MINUTE ITEM

This Calendar Item No. 26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 3
to 0 at its 2/25/85
meeting.

CALENDAR ITEM

A 28

S 17

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02/28/85
G 08-02
J. Sekelsky
J. Ludlow

DETERMINATIONS UNDER 6701 ET SEQ. OF THE P.R.C.
CONCERNING A LEASE BETWEEN
CITY OF MONTEREY, AS LESSOR, AND
CANNERY ROW COMPANY, AS LESSEE

Cannery Row Company and the City of Monterey have requested that the Commission make the determinations set forth in Section 6702(b) of the P.R.C. with respect to the lease described below. Briefly, the determinations relate to the following: (a) conformance with the terms of the granting statutes; (b) that proceeds of the lease shall be expended for statewide purposes as authorized by the granting statutes; and (c) that the lease is in the best interests of the State.

DESCRIPTION OF LEASE

LESSOR: City of Monterey
c/o Bill Marsh, City Attorney
651 Pacific Avenue
Monterey, California 93940

LESSEE: Cannery Row Company, a limited
Partnership organized and existing
under the laws of the State of California
765 Wave Street
Monterey, California 93940

SUBLESSEE: Atlas Pacific Equity Development, a General
Partnership, organized and existing under the
laws of the State of California
c/o Rohr Development
200 Monterey County Bank Building
665 Munras Avenue
Monterey, California 93940

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AREA, TYPE LAND AND LOCATION:
Approximately four-tenths acre of tide and submerged lands granted to the City of Monterey, located on Cannery Row (see site map and location map, Exhibits "A" and "B" attached). The precise location of the ordinary high water mark in this area has not been determinied and will not be established by this lease.

LAND USE:
Current: None; lease parcel currently occupied by cement foundation of old cannery and remnants of the delapidated cannery structure. A fence surrounds the site to prevent risk of injury to the public.

Proposed: The lease parcel is to be used in conjunction with several adjacent upland parcels for a project including a deluxe hotel with 212 rooms, office space, a health spa, shops, a restaurant and lounge, and parking facilities.

Based upon materials submitted by the developer and the City, and upon Commission records, staff has determined that the leased tide and submerged lands will be maintained almost exclusively as open space. The leased parcel will be cleared of the cannery foundation and structures. The proposed hotel structure will include a public walkway along the entire waterfront of the project, and may extend slightly onto the leased tide and submerged lands.

DURATION:
Fifty (50) years, commencing on August 1, 1986, and ending on July 31, 2036, with a right of first refusal in Lessee, if the City decides to lease the subject parcel after that date.

CONSIDERATION:
The City contracted with Urban Property Research Company (Haskell Berry, Jr., M.A.I.) for an opinion as to rent the City should receive for its contribution to the hotel complex. Even though the City's tide and submerged lands included in the project area

will be used almost exclusively for open space and public walkway/access areas, Mr. Berry has concluded that such property contributes to the value of the overall upland development. The rent required by the lease is the greater of: (1) $11,750 per quarter, or (2) 0.537 percent of all gross room rentals and gross sales related to hotel operations, plus 0.403 percent of gross food and beverage sales, plus 5.37 percent of commercial space rentals received from third parties.

The lease provides for a five-year rent review.

Staff has reviewed the appraisal prepared by Mr. Berry, and the rental allocation set forth above, and concludes that a fair rent will be received by the City.

ENVIRONMENTAL IMPACT OF THE LEASE

The City adopted Resolution No. 83-217 C.S. on December 20, 1983, wherein they certified the EIR, which had been prepared for the project, found that all significant impacts identified in the EIR had been satisfactorily mitigated by conditions of approval of the project, and found that the project is in conformance with the City's General Plan, zoning regulations, and the adopted Cannery Row Land Use Plan of the Local Coastal Plan.

CONFORMANCE WITH GRANTING STATUTES

Legislative Acts relating to the leased lands include:

Chapter	Year
210	1868
237	1903
669	1919
734	1984

Staff of the Commission have reviewed the subject lease and have found it to be in accordance with the terms and conditions of the granting statutes.

DISPOSITION OF LEASE PROCEEDS

Staff of the City have assured Commission staff that all revenues derived by the City from the lease will be deposited in a granted lands trust fund, and will be expended for the maintenance, improvement, and benefit of the tide and submerged lands granted to the City of Monterey.

BEST INTERESTS OF THE STATE

LAND USE: The subject parcel of granted tide and submerged lands has historically been used in conjunction with the adjacent upland parcel as the site of a cannery operation, abandoned some time ago. The site will be cleared of the cannery structures and foundation.

The proposed project, which will be located upon granted tide and submerged lands and upon adjacent upland parcels, consists of a deluxe hotel complex, including 212 rooms, restaurant, lounges, conference rooms, office space, health spa, retail space and parking facilities. The project will also include a public walkway along the entire waterfront of the complex, with public access to the walkway from the main street over a public plaza area. The plaza and walkway will be maintained by the hotel management. Thus, public access to the tidelands, presently difficult and unsafe, will be promoted by the project.

STATEWIDE PUBLIC BENEFIT

As described above, the proposed use of the subject granted lands and the adjacent uplands will enhance access to and use of the granted lands by the general public. Income accruing from the lease will be used for the betterment of the granted lands and promotion of public trust uses.

AB 884: N/A.

EXHIBITS:
A. Site Map.
B. Location Map.
C. Project Diagrams

IT IS RECOMMENDED THAT THE COMMISSION:

1. MAKE THE FOLLOWING DETERMINATIONS, PURSUANT TO SECTION 6702 OF THE P.R.C., AS TO THE LEASE BETWEEN THE CITY OF MONTEREY, AS LESSOR, AND CANNERY ROW COMPANY, SUBJECT TO RECEIPT BY THE COMMISSION OF FULLY EXECUTED DOCUMENTS IN THE FORMS OF LEASE ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF:

   (a) THAT SAID LEASE IS IN ACCORDANCE WITH THE TERMS OF THE GRANTS UNDER WHICH TITLE TO THE TIDE AND SUBMERGED LANDS IN QUESTION ARE HELD BY THE CITY OF MONTEREY.

   (b) THAT ALL REVENUES DERIVED FROM THE LEASE SHALL BE DEPOSITED IN A TRUST FUND EXPENDABLE ONLY FOR STATEWIDE PUBLIC PURPOSES AUTHORIZED BY THE GRANTING STATUTES.

   (c) THAT SAID LEASE IS IN THE BEST INTEREST OF THE STATE.

2. AUTHORIZE THE STAFF AND/OR THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO COMPLETE THIS APPROVAL.

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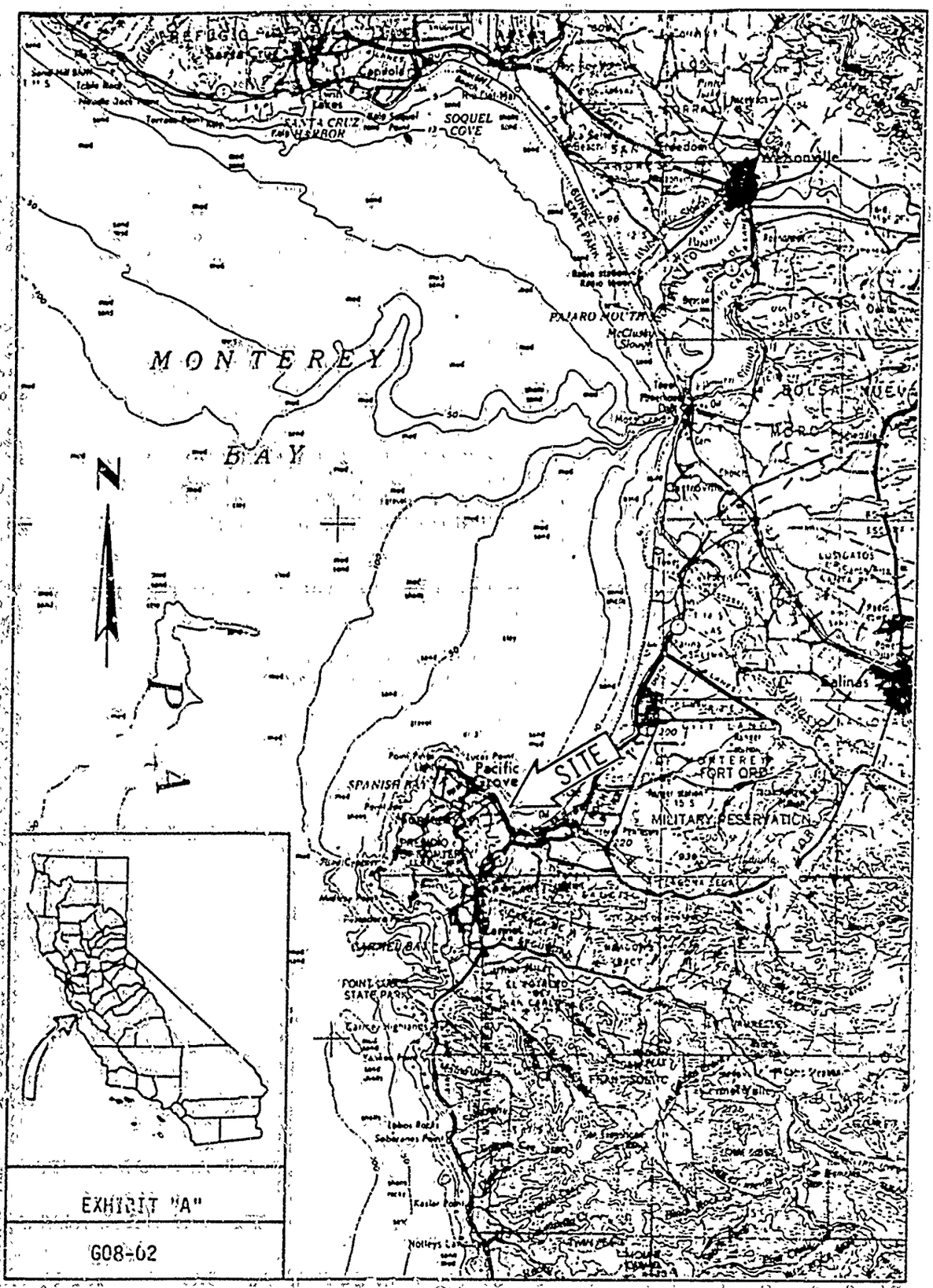

EXHIBIT "A"

G08-02

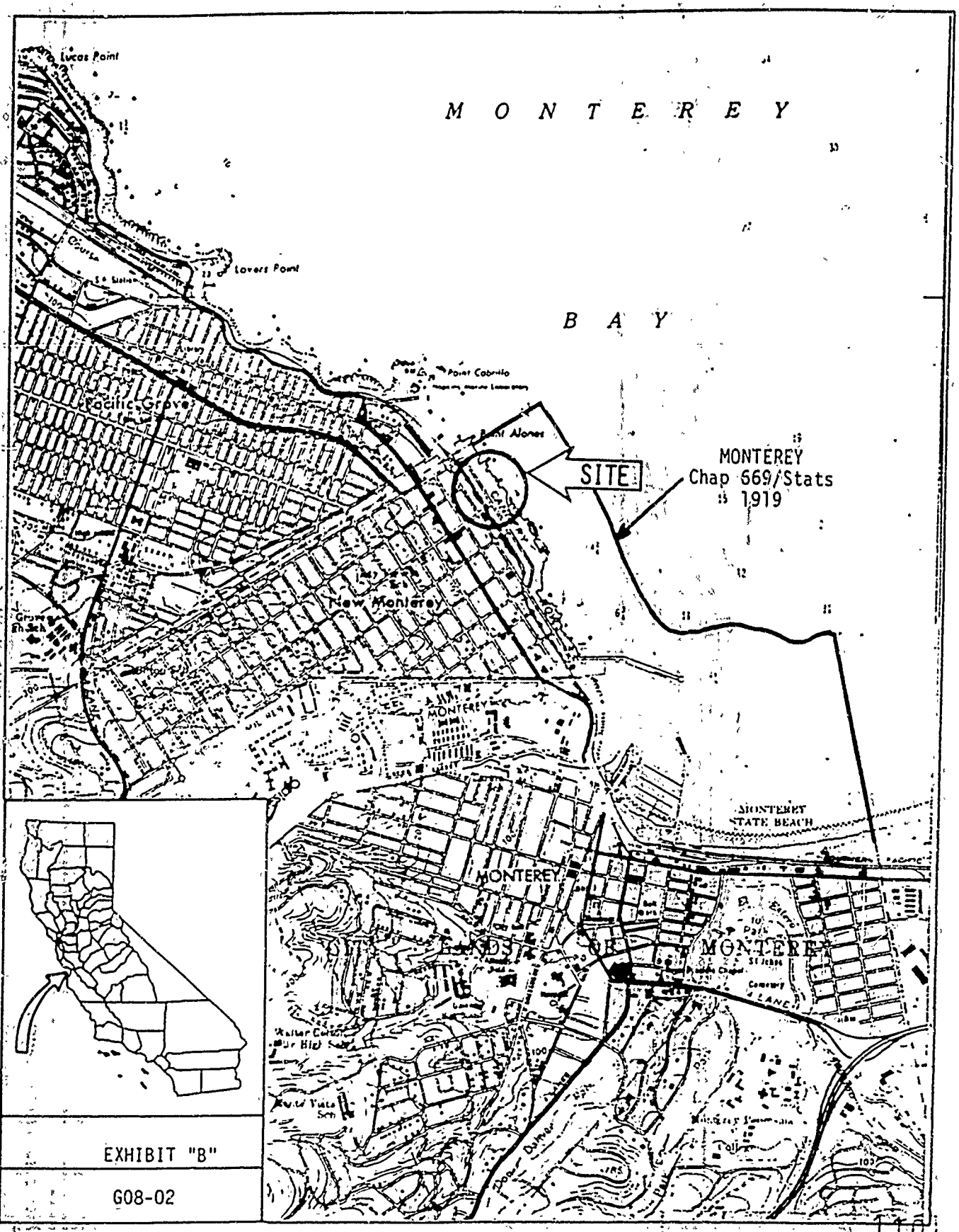

EXHIBIT "B"

G08-02

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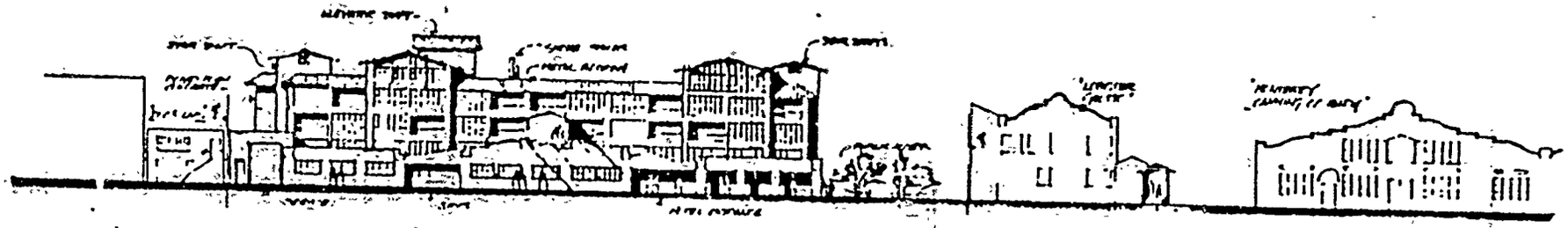
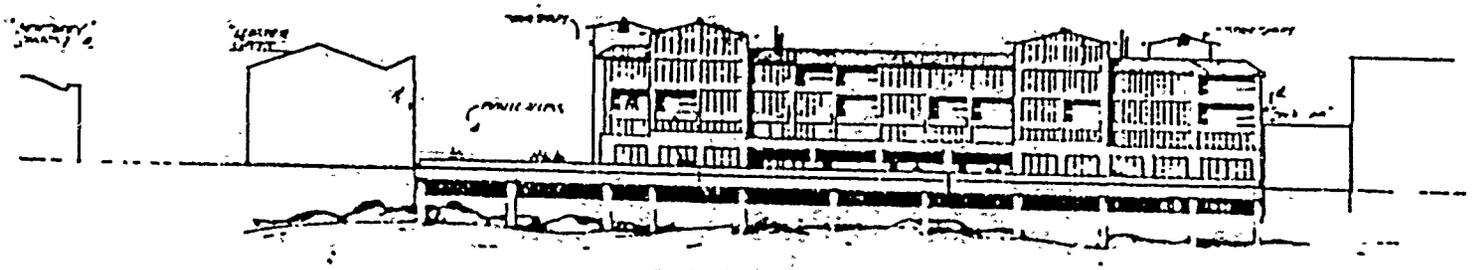


BUILDING 'A' CANNERY ROW ELEVATION



BUILDING 'A' BAY SIDE ELEVATION

750 CANNERY ROW HOTEL

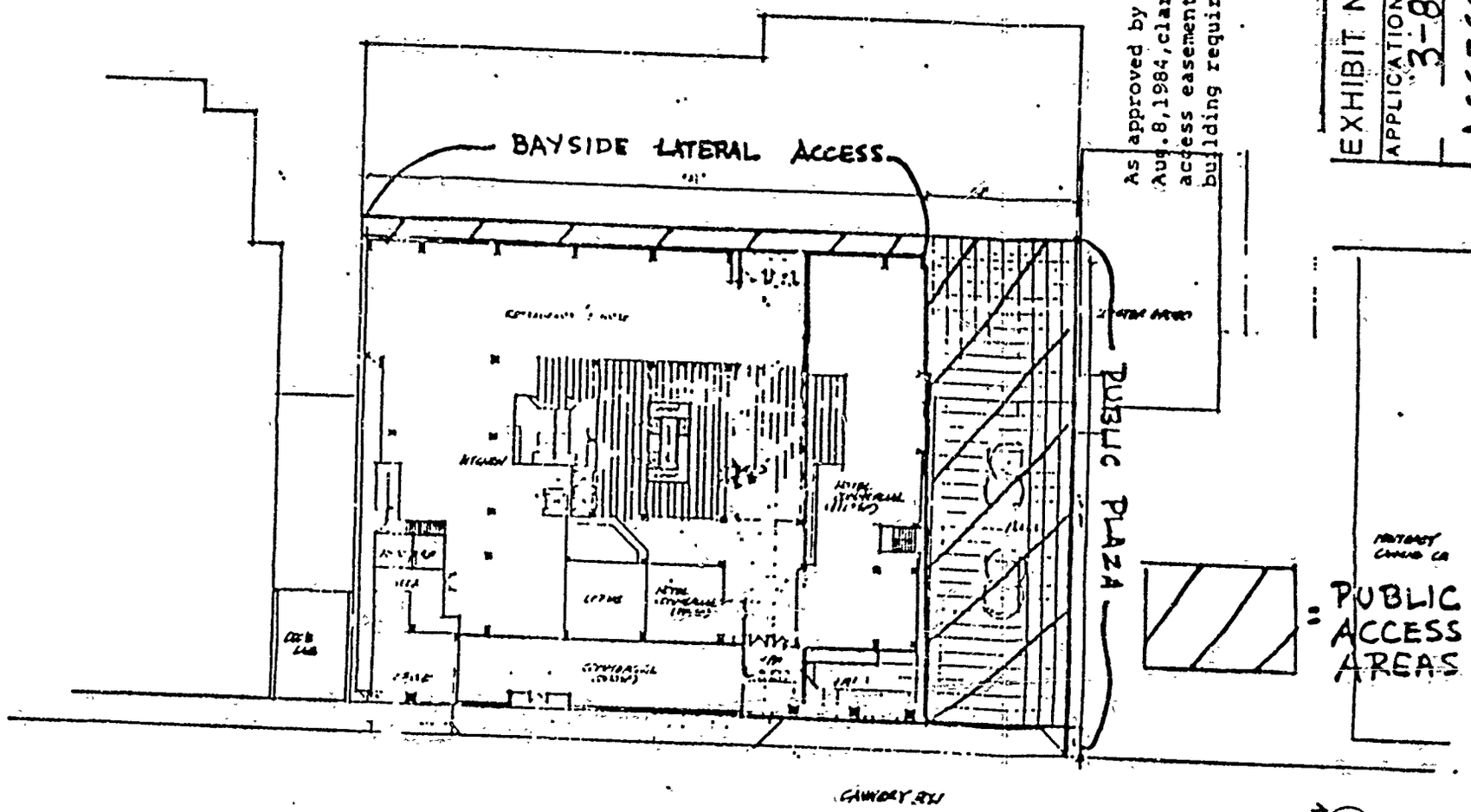
MONTEREY CALIFORNIA

PACIFIC EQUITY DEVELOPMENT

BUILDING 'A' ELEVATION

GIN WONG ASSOCIATES
PLANNING AND ARCHITECTURE

EXHIBIT C
Page 1 of 2



As approved by the Commission Aug. 8, 1984, clarifies no public access easement through the building required.

EXHIBIT NO. II
APPLICATION NO. 3-84-139
ACCESS AREA
California Coastal Commission

750 CANNERY ROW HOTEL
PACIFIC EQUITY DEVELOPEMENT
BUILDING A FIRST FLOOR
GIN WONG ASSOCIATES
PLANNING AND ARCHITECTURE

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EXHIBIT C
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