

**CALIFORNIA COASTAL COMMISSION**

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Filed: April 10, 2011  
49th Day: May 29, 2011  
180th Day: October 7, 2011  
Staff: John Del Arroz-LB  
Staff Report: June 23, 2011  
Hearing Date: July 13-15, 2011  
Commission Action:

**Th23a****STAFF REPORT: PERMIT AMENDMENT****AMENDMENT**

**APPLICATION No.:** 5-06-341-A1

**APPLICANT:** Blake Holdings, LLC

**PROJECT LOCATION:** 338 + 400 Pier Avenue, Hermosa Beach, Los Angeles County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Demolition of an existing commercial building, garage and parking lot and construction of a two-story (over basement), 30-foot high, 14,580 square-foot mixed use commercial development consisting of two 2-story structures and a 2-story, 38 space parking structure on two legal lots.

**DESCRIPTION OF AMENDMENT:** Eliminate mixed use component of the two existing MU office / commercial retail buildings, and replace it with additional office space. Minor exterior architectural modifications and interior remodel.

**LOCAL APPROVALS RECEIVED:** City of Hermosa Beach City Council Resolution No. 11-6727; City of Hermosa Beach Approval in Concept dated: March 9, 2011.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit 5-06-341 (LM Pacific Properties); City of Hermosa Beach certified Land Use Plan (as guidance only).

**EXHIBITS:**

1. Vicinity Map
2. Site Plan

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending approval of the proposed coastal development permit amendment with **four (4)** special conditions. The special conditions would: **1)** clarify that all conditions imposed under the original permit remain in effect unless modified by this amendment; **2)** require a Coastal Development Permit for future development; **3)** require the applicant to agree to a public parking plan making the parking on site available to the public; and **4)** require a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

## **PROCEDURAL NOTE**

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

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

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166. The Executive Director has determined that the proposed amendment is a material change to the development previously approved, therefore, pursuant to Section 13166 of the Commission's regulations, the Executive Director is referring this application to the Commission.

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## **I. STAFF RECOMMENDATION:**

Staff recommends that the Commission adopt the following resolution:

**MOTION:**        *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-06-341 pursuant to the staff recommendation.*

## **STAFF RECOMMENDATION OF APPROVAL:**

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

## **RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

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

## **II. 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 amendment will expire two years from the date this permit is voted on by 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. Conditions Imposed Under Original**

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit No. 5-06-341 remain in effect. If the specifications of any plans approved to comply with permit 5-06-341 are inconsistent with either the project description submitted with this amendment or the conditions imposed by this amendment, the applicant shall submit new plans to the Commission, for the review and approval of the Executive Director, that are consistent with the terms and conditions of this permit as modified by this amendment 5-06-341-A1.

### **2. Future Development**

This permit amendment is only for the development described in Coastal Development Permit amendment No. 5-06-341-A1. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit Amendment No. 5-06-341-A1. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-06-341 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**3. Public Parking Plan**

**PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall agree in writing that subject to City approval, and a determination by the City that allowing public parking at the site would result in an increase in public access to the area, the applicant shall make the top floor of the parking garage available to the public for evening and weekend use outside of typical business hours through either use of the garage as a public parking lot, or through a City sponsored parking program, such as a valet service program. Fees paid for parking shall be in substantial conformance with the average fees paid for similar services in the City of Hermosa Beach.

**4. Generic Deed Restriction**

**PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT** (5-06-341-A1), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**A. Previously Approved Project and Description of Proposed Amendment**

The subject site is located at both 338 and 400 Pier Avenue, within the City of Hermosa Beach, Los Angeles County (Exhibit #1). The combined area of the two lots is 16,830 square feet, with 338 Pier Avenue measuring 7,690 square feet and 400 Pier Avenue measuring 9,140 square feet, respectively. The subject site is located several blocks from the beach, on the south side of Pier Avenue at its intersection with Loma Drive, in the downtown district and in an area known as upper Pier Avenue. The site is zoned C-2 (Restricted Commercial). The site is surrounded by primarily resident and visitor serving businesses.

Permit 5-06-341 allowed for the demolition of the existing commercial building, garage and parking lot, and the construction of a new two-story (over basement), 30-foot high, 14,580 square-foot mixed use commercial development consisting of a 11,237 square-foot building at 338 Pier Avenue with retail uses on the ground floor and offices on the second

floor, and a 3,343 square-foot building at 400 Pier Avenue with a snack shop on the ground floor, offices on the second floor, and a 2-story, 38 space parking structure.

The proposed amendment would allow for reorganization of the interior of the building to convert the snack shop and retail shop areas to additional office space. The applicant has stated that they have been unable to find tenants for the retail and snack shop components of the existing commercial office complex due to market conditions. Also proposed are minor exterior architectural alterations to the building, and reorganization of the parking stalls in the attached parking structure to increase the number of tandem spots from 1 to 5, resulting in a total parking capacity of 42 cars.

The proposed parking reconfiguration meets the City's parking requirement of 42 cars for the commercial office complex, as reconfigured. Additionally, the applicants have submitted a parking study prepared by Linscott, Law, & Greenspan, dated September 23, 2010, which indicates that the proposed elimination of the retail and snack shop components of the commercial office complex will result in a parking demand of only 35 spaces, resulting in a surplus of 7 parking spaces on site according to the study.

## **B. Development**

Section 30222 of the Coastal Act states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30250 of the Coastal Act states:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30252(4) of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation.*

In the South Bay, the cities of Manhattan Beach, Hermosa Beach and Redondo Beach provide limited on-street parking and limited public transportation options. The downtown beach pier area in Hermosa Beach is a major visitor destination for recreational purposes. The amount of public access to the beach is, in practice, therefore largely limited by the amount of on-street parking and public parking lots. For this reason, the Commission has

generally required that development in near-beach areas provide all of its parking on-site, rather than reducing parking requirements by the presumed number of on-street parking spaces available. The proposed project would meet the parking requirement of 3 spaces per 1000 square feet required by the City of Hermosa Beach for a commercial development, and will not result in impacts to the on-street parking supply.

The proposed commercial office use is compatible with the character and scale of surrounding development located within the downtown district of Hermosa Beach. The Commission recently approved an 18,648 square-foot commercial condominium building complex containing 54 office units and 56 on-site parking spaces at 200 Pier Avenue (CDP No. 5-05-162), and a 19,405 square foot commercial condominium complex containing 21 condominium office units and 19 on-site parking spaces at 906 and 910 Hermosa Ave. (CDP No. 5-07-419).

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, and has been designed to assure structural integrity. Therefore, the Commission finds that the development, as conditioned to allow public use of the parking structure during evening hours and on weekends if required by the City, conforms to Sections 30222, 30250 and 30251 of the Coastal Act.

### **C. Public 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 30222 of the Coastal Act states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Coastal Act Section 30210 states that maximum access and recreational opportunities shall be provided. Additionally, Section 30222 states that commercial recreation shall have priority over general commercial development. The proposed project would result in the elimination of higher priority uses, a retail shop and snack shop, which serve visitors and residents, to a lower priority use - additional office space, which does not serve visitors.

However, the proposed development would not result in negative impacts to public access and recreation in this case. In most areas, the Commission has approved “business commercial” uses as long as there is evidence that there is adequate visitor serving commercial uses in the area, or if higher priority uses were not feasible. The proposed project is located several blocks from the beach, and the Commission has previously found that there were sufficient visitor serving uses in the surrounding area (Permit 5-07-419, Hermosa Seaside Development Corp). The project provides sufficient parking, and will not result in an impact on the public on-street parking supply. The retail and snack shop components of the development have been vacant since construction of the building, which may indicate that a retail use is not economically viable at the subject location. Increasing general commercial uses will relieve parking and traffic during peak times because the occupants will not be at their offices during peak use hours during evenings and weekends, freeing traffic and parking closer to the beach. Additionally the increase in activity brought to the area during off peak times will potentially invigorate the many retail and restaurant establishments located within the Downtown District.

Finally, the applicant has indicated in its application and in previous communication with the City that they are willing to allow use of the upper level of the parking structure by the public during evenings and weekends. This would result in 18 additional spaces being made available to residents and visitors, and offset the elimination of a higher priority use with an increase in public access to surrounding retail and restaurant uses at peak usage times for the area. To ensure that the applicant makes this resource available to the City, the Commission imposes Special Condition 3, which requires the applicant to make the parking garage available for use by the public, pending City approval and a determination by the City that sufficient need exists for additional parking in the area.

**D. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes an additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

**E. LOCAL COASTAL PROGRAM**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for Hermosa Beach was effectively certified on April

21, 1982, however, as stated, the Coastal Act is the standard of review for this project. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area.

**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

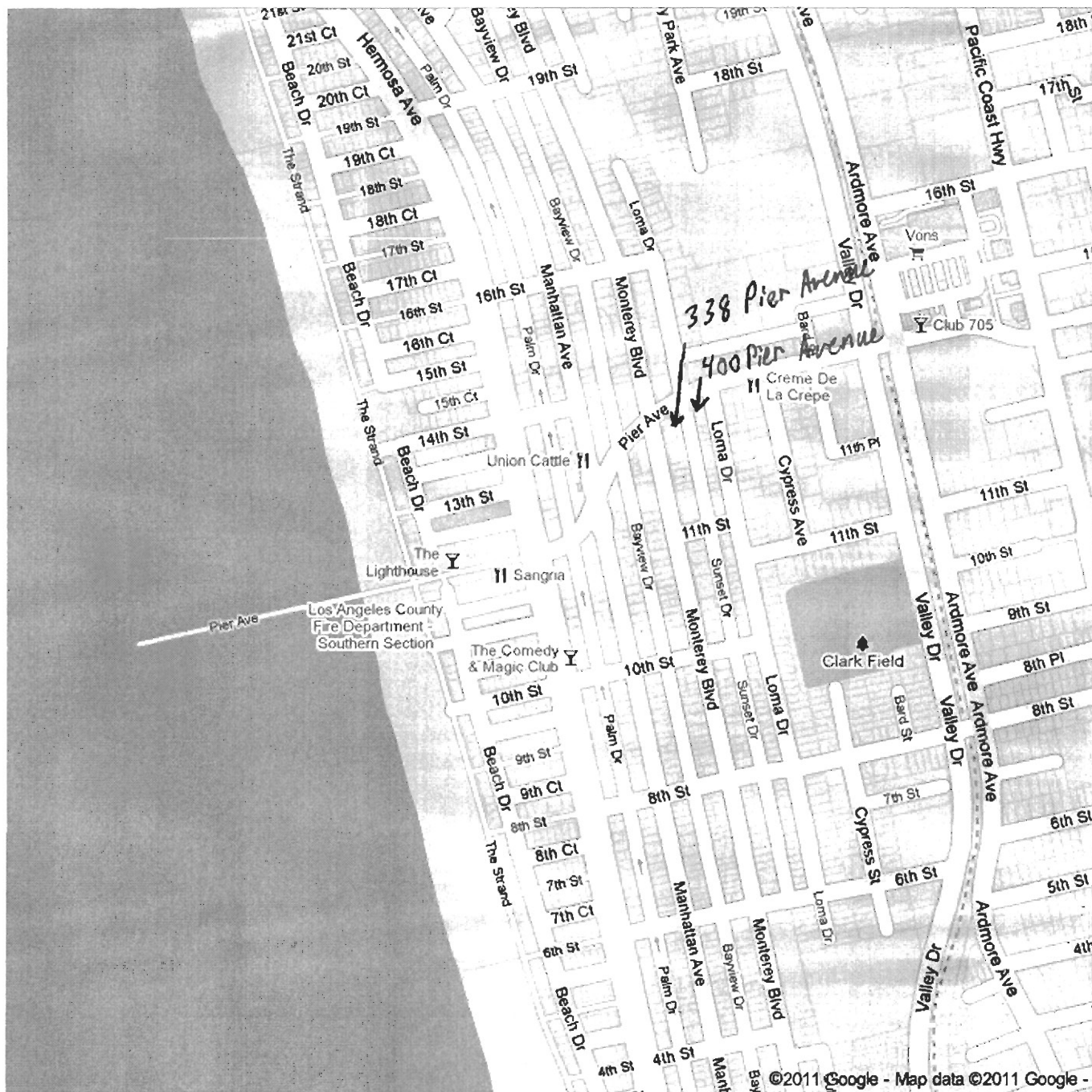
In this case, the City of Hermosa Beach is the lead agency and the Commission is the responsible agency for the purposes of CEQA. The City of Hermosa Beach issued a determination that the project was ministerial or categorically exempt on March 9, 2011. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



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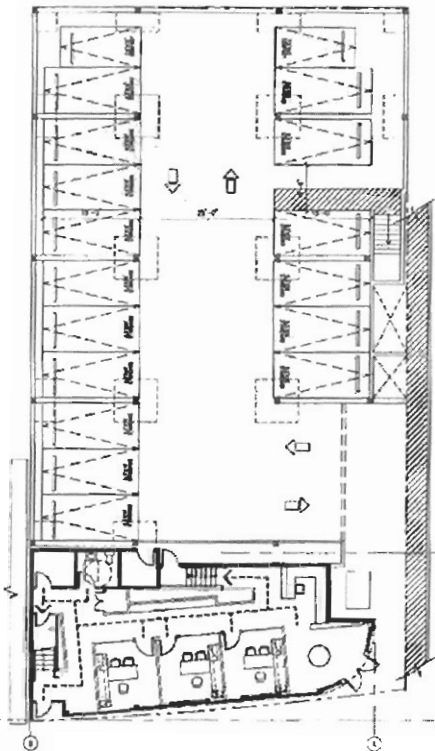
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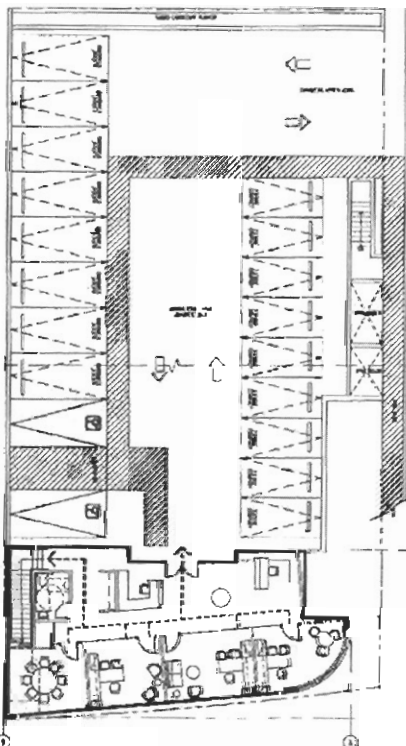
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EXHIBIT # 1

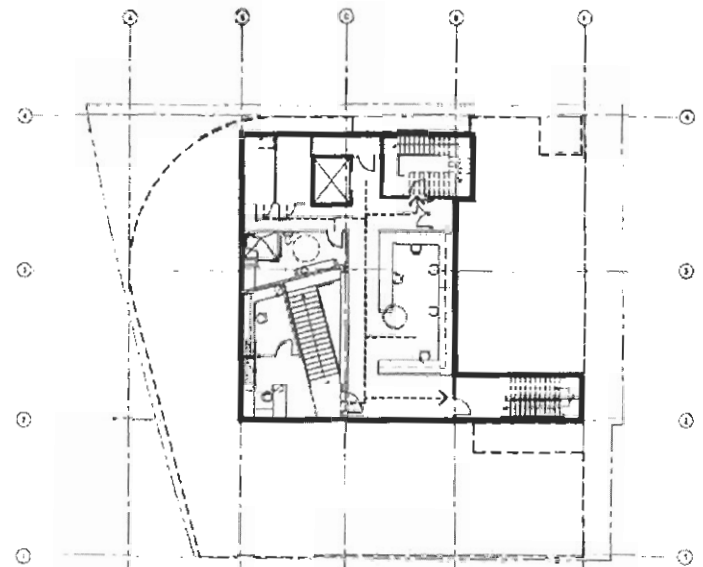
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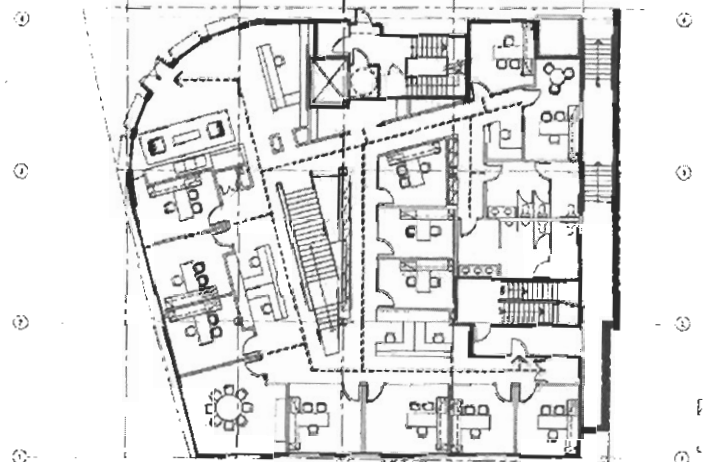
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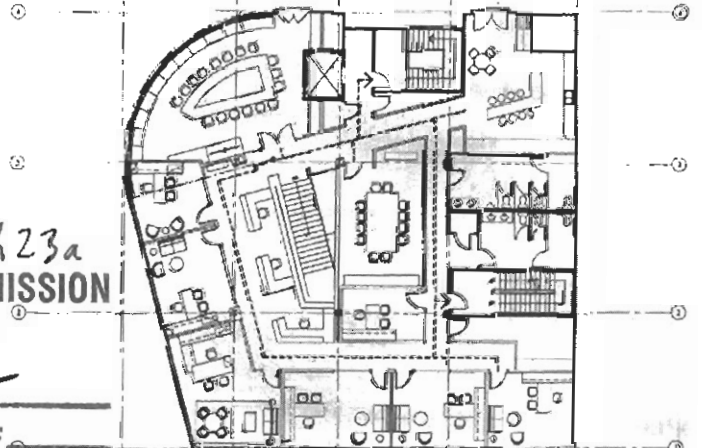
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BLDG 338  
LEVEL 1



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