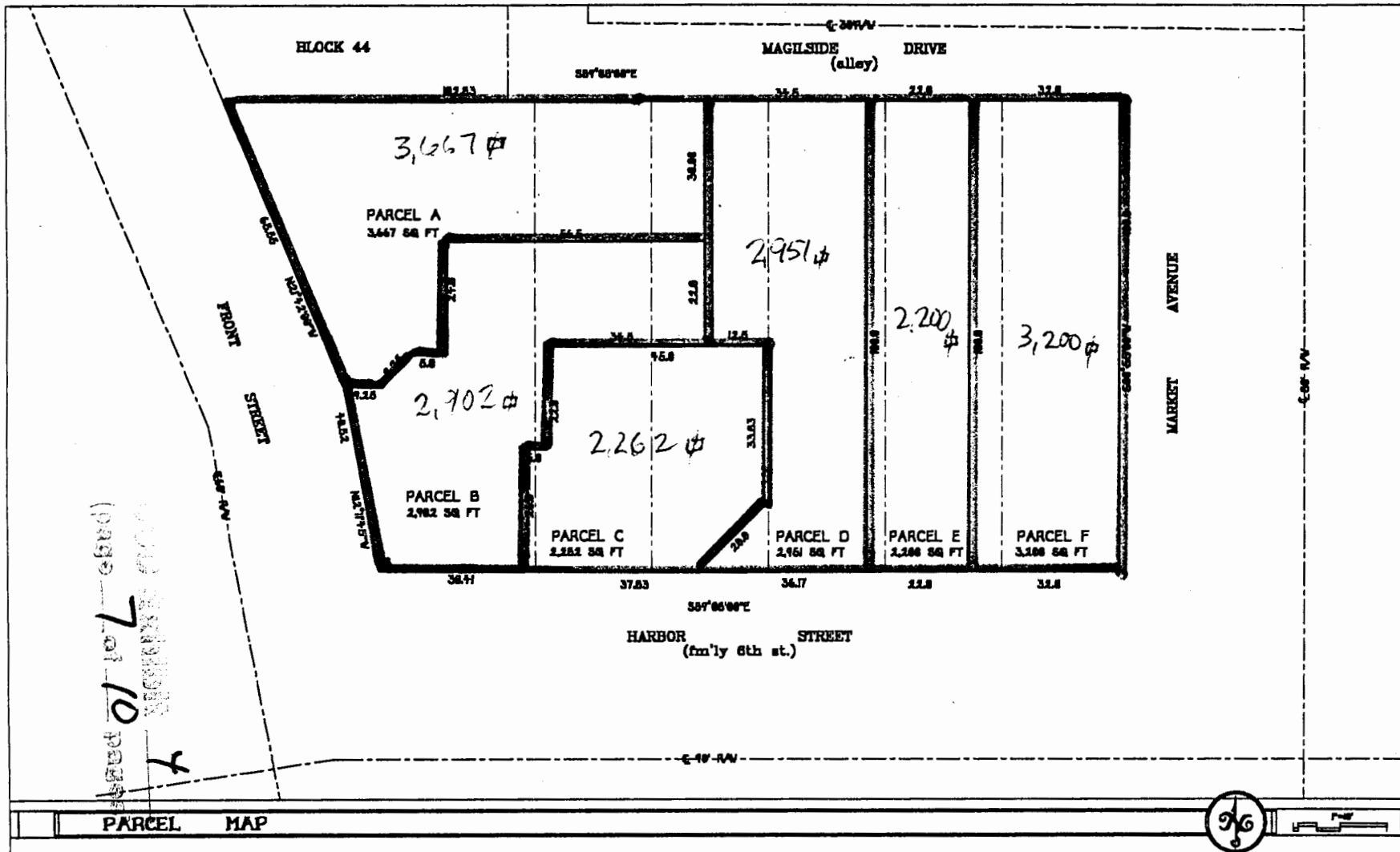


EAST / MARKET AVE. ELEVATION

1/8"



NEW LOT SIZES



PARCEL	SQUARE FOOTAGE	ORIGINAL SQUARE FOOTAGE
A	3,657	4,704
B	2,902	2,500
C	2,282	2,500
D	2,951	2,500
E	2,200	2,500
F	3,200	2,500

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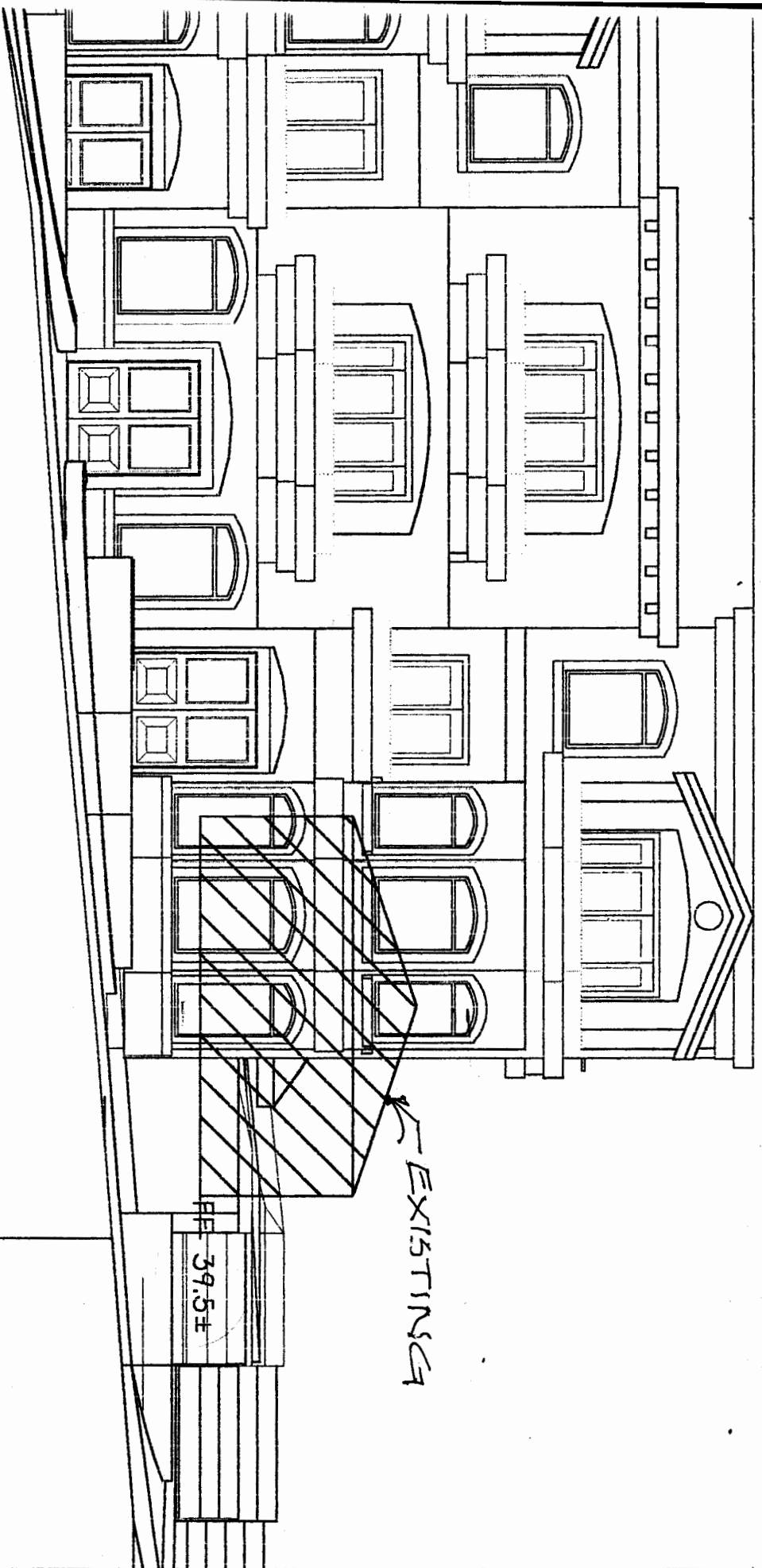
1

FOR
 THE HARBOR VIEW
 PROJECT

PRELIMINARY
 LOT LINE ADJUSTMENT
 MAP

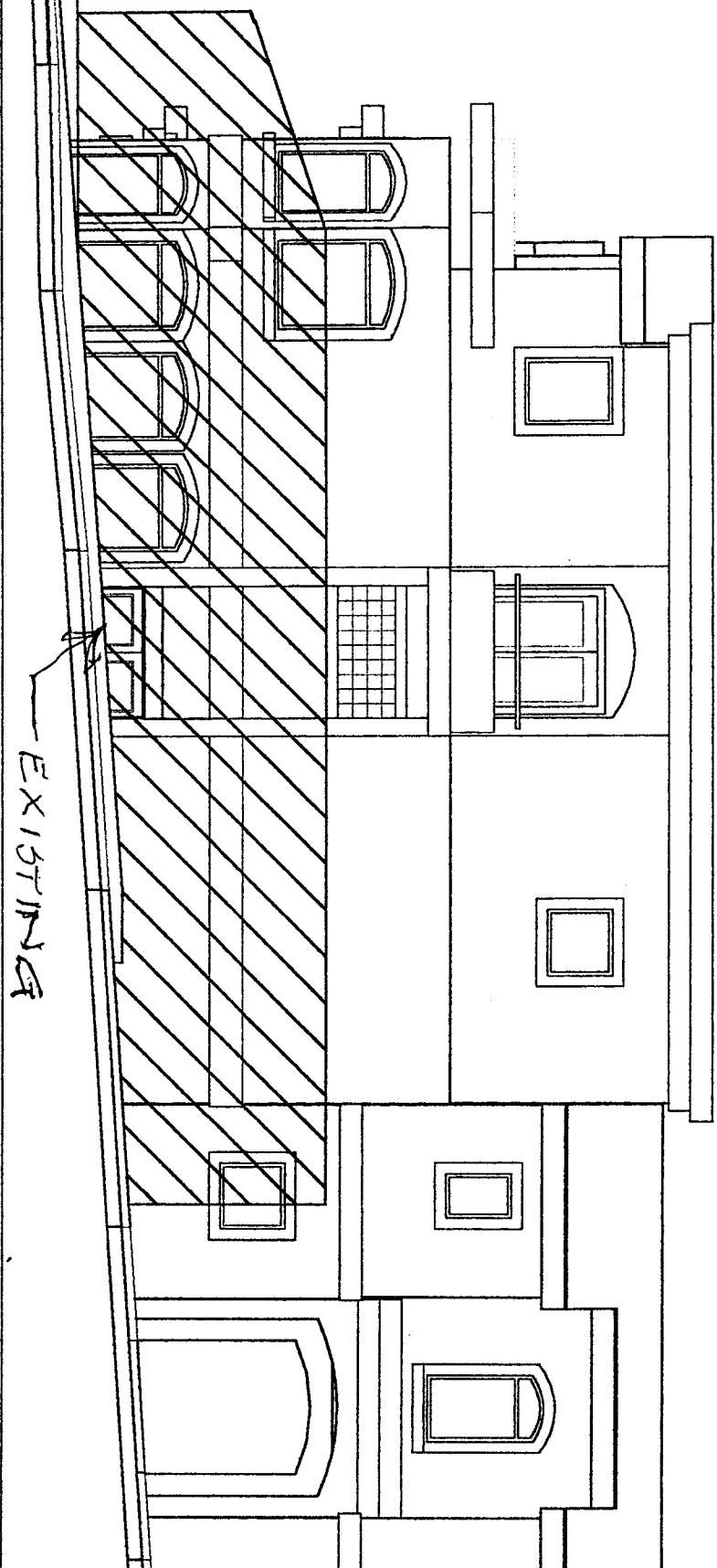
REVISID

MADE L. ALLEN
 ENGINEER
 1001-1017
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 1001-1017



SOUTH / HARBOR ST. ELEVATION

SCALE 1/8"=1'-0"

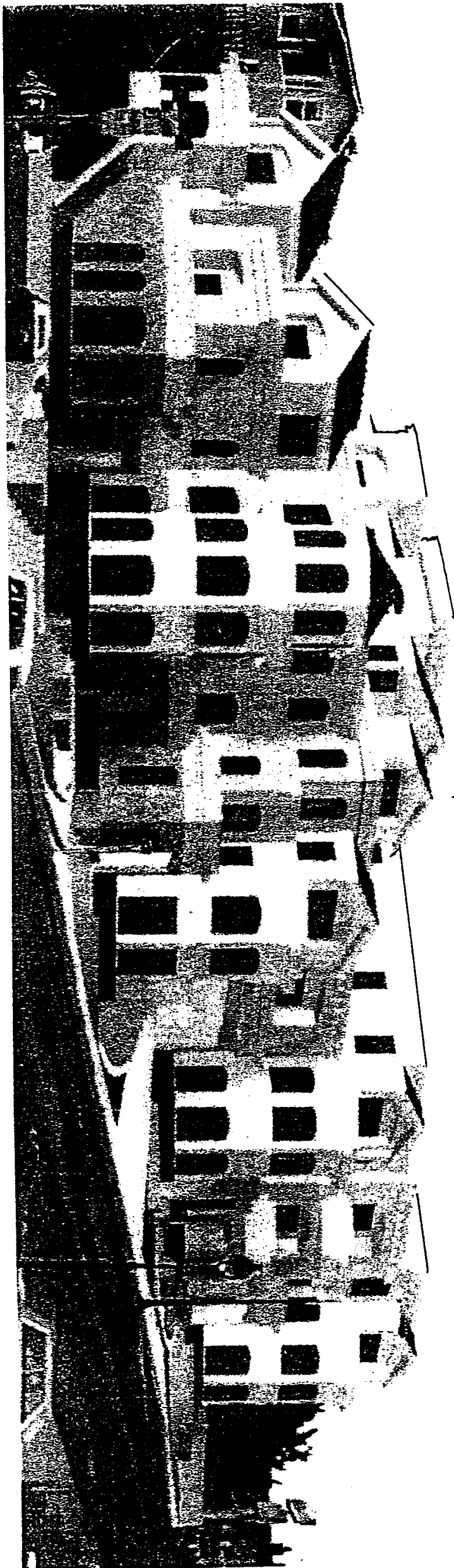


EAST / MARKET AVE. ELEVATION

SCALE 1/8"=1'-0"

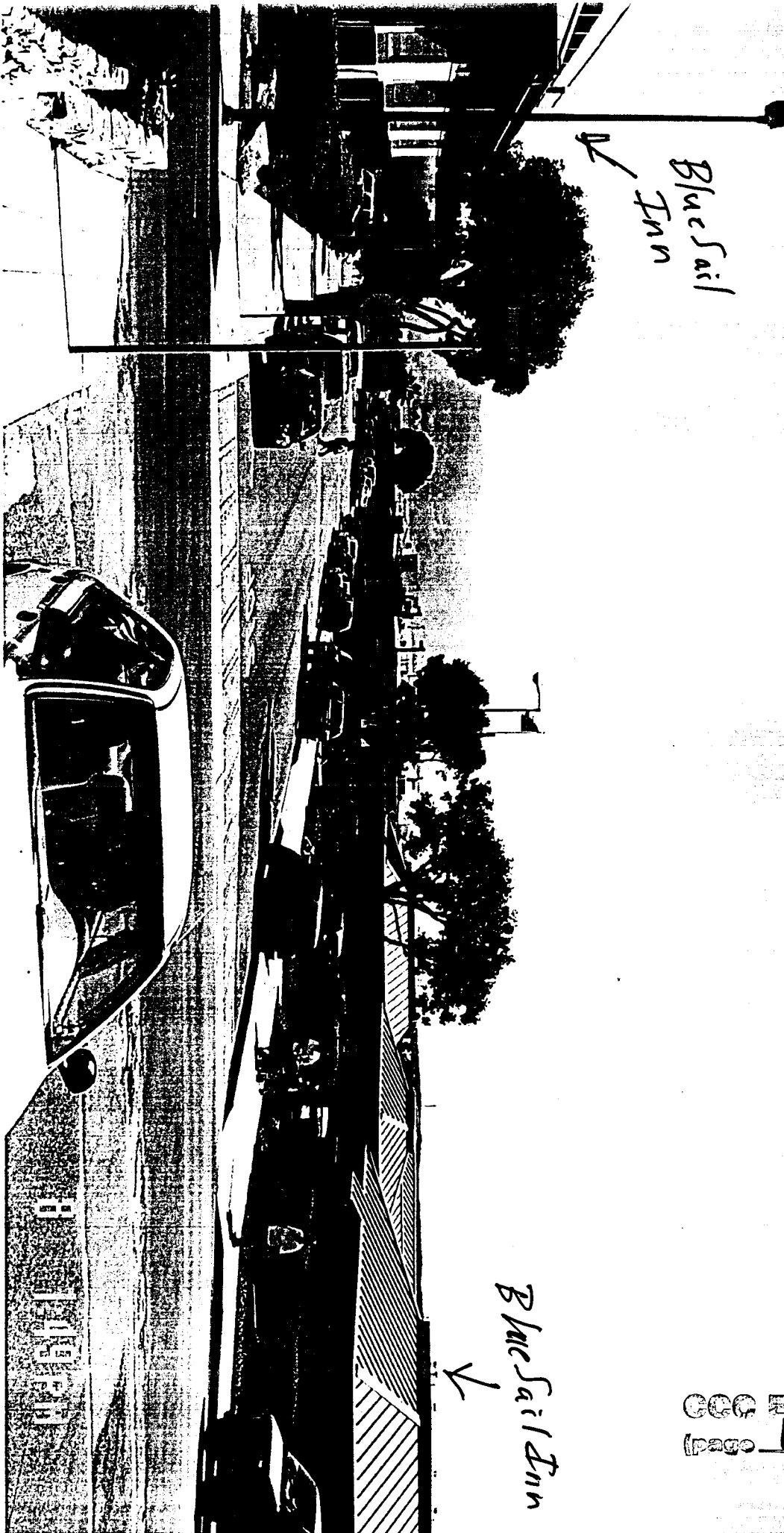
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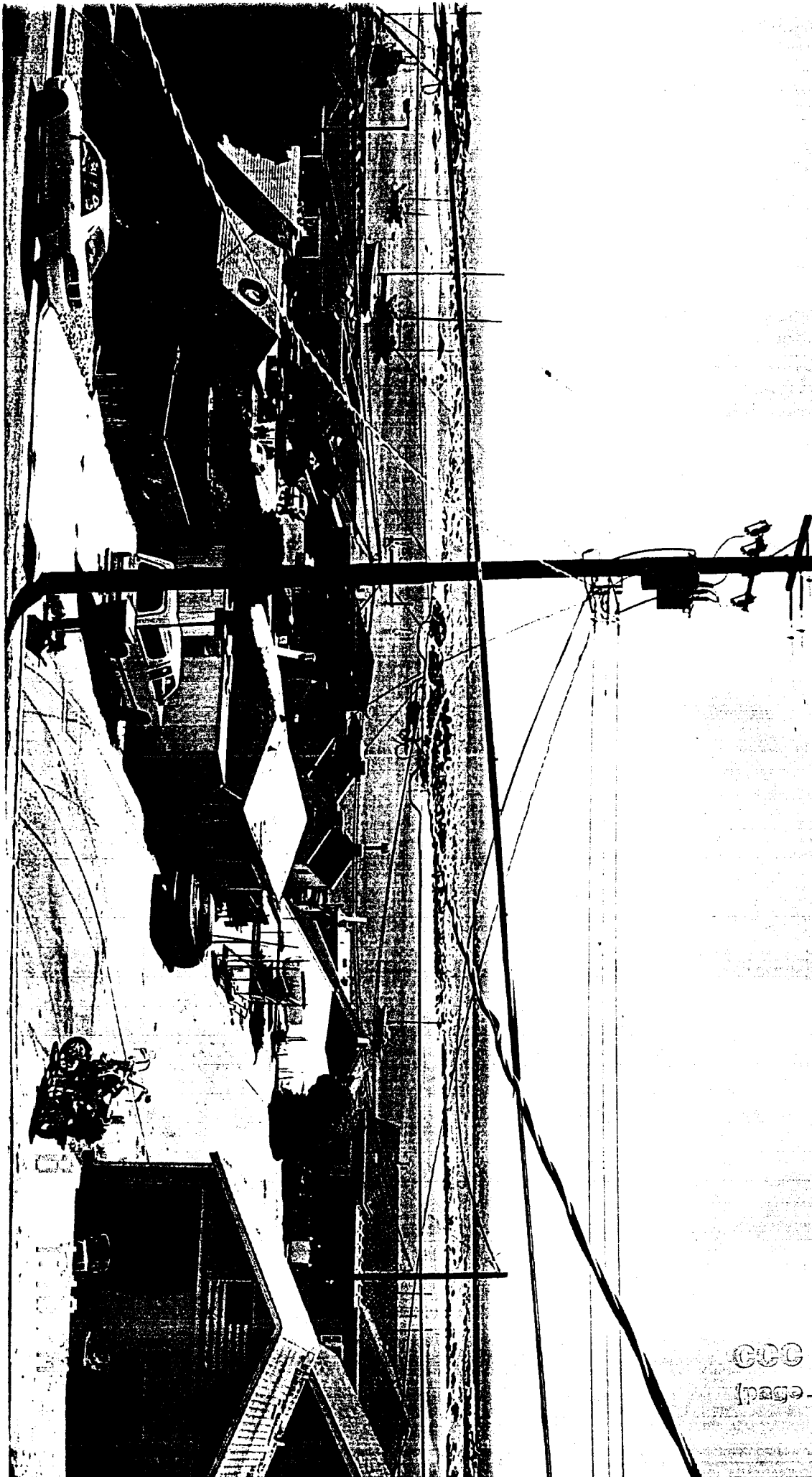
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(7) Looking down river at Ferry Harbor. Again shows all single-story buildings on the bluff for 2 blocks south of Harborview.

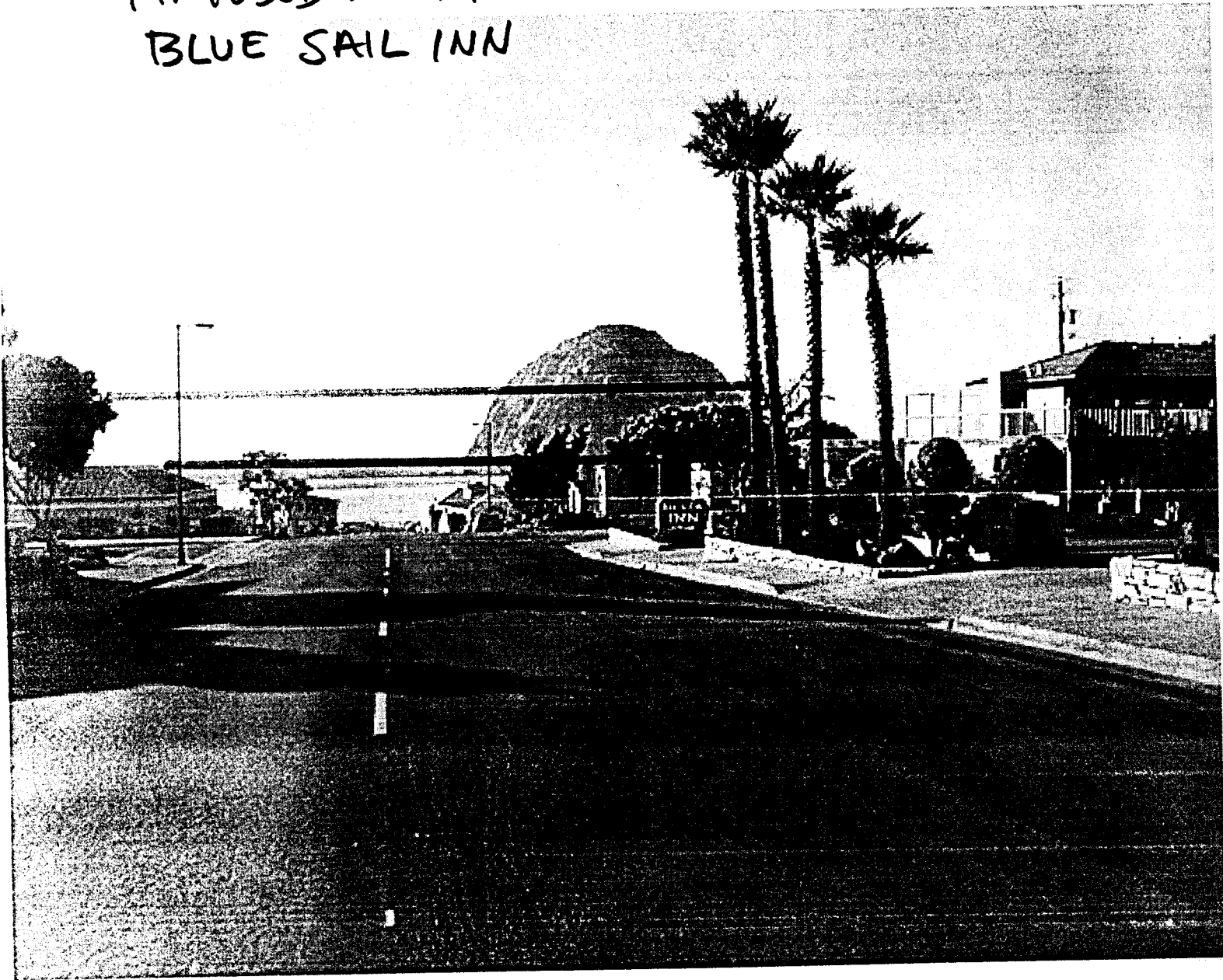
CCC Exhibit 5
(page 1 of 4 pages)





CCC Exhibit 5
(page 2 of 4 pages)

PROPOSED HEIGHT OF PROJECT RELATIVE TO
BLUE SAIL INN



3 4 5



4 4 5

6

