

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

THIRTY VAN NESS AVENUE, SUITE 2011
SAN FRANCISCO, CALIFORNIA 94102-6080
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Permittees' Copy

PERMIT NO. M97-12

June 11, 1997

Port of San Francisco
Ferry Building, #3100
San Francisco, California 94111

ATTENTION: Paul Osmundson

AND

Peer Inn, Inc.
Pier 33, The Embarcadero
San Francisco, California 94111

ATTENTION: Chris Kasaris

Ladies and Gentlemen:

I. Authorization

A. Subject to the conditions stated below, the permittees, the Port of San Francisco and Peer Inn, Inc., are hereby authorized to do the following:

Location: In the 100-foot shoreline band, at Pier 33, The Embarcadero, Port of San Francisco, City and County of San Francisco.

Description: Remodel the Pier 33 Bulkhead Building by: (1) restoring the facade and windows of the connector building along the Embarcadero side to their original condition; (2) reconfiguring the interior space to provide for a new and larger kitchen area that meets current building codes, and providing storage space, office areas, restrooms, access ways, seating areas and a bar that are handicapped accessible; (3) replacing the unauthorized greenhouse addition, along the Bay, with an approximately 600-square-foot, transparent lean-to structure and skylights and use the area for dining; and (4) permanently removing the unauthorized cantilevered catwalk.

B. This authority is generally pursuant to and limited by your application dated March 21, 1997, including its accompanying exhibits and all conditions of this permit.

C. Remodel work authorized herein must commence prior to July 1, 1998, or this permit will lapse and become null and void. Such work must also be diligently pursued to completion and must be completed within two years of commencement, or by July 1, 2000, whichever is earlier, unless an extension of time is granted by amendment of the permit.

4. **Improvements Within the Total Public Access Area.** Within two years of the commencement of construction authorized herein, or by June 10, 1998, whichever is earlier, the Port of San Francisco shall improve the public access area with a suitable deck, seating, trash containers, lighting, if appropriate and signage that will ensure that the public is aware of the availability of the access area, can enjoy using the area, and can connect with access areas that may be developed in the future on Piers 33 or 35. The access area should be accessible to the disabled pursuant to the Americans with Disabilities Act. Such improvements shall be consistent with final plans approved by or on behalf of the Commission.
5. **Maintenance.** The areas and improvements within the public access area shall be permanently maintained by and at the expense of, the Port of San Francisco or its assignees. Such maintenance shall include, but is not limited to, repairs to all path surfaces; replacement of any trees or other plant materials that die or become unkempt; repairs or replacement as needed of any public access amenities such as signs, benches, trash containers and lights; periodic cleanup of litter and other materials deposited within the access areas; removal of any encroachments into the access areas; and assuring that the public access signs remain in place and visible. Within 30 days after notification by staff, the permittees shall correct any maintenance deficiency noted in a staff inspection of the site.
6. **Assignment.** The permittees shall transfer maintenance responsibility to a public agency or another party acceptable to the Commission at such time as the property transfers to a new party in interest but only provided that the transferee agrees in writing, acceptable to counsel for the Commission, to be bound by all terms and conditions of this permit.
7. **Reasonable Rules and Restrictions.** The permittees may impose reasonable rules and restrictions for the use of the public access areas to correct particular problems that may arise. Such limitations, rules, and restrictions shall have first been approved by or on behalf of the Commission upon a finding that the proposed rules would not significantly affect the public nature of the area, would not unduly interfere with reasonable public use of the public access areas, and would tend to correct a specific problem that the permittees have both identified and substantiated. Rules may include restricting hours of use and delineating appropriate behavior.

B. Debris Removal. All construction debris shall be removed to a location outside the jurisdiction of the Commission. In the event that any such material is placed in any area within the Commission's jurisdiction, the permittees, their assignees, or successors in interest, or the owner of the improvements, shall remove such material, at its expense, within ten days after it has been notified by the Executive Director of such placement.

C. Construction Operations. All construction operations shall be performed to prevent construction materials from falling into the Bay. In the event that such material escapes or is placed in an area subject to tidal action of the Bay, the permittees shall immediately retrieve and remove such material at its expense.

the project provides the maximum feasible public access consistent with the project. The Commission generally considers work on the pier pilings, substructure or decking to fall within its Bay jurisdiction. Unless such work can be considered routine repairs, pursuant to the Attorney General's informal opinion on the Commission's jurisdiction over piers that predate the Commission, the Commission must consider whether the work is consistent with all of the fill requirements of Section 66605 of the McAteer-Petris Act, including whether the uses are water-oriented.

In this case, the permittees will remodel the connector building for use as a restaurant. In 1974, without the benefit of a BCDC Permit, the permittees installed an approximately 600-square-foot greenhouse (solarium) as an additional dining area and an approximately 120-square-foot catwalk to access and service the greenhouse. The greenhouse was attached along the Bayside of the connector building, but entirely within the footprint of the pre-existing, ten-foot-wide stringer pier. However, the catwalk was cantilevered beyond the edge of the stringer pier and over the Bay resulting in approximately 120 square feet of unauthorized Bay fill. The permittees have closed the Peer Inn Restaurant and will remodel and re-establish the lease space as a Greek restaurant, Samos. The remodel will include: (1) restoring the facade and windows of the connector building along the Embarcadero side to its original condition; (2) reconfiguring the interior space to provide for a new and larger kitchen area that meets current building codes, and providing storage space, office areas, restrooms, access ways, seating areas and a bar that are handicapped accessible; (3) replacing the unauthorized greenhouse addition with an approximately 600-square-foot, transparent lean-to structure and skylights to be used for dining; and (4) permanently removing the unauthorized cantilevered catwalk. The permittees will not place any new or replacement fill, nor is any work to the pier pilings, substructure or decking necessary to carry out the remodeling. All new improvements, except the removal of the unauthorized catwalk, will occur within the footprint of the connector building and stringer pier, and thus fall primarily within the Commission's shoreline band jurisdiction.

Although the proposed project, in itself, would not create a substantial demand for new public access, since it does not significantly increase the amount of table service beyond what historically existed at the Peer Inn Restaurant, the construction of the 1974 greenhouse addition and its replacement does and would adversely impact future public access to the Bay. The San Francisco Waterfront Special Area Plan recommends that connecting buildings between the piers should be removed whenever possible in order to create opportunities to view the Bay. The Commission staff is also working with the Port of San Francisco on a new public access plan for the waterfront that would, among other improvements, provide specific openings within the connector buildings to allow the public to use the stringer piers and view the Bay. Thus, the replacement of the greenhouse addition would physically pre-empt the public's future use of portions of the stringer pier for public access.

To offset the public access impacts, the permittees will provide several new public access improvements. As part of the remodeling, the permittees would make the building more transparent by restoring the windows along The Embarcadero facade and replacing the greenhouse with taller and larger windows along the Bay, thereby increasing visual access for the public from Herb Caen Way through the connector building and to the Bay. The Port itself will also open the connector building immediately north of the restaurant and provide physical access through the connector building and along portions of the remaining ten-foot-wide, stringer pier or connect to an existing six-foot-wide stringer on Pier 33. Special Condition II-A is necessary to ensure that the public access areas will be provided and maintained, thereby offsetting the potential public access impacts.

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F. Unless otherwise provided in this permit, all the terms and conditions of this permit shall remain effective for so long as the permit remains in effect or for so long as any use or construction authorized by this permit exists, whichever is longer.

G. Unless otherwise provided in this permit, the terms and conditions of this permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

H. Unless otherwise provided in this permit, any work authorized herein shall be completed within the time limits specified in this permit, or, if no time limits are specified in the permit, within three years. If the work is not completed by the date specified in the permit, or, if no date is specified, within three years from the date of the permit, the permit shall become null and void. If a permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this permit shall be removed by the permittees or their assignees upon receiving written notification by or on behalf of the Commission to remove the fill.

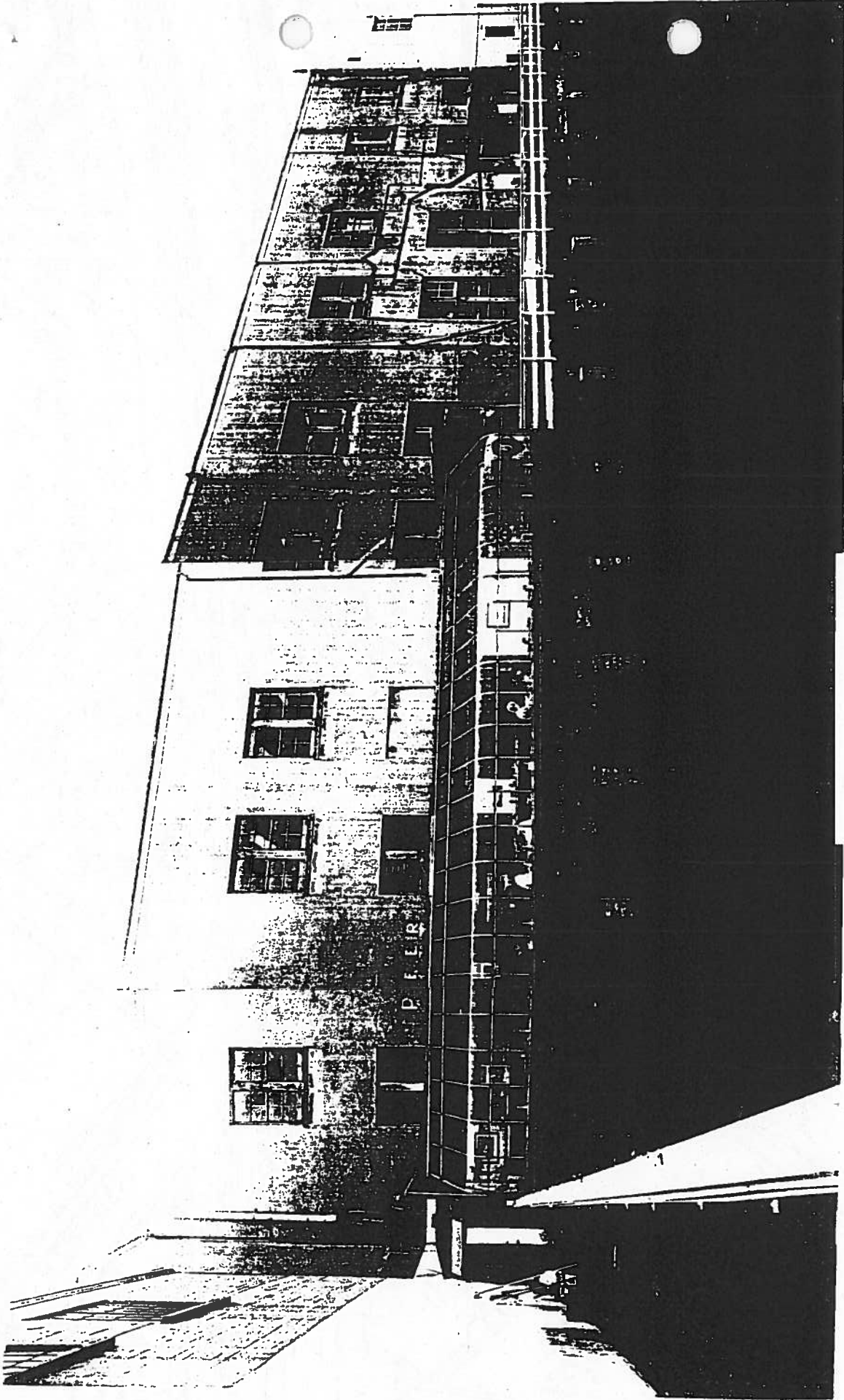
I. Except as otherwise noted, violation of any of the terms of this permit shall be grounds for revocation. The Commission may revoke any permit for such violation after a public hearing held on reasonable notice to the permittees or their assignees if the permit has been effectively assigned. If the permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this permit shall be removed by the permittees or their assignees if the permit has been assigned.

J. This permit shall not take effect unless the permittees execute the original of this permit and returns it to the Commission within ten days after the date of the issuance of the permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

K. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this permit.

L. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

M. Unless the Commission directs otherwise, this permit shall become null and void if any term, standard condition, or special condition of this permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this permit becomes null and void, any fill or structures placed in reliance on this permit shall be subject to removal by the permittees or their assignees if the permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.



ALTERNATIVE :

ADJACENT STRINGER TO BE DEVELOPED AS PUBLIC ACCESS
WITHIN TWO YEARS. AN OFFICE LOBBY WILL SERVE THE
STRINGER DURING OFFICE HOURS.

