

MINUTE ITEM

This Calendar Item No. 32
was approved as Minute Item
No. 32 by the State Lands
Commission by a vote of 2
to 0 at its 6/23/83
meeting.

MINUTE ITEM
32

6/23/83
G 08-02
J. Sekelsky

DETERMINATIONS UNDER 6701 ET SEQ. OF THE P.R.C.
CONCERNING THREE LEASES BETWEEN
CITY OF MONTEREY, AS LESSOR, AND CANNERY ROW COMPANY;
HOSPITALITY, INC.; AND BUTCHER SHOP, INC.; AS LESSEES

During consideration of Calendar Item 32 attached, the
date in Recommendation 1 was amended to August 4, 1981.

Calendar Item 32 was approved, as amended, by a vote of
2-0.

Attachment: Calendar Item 32.

DATE	6/23/83
NO.	1355

6/23/83
G 08-02
J. Sekelsky

CALENDAR ITEM

32

DETERMINATIONS UNDER 6701 ET SEQ. OF THE P.R.C.
CONCERNING THREE LEASES BETWEEN
CITY OF MONTEREY, AS LESSOR, AND CANNERY ROW COMPANY;
HOSPITALITY, INC.; AND BUTCHER SHOP, INC.; AS LESSEES

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 three leases described below. Briefly, the determinations relate to the following: (a) conformance with the terms of the granting statutes; (b) that proceeds of the leases shall be expended for statewide purposes as authorized by the granting statutes; and (c) that the leases are 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:
(Lease #1) Cannery Row Company, a limited
Partnership organized and existing
under the laws of the State of
California
765 Wave Street
Monterey, California 93940

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(Lease #2) Hospitality, Inc., a California Corporation
765 Wave Street
Monterey, CA 93940

(Lease #3) Butcher Shop, Inc., a California Corporation
765 Wave Street
Monterey, CA 93940

LOCATION: Approximately one acre of tidelands and submerged lands granted to the City of Monterey, located in the vicinity of Cannery Row (see site map and location map, Exhibits "A" and "B", attached).

LAND USE: Current: None; lease parcels currently partially occupied by unused, dilapidated cannery structures presently being removed as part of the proposed project.

Proposed: The lease parcels are to be used in conjunction with several adjacent upland parcels as follows: Removal of existing buildings and the construction of a 291-room hotel containing a restaurant, bar, food and other concessions, parking facilities, a public beach, and a public walkway running the entire waterfront area of the proposed project (see attached drawings, Exhibit "C").

DURATION: 50 years, commencing on August 1, 1983, and ending on July 31, 1983, 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 land contribution consists of small irregular parcels, open space areas, and walkway/access areas, Mr. Berry has concluded that such property tends

to contribute to an overall upland development in a manner equal to the upland. Therefore Mr. Berry recommended that the City receive a percentage of the Gross Receipts paid to the upland Owner/Lessor by the upland Lessee based upon a weighted land contribution by the City less an allowance for the active upland managing general partner. The City is to receive 7.65% of total rents paid by the upland Lessee to the upland Lessor.

This rental will be divided as follows:

Lease #1: 3.825% of total rents paid to Cannery Row Company, upland Owner/Lessor, by Cannery Row Plaza Associates, upland Lessee;

Lease #2: 3.825% of total rents paid to Cannery Row Company, upland Owner/Lessor, by Cannery Row Plaza Associates, upland Lessee;

Lease #3: \$1.00 plus public benefit, in that Lessee will provide and maintain open beach with access to the public road, which beach and accessway will be open to the general public.

The leases provide 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 LEASES

The project proponent was granted a Coastal Commission permit, Number 3-82-77, on April 20, 1982, for the site clearance portion of the project. Staff of the City has informed Commission Staff that the City certified the EIR prepared for

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the entire project on August 31, 1981, and has found that the project as approved will have no significant adverse impact on the environment.

CONFORMANCE WITH GRANTING STATUTES

Legislative Acts relating to the leased lands include:

<u>Chapter</u>	<u>Year</u>
210	1868
237	1903
669	1919

Staff of the Commission have reviewed the subject leases and have found them 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 leases will be deposited in a separate granted lands trust fund, and will be expended for the maintenance, improvement, and benefit of the tidelands and submerged lands granted to the City of Monterey.

BEST INTERESTS OF THE STATE

LAND USE: The subject parcels of granted tidelands and submerged lands have historically been used in conjunction with the adjacent upland parcels as the site of a cannery operation, abandoned some time ago. The cannery structures have blocked public access to the tidelands in this area, and in recent years, have fallen into a state of disrepair, creating a hazardous condition on the site. The site is presently being cleared of the cannery structures in preparation for the proposed project.

The proposed project, which will be located upon granted tidelands and submerged lands and upon adjacent upland parcels, consists of an approximately 180,000 square foot deluxe hotel complex, including 291 rooms, restaurant, lounges, conference rooms, and retail space. The

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project will also include a public beach and public walkway along the entire waterfront of the complex, with public access to the beach and walkway from the main street at either end of the project area. The beach and walkway will be maintained by the hotel management. Thus, public access to the tidelands, presently unavailable, will be promoted by the project.

The City, as Lessor, has agreed to maintain the granted submerged lands which front the proposed project as open space for the term of the project. City staff have informed Commission staff that this use is consistent with the Land Use Plan for the area and with long term plans of the City as reflected in the Monterey City General Plan.

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.

- EXHIBIT:
- A. Site Map
 - B. Location Map
 - C. Lease and Project Diagrams

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IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE CITY OF MONTEREY, PURSUANT TO THE PROVISIONS OF CEQA, COMPLETED AND CERTIFIED AN EIR FOR THE CANNERY ROW PLAZA PROJECT ON AUGUST 31, 1981.

2. MAKE THE FOLLOWING DETERMINATIONS, PURSUANT TO SECTION 6702 OF THE PUBLIC RESOURCES CODE, AS TO THREE LEASES BETWEEN THE CITY OF MONTEREY, AS LESSOR, AND 1) CANNERY ROW COMPANY; 2) HOSPITALITY, INC.; AND 3) BUTCHER SHOP, INC.; 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; AND SUBJECT, FURTHER, TO RECEIPT BY THE COMMISSION OF EVIDENCE OF OFFICIAL ACTION BY THE CITY OF MONTEREY ESTABLISHING A TRUST FUND INTO WHICH REVENUES FROM THESE LEASES WILL BE DEPOSITED, WHICH FUND WILL BE SUBJECT TO AND MAY BE EXPENDED ONLY ON PROJECTS CONSISTENT WITH THE PUBLIC TRUST AND THE TERMS OF THE SUBJECT GRANT TO THE CITY; AND SUBJECT, FURTHER, TO RECEIPT BY THE COMMISSION OF CERTIFICATION BY THE CITY OF THE FINAL EIR FOR THE PROJECT PURSUANT TO CEQA AND THE GUIDELINES AND A FINDING BY THE CITY THAT THE PROJECT AS APPROVED WILL HAVE NO SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT:

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

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

(c) THAT SAID LEASES ARE IN THE BEST INTERESTS OF THE STATE.

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

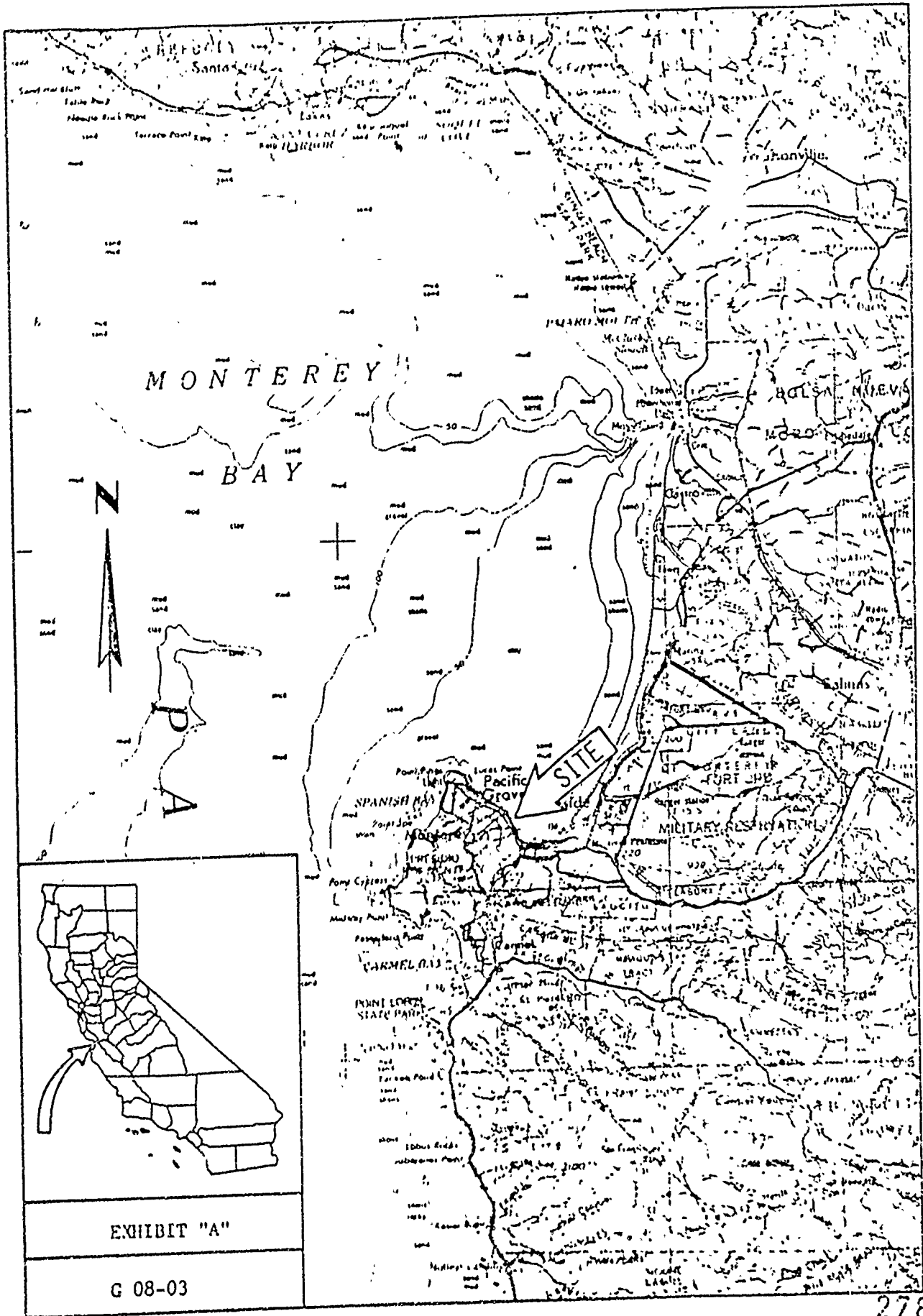


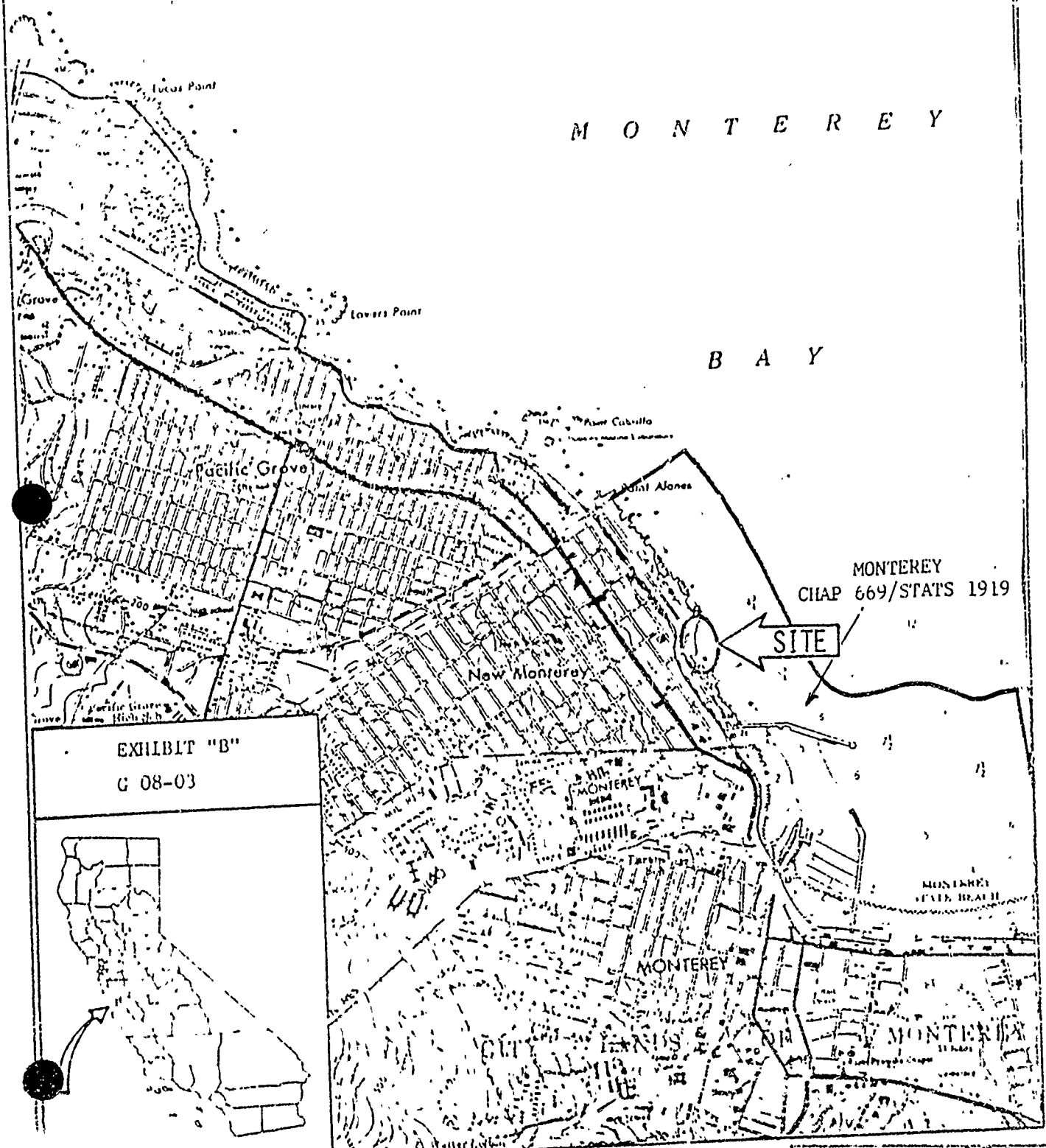
EXHIBIT "A"

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M O N T E R E Y
B A Y



MONTEREY
CHAP 669/STATS 1919

SITE

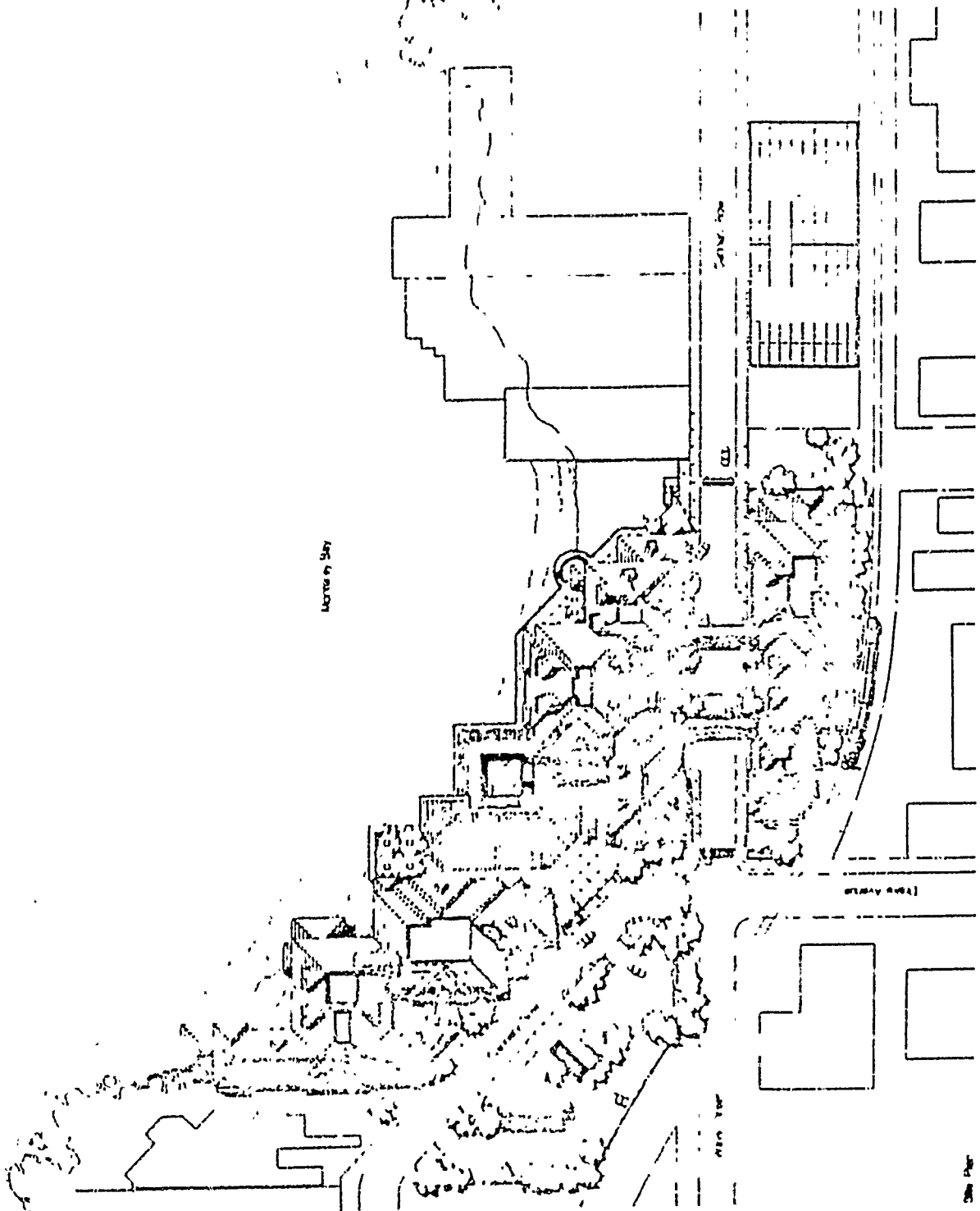
EXHIBIT "B"
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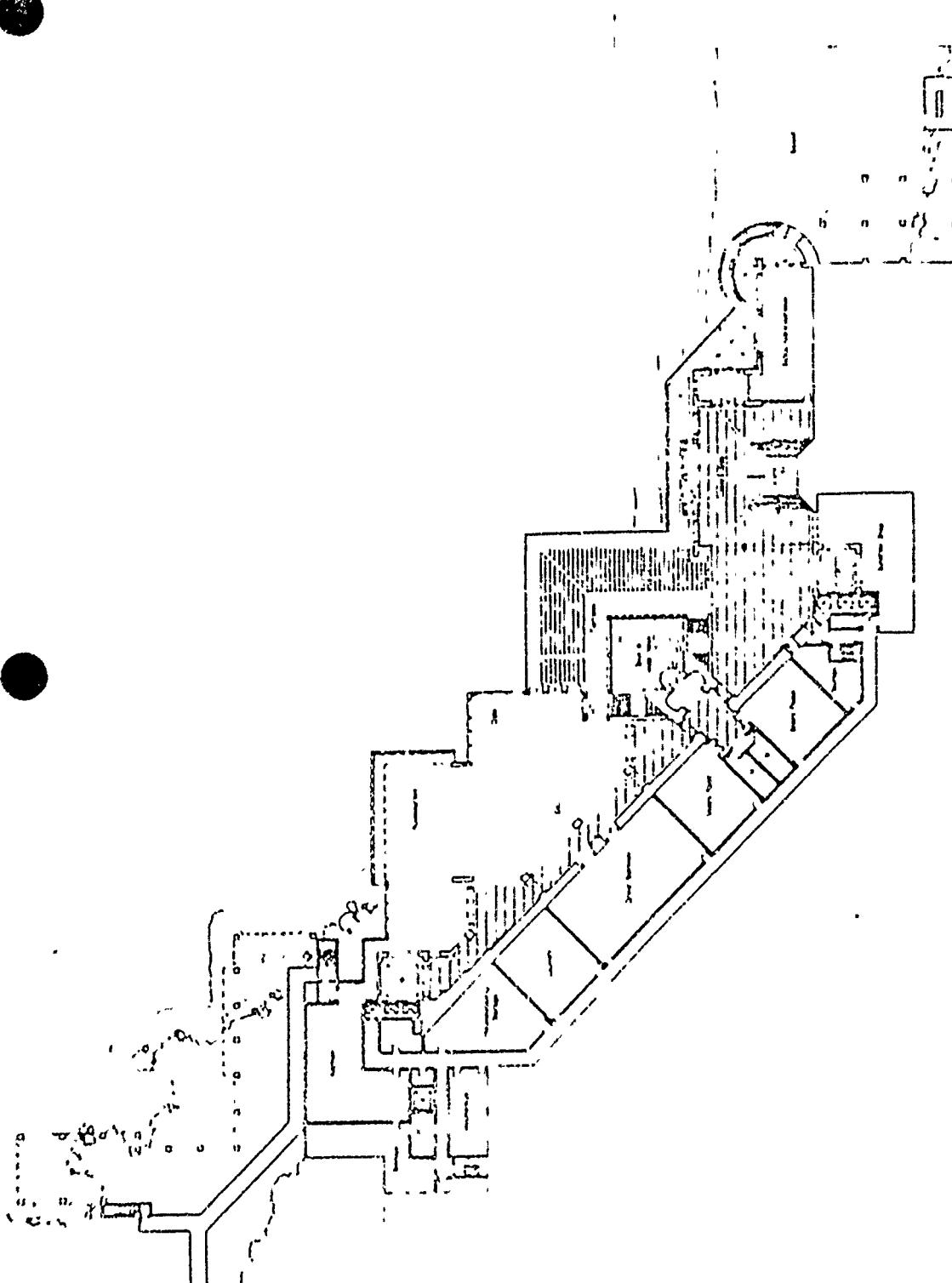
Added 6/23/83

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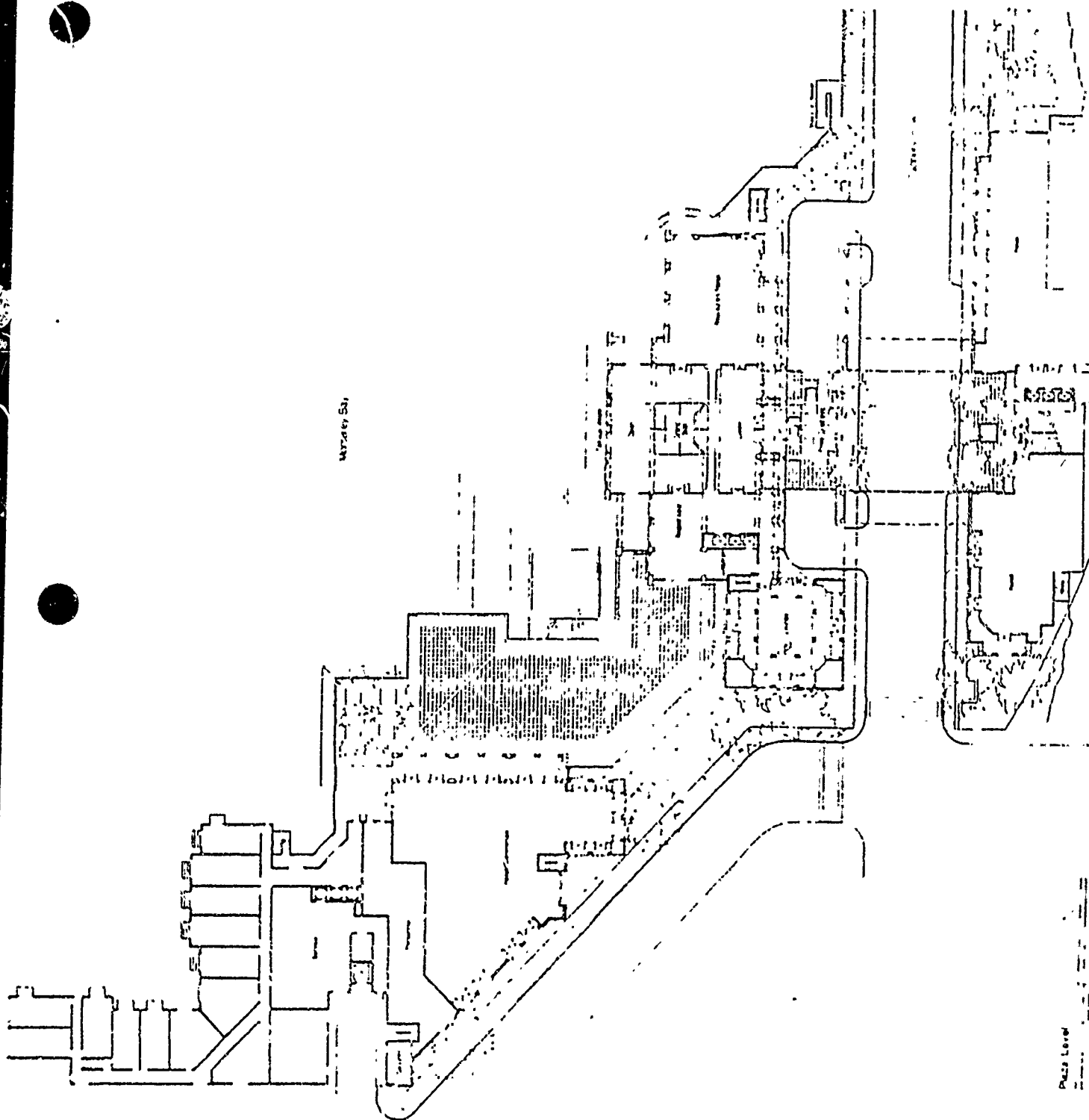
EXHIBIT C
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EXHIBIT C
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Plaza Level

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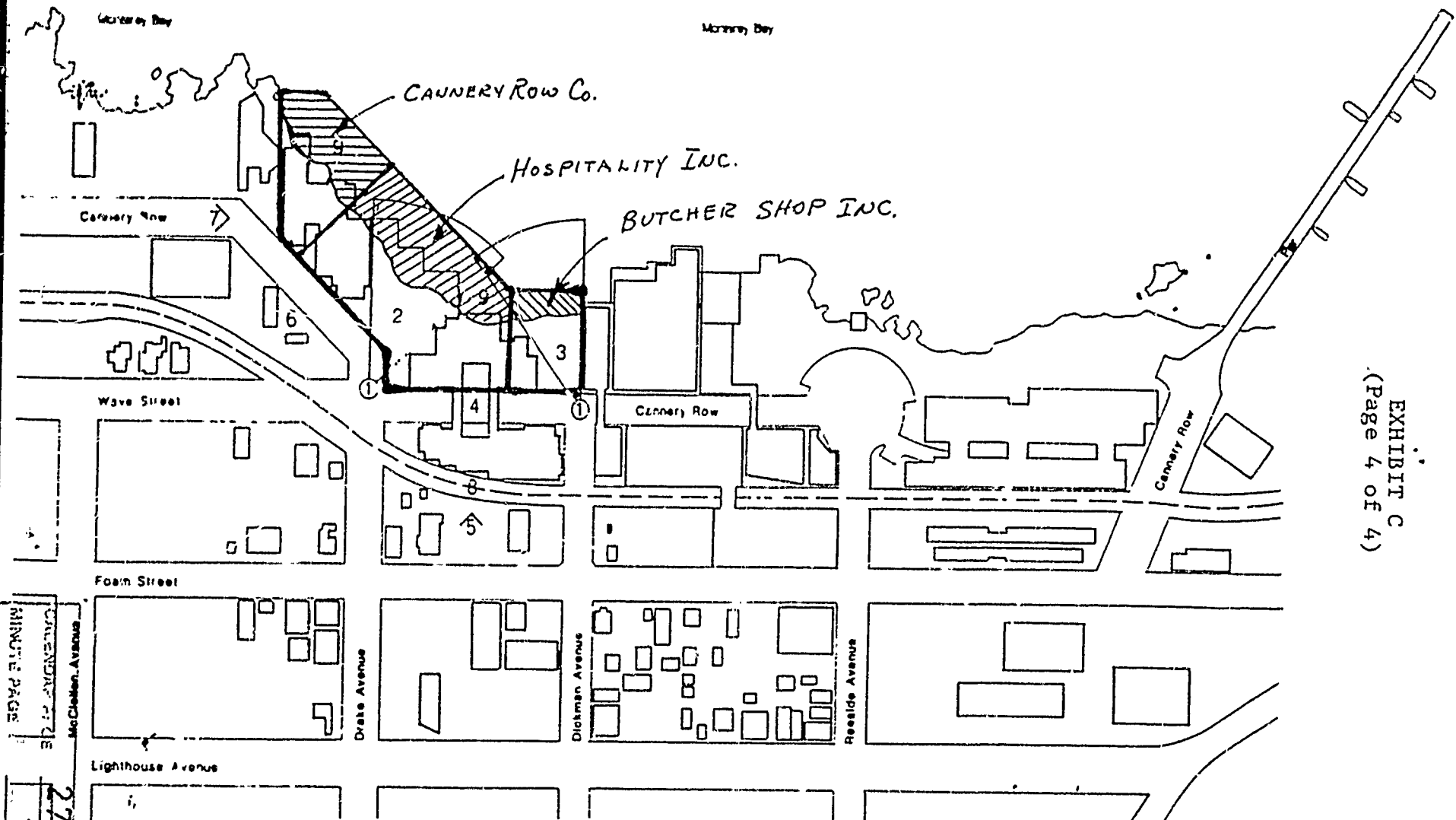
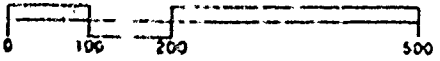


EXHIBIT C
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SITE CONCEPT PLAN



Approx. Scale 1" = 222 feet

- Key:
- 1. Public view sight lines retained
 - 2. Public open space created
 - 3. Public beach access created
 - 4. Cannery bridges
 - 5. Residential articulation and lower building profile
 - 6. Historic buildings restored
 - 7. Characteristic cannery massing along view corridor
 - 8. Railroad platform incorporated into hotel
 - 9. Articulated Massing