

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4402  
 (619) 767-2370



# W17a

## Addendum

Click here to go  
to the original staff report.

August 8, 2011

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item W17a**, Coastal Commission Permit Application # **6-02-008-A1 (Pacific Coast Grill)**, for the Commission Meeting of August 10, 2011

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Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 1 of the staff report, the amendment description shall be revised as follows:

**Proposed**

Amendment: Addition of a 620 square foot outdoor deck for dining on top of existing first floor dining area, a nine foot high wood trellis over the existing outdoor patio, a 36 inch high wall separating the outdoor dining area from the public access easement, after-the-fact approval of a 341 square foot second floor addition within the existing building footprint, and new exterior windows to replace existing exterior windows. Ten off-site valet parking spaces will be provided to accommodate the additional floor area. No at-grade outdoor patio areas are proposed.

2. On Page 12 of the staff report, the first complete paragraph shall be modified as follows:

The existing L-shaped concrete patio lies immediately adjacent to the public access path at the southern end; however the distance between the access path and the patio expands to approx. 10 ft. along the northern half of the existing outdoor patio. The Commission finds this is the minimum allowable distance between the access path and the patio because tThe placement of tables and chairs immediately adjacent to the public access path may result in conflicts with users of the public access path as patrons of the restaurant move tables or chairs or restaurant staff service the tables. In addition, users of the public access path may feel inhibited by the proximity of the tables and chairs and fail to recognize which areas are available for public uses. Therefore, in order to avoid any potential conflict and to assure the public is not

inhibited from using the access path by either physical or psychological barriers, the underlying coastal development permit (6-02-008) required that the area for outdoor dining should be located at least ten feet from the access path such that a buffer exists between the outdoor dining facilities and the public access path or that a three foot high wall or railing separate the public access easement from the outdoor dining area. The applicant proposes to construct a three foot high stucco wall along the perimeter of the existing, permitted outdoor patio. This wall would be similar to that contemplated in the underlying permit and would help visually separate the restaurant area from the public accessway. While the subject proposal does not include any expansion of the at-grade patio areas on the west side of the restaurant structure, for the above stated reasons, any patio expansion that moves the private dining closer to the public access path would be a concern. In addition, even though there is a riprap revetment on the beach, the western side of the subject site is still subject to threat from waves and overtopping and future seaward expansion of the outdoor patio could be subject to damage, inconsistent with Section 30253 of the Coastal Act. Thus, as proposed and conditioned, this portion of the proposed amendment is consistent with the applicable Coastal Act public access policies.

3. On Page 16 of the staff report, the final paragraph shall be revised as follows:

6. Unpermitted Development. Development has occurred on the subject site without required coastal development permits, including, but not limited to, a 341 square foot second story addition. Based on the review of available aerial photographs, it appears that the unpermitted development occurred prior to the purchase of the property by the current applicant. Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act...

July 21, 2011

California Coastal Commission

San Diego Coast District

To Whom It May Concern:

I'd like to offer my support for Steve Goldberg's Pacific Coast Grill to open in Cardiff by the Sea as soon as possible. I have only experienced a positive and excited reaction from everyone I have talked to about Pacific Coast Grill coming to south Cardiff. This includes my conversations with the other restaurant managers and owners on Coast Highway 101 in Cardiff. Everyone wants Pacific Coast Grill to open for business. No one wants an empty or unfinished building. As a patron of the Beach House, next door to the subject property, I can confirm an outside eating area both on the second floor and at the ground level patio area makes for a wonderful dining experience at the beach. It would be unimaginable for Pacific Coast Grill not to do the same, in taking advantage of a magnificent location and offering that experience to their clientele. I am in full support of Pacific Coast Grill having a sizable deck for their diners.

We are fortunate to have Steve Goldberg and his team with their years of expertise in running restaurants to be a part of the Cardiff by the Sea community. We would like to see the building occupied and open for business as soon as possible.

Thank you,

*Signature on file* -

Brenda Dizon

Cardiff resident since 1991

President, Cardiff 101 Main Street

6-02-CO8-A1  
Letter of Support

July 21, 2011

To: The Coastal Commission,

As a long time resident and business owner in Cardiff CA I value being a part of a community which prides itself on being one of the most desirable locations to live and work. As a community member, I as well as my family and friends thoroughly enjoy what living on the coast offers to all of us. The beaches, State campgrounds, the restaurants and the unique shops are what make our city the quaint seaside community it is. This has brought numerous tourists and continues to bring them year after year to enjoy all that Cardiff has to offer.

I, along with many other members of Cardiff would welcome the clean up of the former "Charlie's" restaurant on Coast Hwy 101. This building has been an eyesore for too long and I support and am hopeful that the Pacific Coast Grill are given the opportunity to create another beach front restaurant that can be enjoyed by locals as well as out of town tourists. The plans for a patio deck would further enhance patron's experience. Sitting outside near the coast has been available to affluent individuals, whom own ocean front property.. Now, if PCG were allowed to move forward with their plans to include an outdoor deck, this would provide everyone the opportunity to dine by the water while seated outside enjoying the fresh ocean air. These restaurateurs have successfully owned and operated restaurants locally as well as out of state. Given their successful careers in this industry, I feel this new restaurant and it's location, will bring added value to our community, by providing numerous jobs as well as providing a beautiful environment for people to enjoy day in and day out. The revenues generated for the City will be of great benefit to the entire community.

There are too, few restaurant locations that provide ocean front views and allowing one to replace and enhance a building that has sat dormant for years, in my opinion is a positive step. When I drive down the coast from Cardiff to Solana Beach and have out of town quests, I am frequently asked, why is this building vacant and run down? I heard one colleague of mine, state it is like having a beautiful smile, yet there is a tooth missing. That analogy states it all, as coast hwy 101 is picturesque until you see the missing tooth!

I truly support and welcome this opportunity to have a newly designed restaurant here in Cardiff, that will give everyone an opportunity to enjoy not only our beautiful ocean views, yet an experience to dine in an environment that promotes natural beauty and savory delights.

I, along with many others appreciate your consideration in allowing these business owners to move ahead on the construction of a deck for outdoor dining. I am sure will bring tremendous added value and enjoyment to the community and visitors for years to come.

Regards,

Christine Monet  
Cardiff Resident

6-C2-008A1  
Letter of Support

# Deputy Mayor Jerome Stocks

City of Encinitas California

270F N. El Camino Real #331 Encinitas CA 92024 (760) 633-2622  
jerome@stocksinsurance.com

July 24, 2011

It has come to my attention that Mr. Steve Goldberg is attempting to revitalize the defunct restaurant formerly known as "Charlie's" in Cardiff, a community of the City of Encinitas.

This comes as wonderful news as Mr. Goldberg and Company are considered quality business operators who provide the public a value for their dollar and their employees a quality place to have gainful employment; and in this fiscal environment adding jobs to a community is nothing to disregard.

It has also come to my attention that Mr. Goldberg is seeking to expand an upper deck area, and I completely support this idea. When my family and I dine at the Beach House next door, we always attempt to secure a table on the upstairs deck in order to enjoy the view and the sea breezes, and I see no reason why future patrons of the former "Charlie's" location should not enjoy the same benefit.

Sincerely,

*Signature on file*

Jerome Stocks  
Deputy Mayor  
City of Encinitas

*Also serving Encinitas as:*

- North County Transit District, Board Member, Past Chairman.
- North County Fire Dispatch JPA , Board Member, Past President.
- San Dieguito Water district, President, Board of directors.
- SANDAG, Chairman, Board of Directors.

*This Letterhead was not paid for with your tax dollars*

6-02-08-HI  
Letter of Support



**MainStreet 101**  
818 S. Coast Hwy 101  
Encinitas, CA 92024  
760.712.2943

California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, CA 94105-2219

Dear Commissioners,

This letter is in support of the Pacific Coast Grill located in Cardiff by the Sea, Encinitas, Ca. 92007. It has been my pleasure to work with the applicant, Steve Goldberg, as the applicant has processed through the local planning and permit process in the city of Encinitas.

The applicant has met extensively on several occasions with direct neighbors, area residents, and business groups in Cardiff by the Sea. The project has garnered overwhelming support and enthusiasm from all parties.

We are excited about Pacific Coast Grill opening in the previous location of "Charlie's" and turning what has been a two year vacant, deteriorating building, an eye sore, into a vibrant gathering place along Hwy 101 and the Pacific Ocean for area residents and visitors alike. The addition of outside decking will greatly enhance the quality and functionality of that gathering space and is supported by the community members and business groups.

I ask that you support the applicants request and allow this vacant deteriorating eyesore on the coast to enjoy a new vibrant life under a proven successful operator with a 20 year track record of success and community involvement.

Commissioners, thank you for your public service and review of this item.

Sincerely,

Peder Norby

Hwy 101 Corridor Coordinator,  
Contractor with the City of Encinitas.  
[pnorby@sbcglobal.net](mailto:pnorby@sbcglobal.net)

6-02-006-A1  
Letter of Support

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4421  
 (619) 767-2370



# W 17a

Filed: 7/13/11  
 49th Day: 8/31/11  
 180th Day: 1/9/12  
 Staff: EStevens-SD  
 Staff Report: 7/26/11  
 Hearing Date: 8/10/11

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-008-A1

Applicant: Pacific Coast Grill (Steve Goldberg)

Original:

Description: Construction of public access path, repairs to existing revetment and storm-damaged parking lot, after-the-fact approval of a roof, an outdoor dining area and approximately 45 tons of rip-rap.

Proposed

Amendment: Addition of a 620 square foot outdoor deck for dining on top of existing first floor dining area, a nine foot high wood trellis over the existing outdoor patio, a 36 inch high wall separating the outdoor dining area from the public access easement, after-the-fact approval of a 341 square foot second floor addition within the existing building footprint, and new exterior windows to replace existing exterior windows. Ten off-site valet parking spaces will be provided to accommodate the additional floor area.

Site: 2526 S. Highway 101, Cardiff, Encinitas (San Diego County)

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development with conditions. The primary coastal issues involved with the proposal are public access along the shoreline and availability of parking. As conditioned, the subject application assures continued public availability of the existing minimum eight foot wide public access path between the existing restaurant and rip-rap; and, before any additional restaurant square footage is authorized, the applicant must document that additional secured parking is available so that patrons will not usurp public parking spaces in an adjoining public beach parking facility or nearby free beach parking spaces. Special conditions of approval include requirements to: submit revised final plans; provide and document the provision of adequate parking; provide a transportation and parking demand management program; and submit a sign program.

Standard of Review: Chapter 3 policies of the Coastal Act

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Substantive File Documents: Certified City of Encinitas Local Coastal Program; CDP Files F1183, F2857, 6-83-165, 6-85-004, and 6-02-008, Parking Agreement between Pacific Coast Valet and Pacific Coast Grill (2011), Parking agreement between Yogi's Beach Bar/Keith Nordlinger and Pacific Coast Valet (2011), Parking agreement between SLK Group and Pacific Coast Valet (2007), 2611 Building Valet Parking Diagram (2011), Yogi's Valet Parking Diagram (2011), Charlie's Restaurant Valet Parking Diagram (David Skelly, 2003), Revetment Inspection/Monitoring 2526 S. Coast HWY 101 (GeoSoils, 2011), Letter from California State Lands Commission (2003), Letters from Pacific Coast Valet (2002 and 2011), Letter from Skelly Engineering (2002), Wave runup and overtopping analysis from Skelly Engineering (2002)

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-02-008 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. 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. Special Conditions.**

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All terms and conditions of the original approval of Coastal Development Permit 6-02-008 shall remain in full force and effect, except those that are explicitly replaced or modified in this amendment.

2. The following shall replace, in its entirety, Special Condition #1 of the original permit:

Revised Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit final plans indicating the extent of the proposed trellis, the orientation of the proposed stucco wall, the location of on-site bike racks, and that the previously recorded easement is clear of any rocks. The final plans shall include, at a minimum:

- a. The proposed trellis shall only cover the existing outdoor patio and the sides of the trellis shall not be enclosed at any time.
- b. The proposed 36 inch high stucco wall shall follow the perimeter of the existing outdoor patio.
- c. At least five permanent bike racks in a secure location shall be provided.
- d. The recorded eight foot wide public access easement shall be clear of any rocks.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. The following shall replace, in its entirety, Special Condition #9 of the original permit:

Parking. The project shall provide 65 on-site (valet) parking spaces and a minimum of ten off-site parking spaces at all times. The ten off-site parking spaces must be striped and include signage indicating the parking is reserved exclusively for valet parking for patrons of Pacific Coast Grill. Loss of any parking spaces in the future will require a commensurate reduction in dining area (i.e. 100 square feet of dining space must be eliminated for each parking space lost).

4. The following shall replace, in its entirety, Special Condition #11 of the original permit:

**Deed Restriction.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded 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 (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and 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 applicant’s entire parcel or parcels. 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 amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

5. The following shall be added as new Special Condition #14:

**Off-Site Parking.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval, a parking agreement that provides, at a minimum, ten off-site valet parking spaces. Said parking agreement shall provide that the proposed off-site parking spaces are located within 1000 feet of the Pacific Coast Grill and are provided exclusively for use by the Pacific Coast Grill during its hours of operation (applicant must demonstrate the proposed off-site parking spaces are not currently required for any other use or business).

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall provide evidence that a deed and lease restriction, in a form and content acceptable to the Executive Director, has been recorded against the lease and the property on which the off-site parking spaces shall be located. This deed and lease restriction shall document the reservation of parking spaces as required by the terms of this condition. The deed and lease restriction shall include a legal description of the entire parcel on which the off-site parking spaces will be provided. The deed and lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restrictions. The deed and lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. The following shall be added as new Special Condition #15:

Transportation/Parking Demand Management Program. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director, for review and written approval, a Transportation/Parking Demand Management Program that includes, at a minimum, the following provisions:

- a. Free valet parking or reserved car pool spaces shall be provided for carpools of three or more employees
- b. The permittee shall provide incentives for employees to use public transportation; including the provision of subsidized public transit passes to employees.
- c. The permittee shall encourage employee participation in a carpool plan and will reasonably coordinate work schedules, post reminders on the employee bulletin board and provide other incentives.
- d. The permittee shall assist in arranging transportation during inclement weather for employees who use alternative modes of transportation.
- e. The program shall be part of any employment paperwork for all new employees.
- f. The permittee shall undertake annual surveys of employees to document the frequency with which they are using alternate transportation to get to work and the success of the Transportation/Parking Management Program. Surveys shall be submitted annually to the Executive Director for as long as this permit is in effect.

The Transportation/Parking Demand Management Program shall be implemented at all times consistent with the terms of this condition. Any proposed change to the required Transportation/Parking Demand Management Program shall be submitted to the Executive Director to determine whether an amendment to this permit is legally required.

7. The following shall be added as new Special Condition #16:

Sign Program. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit a comprehensive sign program, documenting that only monument signs, not to exceed eight feet in height, or facade signs are proposed. No tall, freestanding pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director.

The permittee shall undertake development in accordance with the approved sign plans. Any proposed changes to the approved sign plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. The following shall be added as new Special Condition #17:

Condition Compliance. Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

### **III. Findings and Declarations.**

The Commission finds and declares as follows:

1. Project History/Amendment Description. The subject development involves the addition of a 620 square foot deck for outdoor dining on top of an existing enclosed first floor dining area and after-the-fact approval of a 341 square foot second floor addition that has already been constructed (see Exhibit #s 2-3). In addition, the proposed development includes construction of a nine foot high open wood trellis over the existing first floor outdoor patio (see Exhibit #4), construction of a 36 inch high stucco wall along the perimeter of the existing patio area to separate the dining areas from the public access easement, and new exterior windows to replace existing exterior windows on the west side of the existing restaurant. The restaurant is located on an approximately 19,500 square foot beachfront lot and has 5,827 square feet of floor area, with a 440 square foot first floor patio used for outdoor dining. The property includes a small on-site parking lot that can accommodate 19 cars with self parking, but can accommodate 65 cars through valet parking (see Exhibit #5). Ten additional deed restricted off-site parking spaces are required to accommodate the proposed expansion, and the applicant intends to provide these ten spaces through valet parking at Yogi's (2633 S. Coast Hwy. 101), a nearby restaurant that currently has excess parking spaces available. In addition to the ten spaces required by this coastal development permit, the applicant also has another agreement with a nearby business that allows it to use 37 parking spaces for valet parking at an office building across the street (2611 S. Coast Hwy. 101) on weekends and after six PM on weekdays. The 37 valet parking spaces at 2611 S. Coast Hwy. 101 are not subject to the conditions of this coastal development permit amendment and will not be deed restricted. The parking spaces at 2611 S. Coast Hwy. 101 are not calculated as additional parking for the purposes of this coastal development permit amendment because no deed restriction on the property where the spaces are located will be recorded, thus the parking spaces do not run with the land and could be eliminated at any time. Additionally, the parking spaces at 2611 S. Coast Hwy. 101 are not counted because they are not available at all hours that the Pacific Coast Grill is in operation (see Exhibit #6). The majority of

the restaurants within the immediate vicinity of the subject property use valet parking to mitigate a lack of available on-site parking area.

In approving the approximately 1,000 tons of rip-rap that currently exist seaward of the restaurant and a previous restaurant expansion, the Commission required that lateral access across the site be secured by an irrevocable offer to dedicate public access seaward of the restaurant, that an eight foot wide public access path seaward of the restaurant be constructed to allow continual lateral access along the shoreline between the revetment and the restaurant, that the revetment be surveyed and be designed to protect the existing structures, and that the applicant and all future property owners assume the risks associated with developing at a hazardous site subject to wave and storm action. The stated purpose of the public access easement was to allow for continuous dry land lateral access during periods of high tides or storms. The irrevocable offer to dedicate the public access was recorded in November of 1983 and in October of 2004 was accepted by the California State Coastal Conservancy. Under direction of the Commission, the previous owner of the restaurant placed a layer of filter fabric on top of the underlying stones within the public access path and covered the path with approximately eight inches of gravel. The access path has been open and available to the public since the date of acceptance by the conservancy (see Exhibit #7).

The Commission has previously reviewed three applications for development at the subject site. In 1974, the Commission approved the construction of a wooden windscreen enclosure with a canvas roof around an approximately 620 square foot outdoor dining area on the southwest corner of the restaurant (F1183/Wood). In 1983, the Commission approved the partial demolition of the existing restaurant, enlargement of the 12 space parking lot to a lot containing 21 spaces, and the addition of an approximately 1,820 square foot second story addition (CDP #6-83-165/Saxten). In addition, the Commission also granted after-the-fact approval for the import of approximately 1,000 tons of rip-rap (approximately 150 rocks) that were placed on the seaward side of the restaurant during the winter of 1982-83 following a series of high tides and storms which damaged the restaurant. The placement of the approximately 1,000 tons of rock was added to an existing rock revetment that predated the Coastal Act. In 2002, the Commission approved the construction of a public access path between the restaurant/outdoor patio and the rock revetment, repairs to the revetment and storm-damaged parking lot, a roof over the enclosed area of the outdoor patio, an outdoor dining area and the placement of approximately 45 tons of additional rip-rap (6-02-008/Charlie's by the Sea). Additionally, in 2011, the applicant received a coastal development permit exemption to undertake tenant improvements, which primarily consist of interior remodeling (see Exhibit #1).

The subject oceanfront site is located on the west side of Highway 101 along the "Cardiff Restaurant Row" in the City of Encinitas. This section of Highway 101 traverses across the mouth and seaward side of San Elijo Lagoon and contains a series of restaurants on both the seaward and landward sides of the highway. The North Cardiff State Beach parking lot is located on the adjacent north side of the subject site.

The proposed development is located within the City of Encinitas which has a certified LCP; however, the subject site is located within the Commission's area of original jurisdiction and as such, the standard of review is the Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

2. Geologic Hazards. Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

In addition, Section 30253 of the Coastal Act is applicable and states, in part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (...)

The subject restaurant site fronts Cardiff State Beach on the west side of Highway 101 in the Cardiff community of Encinitas. North Cardiff State Beach day use facility, an approximately 105 space parking lot, is located on the north side of the subject site and two similarly sized restaurants are located to the south of the subject site. An approximately 145 foot long rip-rap revetment is located immediately west of the restaurant and extends approximately 30 to 40 feet seaward. Similar rip-rap fronts the two restaurants to the south of the subject site. While much of the existing rock was installed prior to enactment of the Coastal Act, approximately 1,000 tons of rock was added to rip-rap in front of the subject site in approximately 1983 following winter storms. This additional rock was permitted after-the-fact by the Commission in 1983. The Commission then approved the after-the-fact placement of approximately 45 tons (approximately 7 to 8 rocks) to the existing revetment on the subject site in 2002.

Section 30235 of the Coastal Act requires that shoreline devices only be permitted if they are required to protect existing development and are designed to eliminate or mitigate adverse effects to sand supply. In approving the addition of approximately 1,000 tons of rock to the pre-existing revetment in 1983 (CDP 36-83-165/Saxten), the Commission determined that the revetment was necessary to protect the existing restaurant and that no other feasible alternative was available to provide that protection. The Commission also determined that the revetment pre-existed the Coastal Act and, as such, did not require mitigation for impacts on sand supply. In addition, the Commission determined that a

rip-rap revetment was the historical type of shoreline protection used along this approximately one mile long stretch of beach. CDP #6-02-008 included the addition of 45 tons of rock to the existing revetment. The Commission determined this addition of rock to be part of the revetment's ongoing maintenance, as the revetment is founded entirely on sand and subject to extreme oceanographic conditions. Both of the two restaurants located south of the site and portions of the South and North Cardiff State Beach facilities contain similar seaward rip-rap structures, as well as portions of Highway 101.

Section 30253 of the Coastal Act requires that new development minimize risk to life and property, not lead to erosion or instability to surrounding sites or require the construction of shoreline protective devices. While the existing revetment provides substantial protection for the existing restaurant, the applicant's engineer has demonstrated that even with a properly designed and maintained rock revetment, overtopping of the revetment will occur in the future during periods of storm waves such as those that occur during an El Nino winter, subjecting the existing improvements to threat. Currently, there is no dry sand at all (i.e., usable beach) seaward of the restaurant at high tides. In addition, because the revetment is founded entirely on sand, the rock is subject to settling or sinking and may need to be maintained on a regular basis. The applicant acknowledges that the existing revetment is subject to overtopping and also indicates that a higher revetment or vertical wall would eliminate public views from the restaurant and may require a much larger footprint for the revetment on the beach.

The applicant is requesting approval for substantial additions to the existing restaurant. While the restaurant that is the subject of this coastal development permit amendment is located in a hazardous area, the proposed improvements are minimal and will not be subject to threat of wave uprush any more than the existing restaurant and outdoor patio because the proposed improvements do not lie seaward of the existing development. Although the Commission is not required to approve new development in hazardous areas, the proposed outdoor deck, wood trellis, low stucco wall, new exterior windows and the second floor interior expansion all represent development that does not increase the footprint of the existing restaurant or parking area. Therefore, the hazards associated with the location of these elements do not essentially differ from what currently or previously existed. In addition, the applicant is bound by the condition of the original permit that requires it to assume the risks of the earlier-approved development, including the rip-rap and outdoor dining area, which would be at risk before the development proposed in this amendment request. Thus, a similar condition is not necessary for this amendment in this particular case.

The original permit also included a special condition requiring monitoring of the revetment (ref. Special Condition #8 of CDP #6-02-8); this requirement continues to apply to the site. With this condition, the Commission can be assured that the revetment will continue to perform as designed without resulting in adverse impacts to surrounding areas or occupying additional public beach area. In addition, through monitoring and maintenance, the Commission can be assured that the public access path will continue to be provided seaward of the restaurant. The applicant submitted the most recent

monitoring report in March of 2011, which stated the revetment is functioning as intended and has not required any form of maintenance since the creation of the public access walkway in late 2002 (GeoSoils, 2011). Special Condition #2 also requires the applicant to submit final plans showing the location of the proposed trellis, the location of the proposed wall and evidence that the recorded eight foot wide public access easement is clear of any rocks.

In summary, as conditioned, the proposed development, while located in a hazardous area subject to wave-action, will not require additional shoreline protection over that which currently exists. In addition, the applicant understands that while the existing revetment does not provide complete protection to the restaurant structure, it is the best alternative for protection in this case. The Commission, in its previous action on the site, recognized the need to protect the existing restaurant from such hazards and found the rip-rap revetment, in this case, consistent with Coastal Act policies. Therefore, as conditioned, the proposed development is consistent with Section 30235 and 30253 of the Coastal Act.

3. Public Access\Parking. Several policies of the Coastal Act require that new development protect or enhance public access to and along the shoreline. These policies include:

Section 30210

In carrying out the requirements 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

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 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby....

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by

(...)

(2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads,

(...)

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation (...)

The subject application includes the request for approval of an outdoor deck for dining, a wood trellis, a wall separating the outdoor dining area from the public access easement, a foot second floor addition, and new exterior windows to replace existing exterior windows, and off-site valet parking.

Public Access

The subject site is located on the beach west of Highway 101 in the Cardiff community of Encinitas. While the amount of sandy beach seaward of the restaurant is non-existent during high tides, the ocean fronting the site is heavily used for surfing and other water activities. Adequate vertical access to the beach is currently available at the North Cardiff State Park facility adjacent to the site. In addition, beach parking is currently available at the approximately 105 space lot at the North Cardiff State Beach Day Use facility adjacent to the site to the north and along the west side of S. Coast Hwy. 101. However, Cardiff Reef, one of the most surfed spots in San Diego County is also located seaward of the State Parks facility. One of the reasons Cardiff Reef is popular is because according to former longboard champion Joel Tudor, “it breaks almost every day, all year round.” The website, Surfline, states the following about the beach fronting Cardiff reef: “This is one of the few beaches around at which you'll see moms, dads, sons and daughters all hanging out in and out of the water, together.” Therefore, public access at this location and beach recreational activities are especially valuable.

In addition to ocean access, public access along the shoreline is a high priority in the Coastal Act. In approving previous development at the subject site and at two sites to the south, the Commission has required recordation of offers to dedicate a north/south directed public access easement on the dry upland area between the existing restaurants

and the revetments located seaward of the restaurants (ref. CDP Nos. 6-83-165/Saxten, F2857/Triton, 6-85-4/Chart House). Exhibit #8 identifies the locations of the public access way fronting these three restaurants, as depicted in the offers to dedicate. In addition, as can be seen on Exhibit #9, the Commission extended the public access easement area throughout the seaward extent of the subject property including the area occupied by the pre-existing Coastal Act revetment. In 1983, the Commission approved a significant addition of rock to the pre-Coastal Act revetment and a substantial renovation to the restaurant with conditions that also required a public access path on the east side of the revetment be “treated” in some form to assure that a path would be available for use. However, while the previous owner of the property added the rock to the revetment and substantially renovated the restaurant, the public access path was not constructed until 2002, following an additional coastal development permit. Following the acceptance of the access easement in 2004 by the Coastal Conservancy, the eight foot access path has been legally open and available to the public and includes public access signs at the northern and southern ends of the path.

The existing concrete patio lies immediately adjacent to the public access path. The placement of tables and chairs immediately adjacent to the public access path may result in conflicts with users of the public access path as patrons of the restaurant move tables or chairs or restaurant staff service the tables. In addition, users of the public access path may feel inhibited by the proximity of the tables and chairs and fail to recognize which areas are available for public uses. Therefore, in order to avoid any potential conflict and to assure the public is not inhibited from using the access path by either physical or psychological barriers, the underlying coastal development permit (6-02-008) required that the area for outdoor dining should be located at least ten feet from the access path such that a buffer exists between the outdoor dining facilities and the public access path or that a three foot high wall or railing separate the public access easement from the outdoor dining area. The applicant proposes to construct a three foot high stucco wall along the perimeter of the outdoor patio. This wall would be similar to that contemplated in the underlying permit and would help visually separate the restaurant area from the public accessway. Thus, this portion of the proposed amendment is consistent with the applicable Coastal Act public access policies.

### **Parking**

Because of the high demand for beach and ocean use adjacent to the subject site, it is important that the subject development request not result in adverse impacts to the current level of public parking available in the area. As described previously, Cardiff Reef is one of the most popular surfing locations in San Diego County. In addition, the west side of Highway 101 at this location contains three popular restaurants (including the subject restaurant) and several other restaurants and businesses are located across the street. In fact, the area is known as Cardiff’s “Restaurant Row” and is extremely popular for dining by visitors and locals alike. Most of the restaurants were constructed prior to the Coastal Act and incorporation of the City of Encinitas, such that they do not all currently meet City parking standards. Given the popularity of this area, especially during the summer, parking is very difficult at this location during much of the year. The

concern is that if parking is not available onsite for patrons of the restaurant, patrons would likely use the only available nearby public parking spaces within the North Cardiff State Beach Day Use area or the public parking along Highway 101. This usurpation of public parking would adversely affect beach and ocean users since it is the only public parking area within close proximity to the beach at this location. The two elements of the subject development request that could affect the level of onsite parking for the existing restaurant are construction of the 620 square foot second floor outdoor dining deck-and the 341 square foot second floor addition.

The existing 5,827 square foot restaurant has a 440 square foot outdoor patio and includes approximately 6,300 square feet of paved area that can accommodate up to 19 self-park parking spaces. In connection with CDP #6-02-008, the Commission approved a valet parking plan that showed the on-site parking lot could accommodate 65 cars. The parking standards in place under the City of Encinitas' certified LCP (used as guidance) require that one space be provided for every 100 square feet of restaurant (gross floor area). Using this standard, the restaurant currently requires 63 parking spaces (6,267 square feet total) and can accommodate all parking on-site through valet parking.

Although the Commission previously approved the valet plan for 65 parking spaces within the subject property's on-site lot, the Commission considers the site to be currently deficient in parking. Without valet parking, the on-site parking lot can only accommodate 19 parking spaces. Additionally, while valet parking 65 cars on the lot may be physically possible, it is most likely not how the lot operates. The representative from the valet parking company that has provided valet service for the lot for several years has stated that in the past he would park approximately 55 cars on-site and then begin to use off-site resources, since it is easier to park a car a short distance away than to move two or three cars in order to retrieve one car for the owner. The valet representative also asserts that since 1993, the valet company has at no time been forced to turn away a customer due to lack of parking. Furthermore, the valet representative states that off-site parking has never been needed Monday through Friday. However, the restaurant has been closed for approximately three years and the restaurant will be opening under different ownership, which may yield an increase in customers and a subsequent increase in parking demand.

The City's LCP (used as guidance here) does not require that the entire restaurant be brought into conformance when additional area is proposed. Instead, only the additional area must conform to existing City parking standards. In this case, the additional proposed dining area increases the demand for parking spaces in this area. In order for this amendment to be consistent with relevant Coastal Act policies, the applicant must demonstrate the addition of at least ten parking spaces in order to mitigate conflicts with public access to the beach. The applicant proposes to add outdoor dining on a new second floor deck and additional floor area associated with the second floor addition. City parking standards require that outdoor seating areas be treated comparable to indoor space such that the standard for outdoor dining is also one space per 100 square feet. Additionally, City parking standards use total square footage of a structure, plus outdoor dining area to calculate required parking. Therefore, the request to increase outdoor

dining involves the use of a new approximately 620 square foot second floor deck and the request to increase building floor area involving a 341 square foot second floor addition. The total additional proposed square footage is 961, requiring 9.61 parking spaces, which City parking standards require be rounded up to ten additional parking spaces. This is consistent with the requirements of the City of Encinitas certified Implementation Plan (IP), which the Commission uses for guidance when applying Chapter 3 policies within the original jurisdiction areas of the City. Special Condition #3 requires that 65 on-site valet parking spaces continue to be provided at all times and that a minimum of 10 off-site valet parking spaces also be provided at all times. Additionally, if in the future any loss of parking spaces occurs, a commensurate reduction in dining area must occur. The applicant proposes to provide the ten additional required off-site parking spaces through a lease agreement and deed restriction with the underlying property owner and the current lessee of Yogi's Restaurant at 2633 S. Coast Highway 101 (Yogi's). The ten required spaces must be striped and include signage indicating the parking is reserved exclusively for valet parking for patrons of Pacific Coast Grill.

Under the current CDP amendment request, the applicant proposes to offer moderately priced valet parking for all the restaurant patrons at all times the restaurant is open. The on-site parking lot and the ten spaces at the Yogi's parking lot will be available seven days a week and during all hours that Pacific Coast Grill is open. The applicant proposes that the valet charge will be approximately \$4 for patrons of Pacific Coast Grill. The cost to park in the North Cardiff State Beach Day Use facility is \$10. There is also free street parking along the west side of Highway 101, just south of the subject site and there is free public parking at the Plastino office building (2533 S. Coast Hwy. 101) across the street from the subject property on weekends and after normal business hours.

Special Condition #5 mandates that prior to issuance of this CDP, the applicant must submit to the Executive Director for review and written approval a parking agreement that provides ten off-site valet parking spaces. The spaces must be within 1,000 feet of the Pacific Coast Grill and must be provided for the exclusive use of Pacific Coast Grill patrons during hours of operation. A deed restriction or a deed and lease restriction, as applicable, documenting the reservation of the required spaces must also be recorded on both sites (Pacific Coast Grill site, through recordation of a generic deed restriction and the off-site parking property, through recordation of a deed and lease restriction). Both the deed restriction and the deed and lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit. In addition, the applicant shall submit a parking agreement between Pacific Coast Grill and a valet parking company which states that valet parking service will be provided during all hours that Pacific Coast Grill is in operation.

The offsite parking proposed by the applicant (Yogi's Restaurant) is across the street from the subject site. Yogi's has two parking lots which can accommodate a total of 78 valet parking spaces. Yogi's has a gross floor area of 4,614 square feet and a 1,104 square foot patio area for outdoor dining and therefore requires 58 parking spaces ( $4,614 + 1,104 = 5,718$ ;  $5,718/100 = 57.18$ ; rounds up to 58 spaces). Thus, the Yogi's parking lots have 20 valet parking spaces currently available (see Exhibit #10).

In addition to providing the required off-site parking to accommodate the restaurant expansion, Special Condition #6 also requires that the applicant submit and implement a Transportation/Parking Demand Management Program in order to promote use of transit, minimize employee parking demand, and prevent restaurant employees from usurping public parking spaces. The Program shall encourage and reward employees for biking or carpooling to work, provide incentives for using public transportation, provide emergency rides for employees that normally use alternate transportation, and mandate that a survey of employees will be submitted annually to the Executive Director in order to gauge the effectiveness of the Program. The Program must be submitted to the Executive Director for review and written consent prior to issuance of this coastal development permit.

Special Condition #2 mandates that the applicant install secure permanent on-site bicycle parking for a minimum of five bicycles. The City parking standards require restaurants with more than 6,000 square feet of floor area to provide five bicycle parking spaces. It is appropriate to use the City's standard as guidance, and the Commission is therefore requiring installation of five bicycle racks. The bicycle parking does not need to be covered, but it does need to be permanently affixed to the ground and in a location that is secure enough that the risk of theft is minimal.

In summary, the proposed restaurant additions will further enlarge the existing restaurant and increase the number of parking spaces the restaurant requires. Special Condition #4 requires the conditions of this coastal development permit to be recorded to assure future property owners are aware of the permit conditions. With the proposed conditions that assure adequate parking is provided, the project is consistent with the above-cited public access and recreation policies of the Coastal Act.

4. Visual Resources. Section 30251 of the Coastal Act states as follows:

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 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. (...)

The proposed development will be sited adjacent to the public beach on the west side of Highway 101 in the Cardiff community of Encinitas. This section of Highway 101 is designated in the City's certified LCP as a "Scenic Highway" with expansive views of the ocean to the west and San Elijo Lagoon to the east. Therefore, any new development along Highway 101 has the potential to adversely affect public views of coastal resources. In this case, however, the proposed development will not result in any adverse visual impacts over what currently exists. Currently the subject two-story restaurant obstructs views of the ocean as pedestrians, bicyclists, and motorists pass along Highway 101 such that any new development on the seaward side of the restaurant (i.e. placement

of outdoor dining and the proposed nine foot high wooden trellises above the existing patio) would not be visible by passersby. The parking lot will not expand above what previously existed. The second floor deck and the proposed trellises will be located on the seaward side of the two-story structure and will not substantially block coastal views looking north or south or from Highway 101. In addition, views from the beach or ocean will not be obscured or be adversely affected by any of the proposed improvements over what currently exists. Special Condition #7 requires the applicant to submit a sign program to the Executive Director, documenting that only monument signs (not to exceed eight feet in height) or façade signs are proposed or will be constructed. Therefore, as conditioned, the proposed development is consistent with Section 30251 of the Coastal Act.

5. Runoff/Water Quality. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained by, among other means, controlling runoff and states, in part, that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrapment, controlling runoff, ....

The construction of impervious surfaces can be associated with impacts to water quality when water runoff from hard surfaces contains pollutants that eventually drain onto beaches or other coastal waters. In urban areas, runoff can contain oil, gasoline, brake dust, particles of roofing material and construction matter, chemicals, trash and other contaminants. Filters, catch basins, permeable paving surfaces such as modular pavers, grassed parking areas, and permeable pavements can be employed to trap vehicle-generated pollutants and reduce runoff volumes.

In approving new development, the Commission typically requires the incorporation of these types of best management practices to assure protection of coastal waters. In this case, however, the applicants are not proposing to increase the amount of impervious surfaces above that which previously existed. Therefore, as conditioned, the Commission finds the proposed development consistent with the water quality protection policies of the Coastal Act.

6. Unpermitted Development. Development has occurred on the subject site without required coastal development permits, including, but not limited to, a 341 square foot second story addition. Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit amendment does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. In order to ensure that the unpermitted development component of this application is resolved in a

timely manner, the Commission finds it necessary to require the applicant to fulfill all of the Special Conditions as a prerequisite to the issuance of this permit, as required by Special Condition #8 within 90 days of the Commission action. Only as conditioned, is the proposed development consistent with the Coastal Act.

7. Local Coastal Planning. The subject site is located along the public beach and on the west side of Highway 101 in the Cardiff community of the City of Encinitas. Although the City of Encinitas has a certified LCP, the project site lies within the Commission's area of original jurisdiction such that the standard of review is Chapter 3 policies of the Coastal Act. However, the proposed development is also consistent with the City's certified LCP. The subject site is designated as Visitor-Serving Commercial in the certified City of Encinitas Land Use Plan and the proposed development is consistent with that designation. In addition, Circulation Policies 6.1, 6.2 and 6.3 of the LUP provides for the protection and enhancement of access opportunities along the shoreline in cooperation with the State. As conditioned, the proposal is consistent with the City's parking standards. The proposed development is consistent with the City's certified LUP policies and approval of the proposed development would not prejudice the ability of the City to continue to implement its certified LCP.

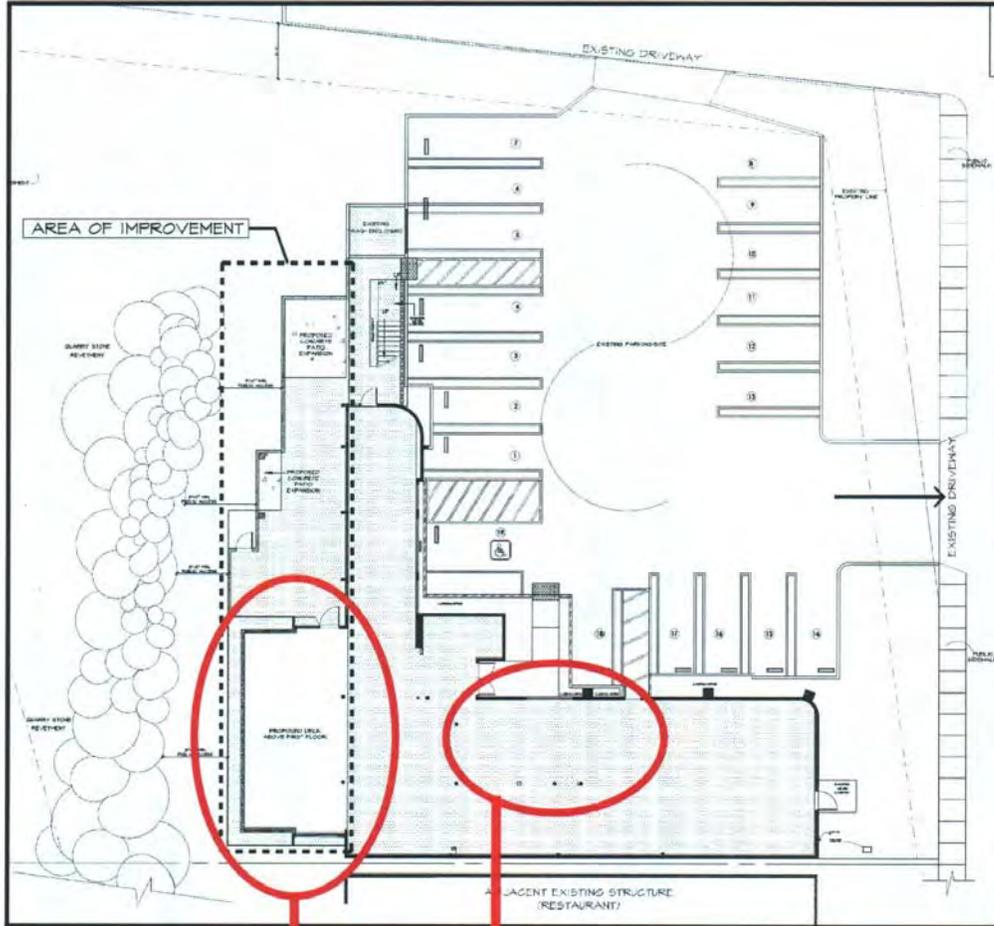
8. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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.

The proposed project has been conditioned in order to be found consistent with the visual quality and public access policies of the Coastal Act. Mitigation measures, including submission of revised plans and a parking plan, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

## Site Location



# Site Plan



Proposed 620 sq. ft.  
second floor deck

Proposed 341 sq. ft.  
second floor addition

\*\*Concrete Patio Expansions  
shown on Plan are no longer  
proposed

EXHIBIT NO. 2
APPLICATION NO.
<b>6-02-008-A1</b>
Site Plan
California Coastal Commission

## Second Floor Addition

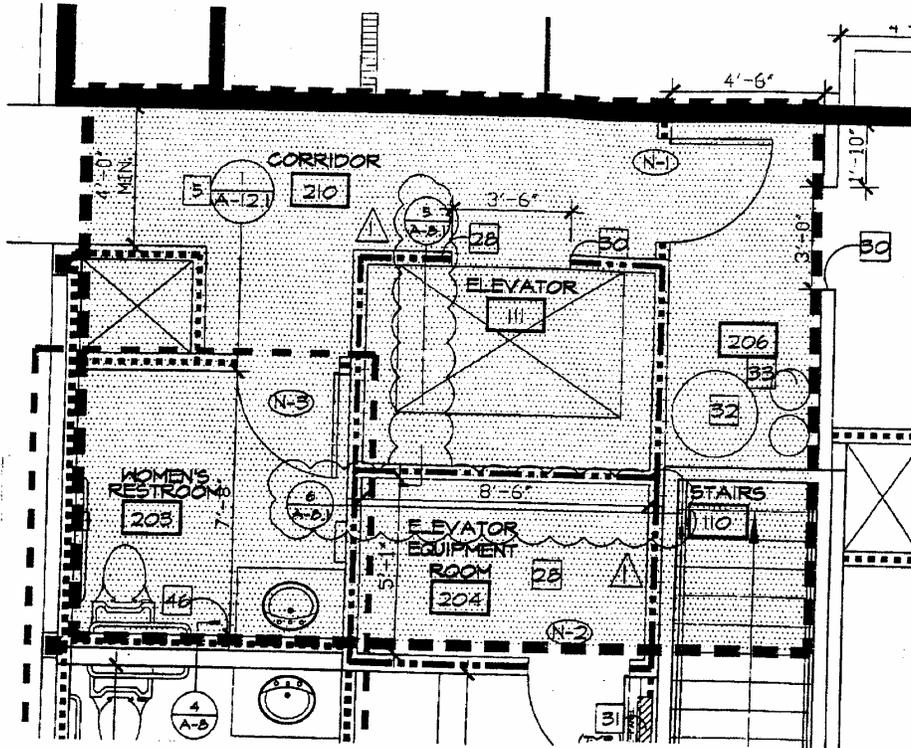
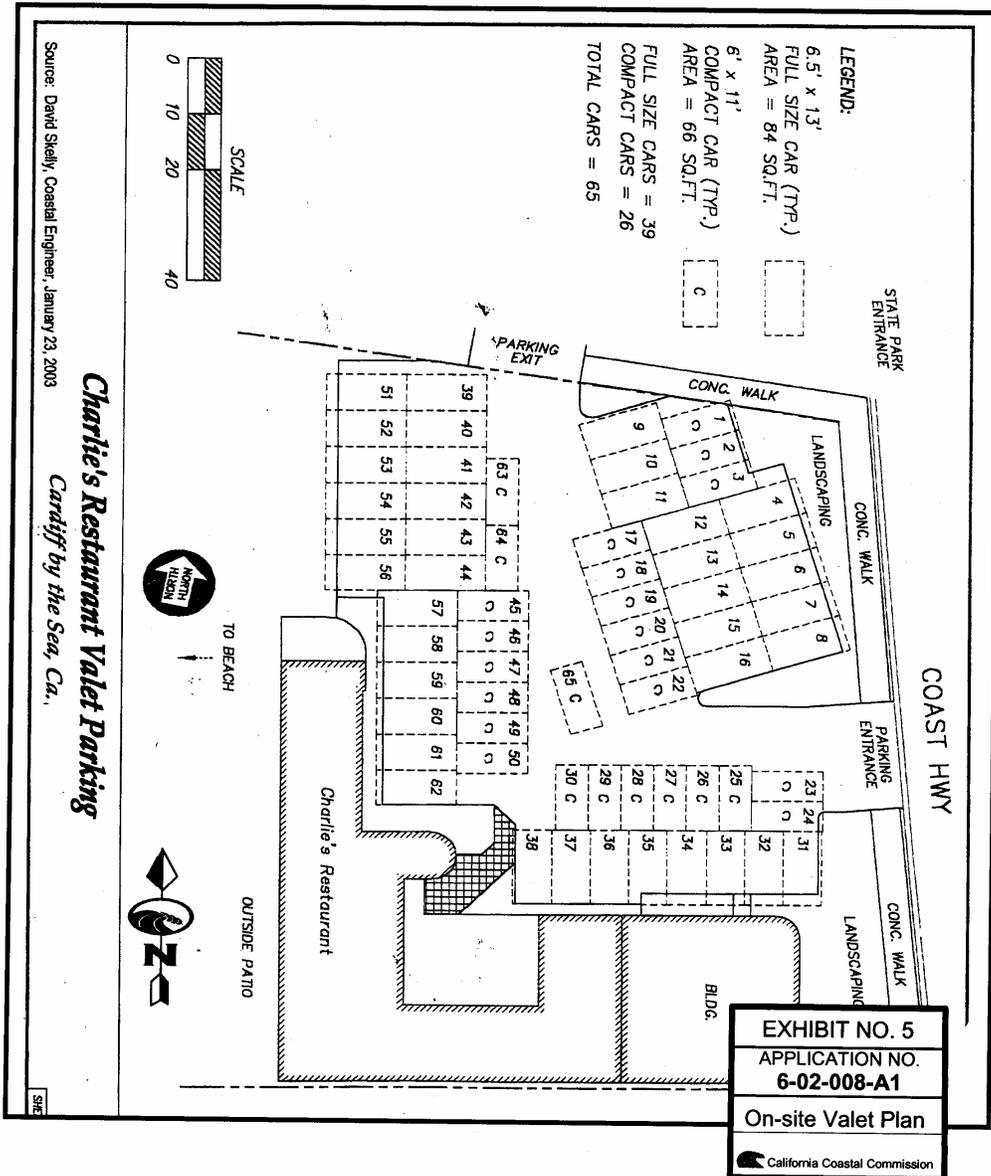


EXHIBIT NO. 3
APPLICATION NO.
<b>6-02-008-A1</b>
2 <sup>nd</sup> Floor Addition
 California Coastal Commission



# On-site Valet Parking Plan



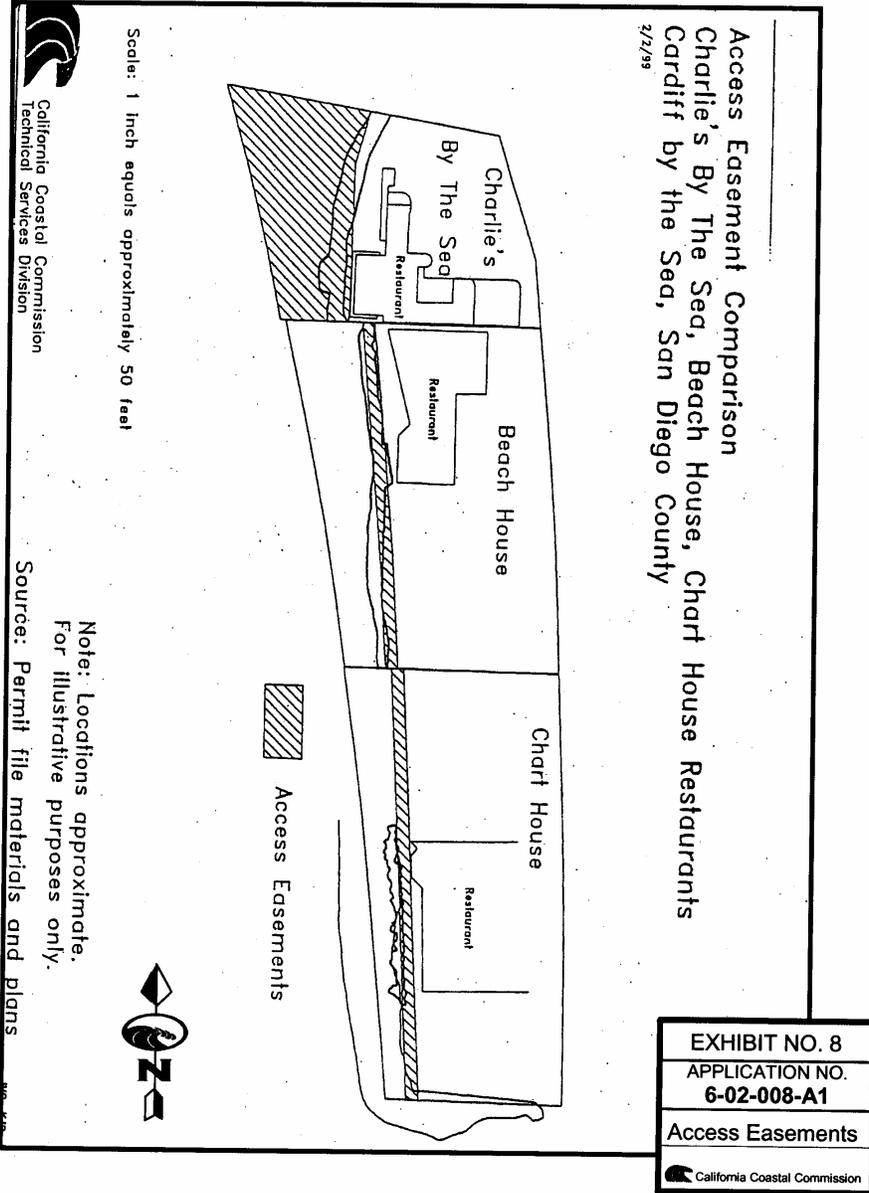
## Parking Areas



EXHIBIT NO. 6
APPLICATION NO. 6-02-008-A1
Parking Areas
 California Coastal Commission



## Public Access Easements



## Entire Easement

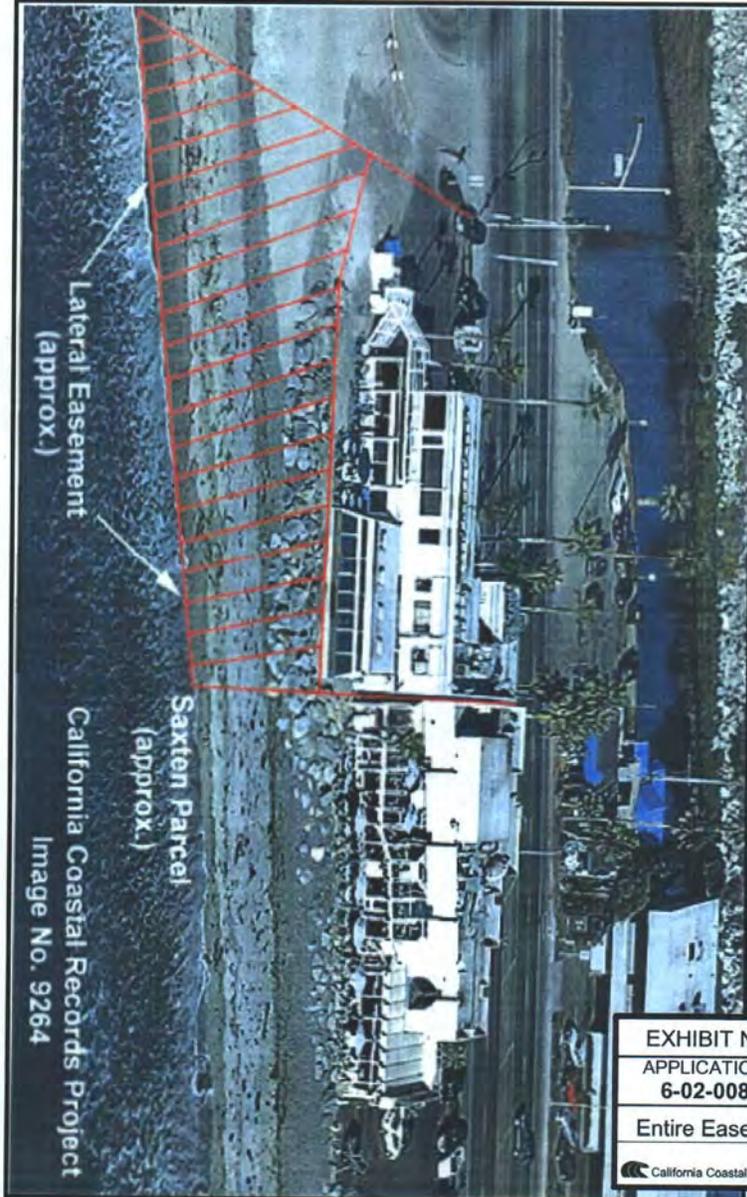


EXHIBIT NO. 9
APPLICATION NO. 6-02-008-A1
Entire Easement
 California Coastal Commission



## Special Conditions CDP #6-02-008

COASTAL DEVELOPMENT PERMIT NO. 6-02-008  
Page 2 of 7

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE.

### ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

3/21/03  
Date

W Signature on file  
Signature of Permittee

### 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 will expire two years from the date on which the Commission voted on the application. 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.

### SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL

EXHIBIT NO. 11
APPLICATION NO. 6-02-008-A1
6-02-008
 California Coastal Commission

COASTAL DEVELOPMENT PERMIT NO. 6-02-008

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**DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director final plans for the proposed development that substantially conform with the plans submitted to the Commission, titled "Charlie's By The Sea Restaurant" by Skelly Engineering dated June 12, 2002, but shall be revised to include the following:

- a. The approximately 250 sq. ft. concrete patio addition shall be deleted.
- b. The approximately 4 ft. high retaining wall on the west side of the proposed parking lot repair area shall either be deleted or revised so as not to be higher than 18 inches.
- c. The surface treatment of the 8 ft.-wide public access path shall be permeable so as to permit runoff to filter through the path.
- d. The plan shall document a minimum 10 ft.-wide buffer between the 8 ft.-wide open space easement and the area proposed for outdoor dining in which no restaurant activity such as placement of tables, chairs or equipment shall occur consistent with Exhibit #3 of the staff report or the plan shall provide for a structural separation between the 8 ft.-wide open space easement and the outdoor dining area such as a minimally designed, 3 ft. high, rail or fence.
- e. No outdoor dining is permitted at any time unless adequate parking is provided to support the outdoor dining consistent with the requirements of Special Condition #9 of this permit.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**2. Condition Compliance. WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION**, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

**3. Storage and Staging Areas/Access Corridors. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final plans indicating the location of access corridors to the construction site and staging areas to the Executive Director for review and written approval. The final plans shall indicate that:

COASTAL DEVELOPMENT PERMIT NO. 6-02-008  
Page 4 of 7

- a. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to perform repairs to the revetment and construct the public access path. Construction equipment shall not be washed on the beach.
- b. Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends or holidays between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. State Lands Commission Approval. The applicants shall submit to the Executive Director for review and written approval, a written determination from the State Lands Commission that:

- a) No state lands are involved in the development; or
- b) State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or
- c) State lands may be involved in the development, but pending a final determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination.

5. Other Permits. The permittee shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #6-06-008. The applicant shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be

COASTAL DEVELOPMENT PERMIT NO. 6-02-008

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incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

6. Public Rights. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

7. Maintenance Activities and Future Alterations. The permittee shall be responsible for removing or redepositing any debris, rock or material that becomes dislodged after completion of the approved shoreline protection as soon as possible after such displacement occurs. The permittee shall contact the Coastal Commission District Office immediately to determine whether such activities require a coastal development permit.

8. Shoreline Protection Monitoring Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a monitoring plan, prepared by a licensed geologist, or civil or geotechnical engineer for the review and written approval of the Executive Director. The plan shall be sufficient to assess the performance of the existing revetment and shall include at a minimum:

1. A description of the approved shoreline protection device;
2. A discussion of the goals and objectives of the plan, which shall include maintenance of the revetment to assure its optimum designed performance without adversely affecting surrounding development or coastal resources.
3. Provisions for taking measurements of the reconfigured revetment documenting the location of the toe, sides and elevation of the revetment and the minimal 8 ft.-wide public access path between the existing restaurant and patio areas and the revetment, including identification of exactly where such measurements will be taken, e.g. by reference to benchmarks, survey positions, points shown on an exhibit, etc. and the frequency with which such measurements will be taken;
4. Provisions for submission of "as-built" plans for the repaired revetment and public access path, showing the permitted structures in relation to the existing topography and showing the measurements described in subsection (3) above, within 30 days after completion of construction of the repairs to the revetment and construction of the public access path;
5. Provisions for inspection of the condition of the shoreline protection device by a licensed geologist, or civil or geotechnical engineer, including the scope and frequency of such inspections.

COASTAL DEVELOPMENT PERMIT NO. 6-02-008

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6. Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1 of every year for the life of the structure that has been prepared by a licensed geologist, or civil or geotechnical engineer. Each monitoring report shall contain the following:

- a. An evaluation of the condition and performance of the approved shoreline protection device, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the device,
- b. All measurements taken in conformance with the approved monitoring plan,
- c. A description of any migration or movement of rock that has occurred on the site, and
- d. Recommendations for repair, maintenance, modifications or other work to the device.

If a monitoring report contains recommendations for repair, maintenance or other work, the permittee shall contact the Coastal Commission District Office to determine whether such work requires a coastal development permit.

The permittee shall undertake development in accordance with the approved final plans. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Parking Plan. PRIOR TO THE OPERATION OF ANY OUTDOOR DINING FACILITIES, in the area designated for outdoor dining on Exhibit 3 of the staff report, the applicant shall provide documentation for review and written approval of the Executive Director that additional parking is provided to accommodate the additional dining area at a ratio of one parking space per every 100 sq. ft. of outdoor dining. Loss of any of the additional parking spaces in the future will require a comparable loss in operation of the outdoor dining area.

10. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave run-up and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the

COASTAL DEVELOPMENT PERMIT NO. 6-02-008

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project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

11. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. 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 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.

12. Construction of Public Access Improvements. WITHIN 60 DAYS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the applicant shall complete construction of the 8 ft.-wide public access path that lies between the restaurant and the revetment as consistent with Special Condition #1. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

13. Public Access Signage. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a sign program, subject to the Executive Director's written approval, for two public access signs to be installed at the north and south ends of the restaurant near the public access path. The signs shall indicate the walkway is available for use by the general public at all times. The signs shall be installed within 60 days following the acceptance of the public access easement by a public or private entity.

The permittee shall undertake development in accordance with the approval final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.