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# W18a

**Prepared June 10, 2014 for June 11, 2014 Hearing**

**To:** Commissioners and Interested Persons

**From:** Madeline Cavalieri, District Manager  
Karen Geisler, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for W18a  
Coastal Development Permit 3-81-041-A24 (City of Santa Cruz)**

The purpose of this addendum is to modify the staff recommendation for the above-referenced item to address an unintended error in one of the special conditions. These changes do not modify the basic staff recommendation of the staff report.

Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~striketrough~~ format indicates text to be deleted):

**1. Modify Special Condition 3(c) found on page 5 of the staff report as follows:**

***c. Enclosed Seating Area.** The enclosed seating area shall include openings to the public deck area of at least 8 feet wide at the location of the sliding glass doors (to the north) and at least 3 feet wide at the location of ~~to~~ the public access walkway (to the west) ~~of at least 5 feet in width.~~ ...*

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# W18a

Filed: 04/04/2014  
Staff: K.Geisler - SC  
Staff Report: 5/23/2014  
Hearing Date: 6/11/2014

## STAFF REPORT: CDP HEARING

**Application Number:** 3-81-041-A24

**Applicant:** City of Santa Cruz Economic Development Agency

**Project Location:** Santa Cruz Municipal Wharf located over Monterey Bay, City of Santa Cruz (APN 007-361-01)

**Original Project Description:** Demolition of three buildings (5,200 square feet) and construction of three new buildings (18,700 square feet) and construction of a new deck area (9,700 square feet)

**Amendment Description:** Construction of an enclosed seating area, as well as installation of picnic tables and sitting benches and related public improvements

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The proposed project is for construction of an enclosed seating area located on a public deck, adjacent to an existing restaurant on the Santa Cruz Municipal Wharf (Wharf) in the City of Santa Cruz (APN 007-361-01). The enclosed seating area is approximately 760 square feet and will be located on an existing, 9,700 square foot public deck area on the Wharf. As proposed, 50% of the restaurant's outdoor patio seating area will be reserved for general public use (not restaurant patrons) from 10:30 am until closing, and 100% of the seating area will be available for general public use from 8:30 am until 10:30 am. In addition, the project proposes the

enhancement of public amenities on the public deck outside of the seating area, by providing two picnic tables and two sitting benches as well as public access interpretive signs.

The proposed project will enhance public access at the Wharf by providing public recreational improvements. Although the project will cover a portion of the public deck area, this particular area is currently underutilized and does not see a great amount of public use because it has few amenities, is not located directly within the visitor-serving commercial use area, and is exposed to the frequently strong northwesterly winds. When visitors do use the deck, they tend to use it to enjoy the views of Cowell Beach and the ocean to the west (upcoast) from the Wharf. The proposed project will provide an alternative experience to enjoy this area by providing seating that is enclosed within a windscreen. The seating could be used both by restaurant patrons, and by the general public, who may choose to bring their own picnic food.

Similar public deck areas located near the Wharf, including at Ideal Fish, a restaurant located at the base of the Wharf, as well as picnic tables at the Boardwalk, are very heavily used, and provide an alternative to the sandy beach, where people can still enjoy the ocean and scenic views. Nonetheless, the loss of any part of the open public deck area at this popular visitor destination has the potential to adversely impact coastal resources. Thus, Staff recommends a condition requiring a Public Access Plan to ensure the public access improvements are carried out as proposed, and to enhance the public access benefits of the project through the addition of public access and interpretive signs.

In addition, although the currently proposed project would provide for public recreational access enhancements, it will result in the loss of an existing public deck area solely used for general public access and recreation. The underlying permit required the deck to be open and available for free public recreational use (picnicking, fishing, sightseeing) and specifically prohibited restaurant seating. However, given the small scale of the proposed seating area, the continued allowance for use by the general public, and the public access amenities the proposed project will provide, as well as the evidence presented that the area proposed for development is currently underutilized by the public, staff recommends modifying the original permit conditions to remove the prohibition on restaurant seating. Therefore, as recommended by staff, special conditions of approval modify the original permit conditions to allow for the proposed enclosed seating area, while specifying that at least 50% of the enclosed seating area must be maintained as a free visitor-serving use area for the general public (i.e. not restaurant patrons).

Finally, special conditions protect marine and biological resources through the use of best management practices (BMPs), construction methods and mitigation measures to protect water quality and marine resources during construction and to minimize adverse public access and environmental effects. Further, because the proposed windscreen has the potential to injure or harm migratory and shore birds, conditions include the use of frosted or partially-frosted glass or other visually permeable barriers designed to prevent the creation of a bird-strike hazard.

Commission and City staff have coordinated closely throughout the permit application process to arrive at a mutually agreeable project proposal, including by participating in a number of meetings both on and off-site. As conditioned, the project is consistent with the Coastal Act, and staff recommends **approval** of the CDP. The motion is found on page 4 below.

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### **APPENDICES**

Appendix A – Substantive File Documents

### **EXHIBITS**

Exhibit 1: Project Location Maps

Exhibit 2: Project Plans

Exhibit 3: Project Photos

Exhibit 4: Special Conditions to CDP 3-81-041, as amended

## I. MOTION AND RESOLUTION

### Motion:

*Motion: I move that the Commission **approve** the proposed amendment to Coastal Development Permit Number 3-81-041 subject to the conditions set forth in the staff recommendation.*

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

### Resolution:

*The Commission hereby approves coastal development permit amendment number 3-81-041-A24 and adopts the findings set forth below on grounds that the development, as amended and subject to conditions, will be in conformity with the policies of the certified Local Coastal Program and the public access policies of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. SPECIAL CONDITIONS

This permit amendment is granted subject to the following special conditions. All terms and conditions of the original approval of Coastal Development Permit No. 3-81-041, as amended, remain in full force and effect, except those that are explicitly replaced or modified in this amendment, as follows:

### 1. Modify Special Condition 1 as shown on Exhibit 4, as follows:

...

*The new 9700 sq. ft. deck will be open for free public use (picnicking, fishing, sightseeing) However, up to 760 square feet of the deck may be used for an enclosed seating area, within which 50% of the seating may be utilized by restaurant patrons, and the remaining 50% must be maintained as a free visitor-serving use area for the general public (not restaurant patrons).*

...

### 2. Modify Special Condition 2 as follows:

*The two new deck areas, behind the Agora shops and the 9,700 square foot deck, shall be open for free public recreational use ~~only~~ except that up to 760 square feet of the 9,700 square foot deck area may be utilized as an enclosed seating area. The entire 760 sq. ft. area shall be available for free public visitor serving use from 8:30 a.m. until 10:30 a.m. and then 50% of the seating area shall be available for free public use after 10:30 a.m. until close of business, with the remainder of the seating area being used by restaurant patrons. Improvements such as transit turnaround, exclusive restaurant seating, etc. are not permitted*

*uses.*

**3. Add Special Condition A24-1** as follows:

**A24-1. Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and approval. The Revised Final Plans shall be in substantial conformance with the plans submitted to the Coastal Commission (dated received in the Commission’s Central Coast District Office on March 12, 2014, and titled “Splash! Restaurant Patio”) except that they shall be revised and supplemented to comply with the following requirements:

- a. Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities shall be clearly identified.
- b. Public Access Areas and Amenities Maintained.** All public access areas and amenities shall be maintained in their approved state (including as reconstructed or relocated pursuant to the conditions of this CDP) in perpetuity.
- c. Enclosed Seating Area.** The enclosed seating area shall include openings to the public deck area and to the public access walkway of at least 5 feet in width. The enclosed seating area shall be available to the general public free of charge. Between the hours of 8:30am until 10:30 a.m., 100% of the seating must be available to the general public, and from 10:30 a.m. until close of business, at least 50% of the seating must be available to the general public, and no more than 50% may be reserved for use by restaurant patrons. The picnic tables and sitting benches in the existing public deck area are open to the public at all times.
- d. Public Access Walkway.** A public access walkway, which is at least 10-foot wide shall be located adjacent to the west side of the enclosed seating area, between the seating area and the wharf railing. This public access walkway shall be explicitly identified as such on the plans and shall remain open to the public. No structures, such as benches and planters, shall be located within the public access walkway. The public access walkway shall be managed and maintained consistent with the Public Access Plan required in **Special Condition A24-2**, below.
- e. Public Access Signs and Amenities.** The plans shall identify in site plan view the public access signs and public access amenities (e.g., benches, landscaping, etc.) to be installed pursuant to the Public Access Plan (**Special Condition A24-2**, below).
- f. Windscreens.** Windscreens and any other glass surfaces shall be frosted, partially-frosted or otherwise treated with visually permeable barriers (i.e. decals that are designed to prevent bird strikes).

All requirements above (**Special Condition A24-1**) and all requirements of the approved Public Access Plan (**Special Condition A24-2**) shall be enforceable components of this coastal development permit. The Permittee shall undertake development in accordance with this condition and the approved Public Access Plan.

**4. Add Special Condition A24-2 as follows:**

**A24-2. Public Access Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the Permittee shall submit two copies of a Public Access Plan to the Executive Director for review and approval. The Public Access Plan shall clearly describe the manner in which general public access associated with the approved project is to be provided and managed, with the objective of maximizing public access to the public access areas of the site (including all walkways, the enclosed seating area and the public deck area) and all related areas and public access amenities (i.e., bench seating, etc.) described in this special condition. The Public Access Plan shall be substantially in conformance with the plans submitted to the Coastal Commission (and referenced in **Special Condition A24-1** above), and shall at a minimum include the following:

- a. Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above, shall be clearly identified as such on the Public Access Plan (including with hatching and closed polygons so that it is clear what areas are available for public access use).
- b. Enclosed Seating Area.** Within the approved enclosed seating area, at least 50% of the seating shall be reserved for general public use between 10:30 am and close of business (without the general public needing to purchase food or beverages from the restaurant), and 100% of the outdoor seating shall be available to the general public between 8:30 am and 10:30 am.
- c. Public Access Walkway.** The required public access walkway along the west side of the enclosed seating area (between the seating area and the wharf railing) shall remain free of benches and planters and shall allow public access at all times. All public access walkways shall remain free of unnecessary materials and structures, including portable storage structures and garbage bins that are not intended for use by the public, etc.
- d. Amenities.** Public access amenities (such as benches, table and chairs, trash and recycling receptacles, etc.) shall be provided, including at a minimum, two benches and two picnic tables in the public deck area (South Commons area).
- e. Public Access Signs/Materials.** The Public Access Plan shall identify all signs and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at both entrances to the enclosed seating area, as well as adjacent to the public deck area and beside the walkway adjacent to the edge of the Wharf. The enclosed seating area shall be conspicuously signed and available for public use, and tables on the public view deck and within the enclosed seating area shall include signs on them indicating that the public may use the tables for free without any purchase. Public access signage shall include the California Coastal Trail and California Coastal Commission emblems.

- f. No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (furniture, planters, temporary structures, private use signs, fences, barriers, ropes, etc.)) shall be prohibited. The public use areas shall be maintained consistent with the approved Public Access Plan and in a manner that maximizes public use and enjoyment.
- g. Public Access Use Hours.** All public access areas and amenities shall be available to the general public free of charge during the hours when the enclosed seating area of the approved project is open i.e. between the hours of 8:30 am until 10:30 am when 100% of the tables are available, and during regular business hours i.e. from 10:30 a.m. until close of business when 50% of the tables are available. The picnic tables and sitting benches in the existing public deck area shall remain open to the public at all times.
- h. Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained in their approved state in perpetuity.

The Permittee shall undertake development in accordance with the approved Public Access Plan, which shall govern all general public access to the site pursuant to this coastal development permit.

**5. Add Special Condition A24-3** as follows:

**A24-3. Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:

- a. Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Monterey Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
- b. Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from Monterey Bay and public recreational use areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
- c. Construction BMPs.** The Construction Plan shall also identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (a) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging into Monterey Bay; (b) equipment washing, refueling, and/or servicing shall take place off of the Wharf and away from Monterey Bay; (c) All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; (d) the construction site shall maintain good construction



housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; (e) remove all construction debris from the site); and (f) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

- d. Public Access Restoration.** All public recreational use areas and all public access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction.
- e. Construction Site Documents.** The Construction Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
- f. Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- g. Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan.

**6. Add Special Condition A24-4** as follows:

**A24-4. Public Rights.** By acceptance of this permit amendment, the Applicant acknowledges that issuance of the permit amendment shall not constitute a waiver of any public rights which may exist on the property. The Applicant also acknowledges that issuance of the permit amendment and construction of the permitted development shall not be used or construed to interfere with any public prescriptive rights or public trust rights that may exist on the property.

**7. Add Special Condition A24-5** as follows:

**A24-5. Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee 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; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the 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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the property owner.

### III. FINDINGS AND DECLARATIONS

#### A. PROJECT DESCRIPTION

##### **Project Location**

The proposed project is located on the Santa Cruz Municipal Wharf (Wharf) at 49a Municipal Wharf in the City of Santa Cruz (APN 007-371-01). The Wharf is located on the Santa Cruz waterfront and extends approximately one-half mile over the waters of Monterey Bay and the Monterey Bay National Marine Sanctuary (Sanctuary). The Wharf's entrance lies between Main Beach and Cowell Beach and is located next to Beach Street, the Beach Promenade and Santa Cruz Beach Boardwalk in the Beach Commercial zoning area.

The Wharf was built in 1914 and was primarily used to accommodate shipping (along with some recreational use) until 1938. Today it functions as a visitor-serving area and is designated by the City as a historical site. The Wharf contains a number of shops and restaurants (approximately 60,000 sq. ft of development including nine restaurants, nine retail shops, one wine bar, two boat rental businesses and six vendors/licenses).

The Wharf is owned and operated by the City of Santa Cruz, and the existing businesses are granted leases that are managed by the City. The existing buildings vary in architectural style having been constructed at various times over the past 100 years. There is a pedestrian pathway that begins at the Wharf entrance and allows visitors to walk the entire length of the Wharf. In addition to offering commercial recreation activities, the Wharf provides important public coastal access adjacent to Main and Cowell Beaches and provides visitor serving facilities and other coastal dependent uses such as boating and fishing that are available to the general public all year round. The Main Beach area is the most heavily visited area in Santa Cruz County with over 2 ½ million visitors per year.

Please refer to **Exhibit 1: Project Location Maps** and **Exhibit 2: Site Photographs**.

### **Project Description**

The Applicant proposes to amend a previously-approved coastal development permit (CDP) which authorized: (1) demolition of three existing buildings, (2) construction of three new buildings, consisting of the North and South Commons buildings and the Agora shops building, and (3) construction of a 9,700 square foot public deck area, supported by 104 new pilings. The currently proposed project involves the construction of a 760 square foot enclosed seating area adjacent to an existing restaurant, which will accommodate 23 tables and seating for 50 people. The patio area will be surrounded by an existing restaurant wall (to the north) and three new walls (to the south, east and west) composed of 9-foot high glass windscreens and includes two retractable glass doors adjacent to the public deck area. The proposed project will also provide public amenities and access improvements on the public deck outside of the enclosed seating area, including the installation of two benches and two picnic tables, as well as bicycle racks and planters. Additional public amenities including coastal access signage and interpretive panels providing information about the Sanctuary are also part of the project proposal.

Please refer to **Exhibit 2: Site Photographs** and **Exhibit 3: Project Plans**.

### **Permit History**

In September 1981, the Coastal Commission approved original CDP 3-81-041 which authorized: (1) demolition of three existing buildings, (2) construction of three new buildings, consisting of the North and South Commons buildings and the Agora shops building, and (3) construction of a 9,700 square foot public deck area, supported by 104 new pilings. Since the original permit approval in 1981, there have been 23 amendments to the base CDP. None of the first 23 amendments involved changes to the public deck area, which is the subject of the currently proposed amendment.

## **B. STANDARD OF REVIEW**

The Wharf is located over coastal waters and therefore, it lies within the Coastal Commission's retained CDP jurisdiction area. Thus, the standard of review for the proposed project is the Coastal Act with the City of Santa Cruz's LCP being used for guidance.

## **C. PUBLIC ACCESS AND RECREATION**

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (Beach Street). Coastal Act Sections 30210 through 30213, 30221 and 30223 specifically protect public access and recreation. In particular:

*Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource*

areas from overuse.

**Section 30211.** *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: ... (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 30214(a):** *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case...*

**Section 30220.** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

**Section 30221.** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**Section 30223.** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

**Section 30252(3):** *The location and amount of new development should maintain and enhance public access to the coast by... providing non-automobile circulation within the development.*

These overlapping policies clearly protect access to and along the shoreline, and to offshore waters for public access and recreation purposes, particularly free and low cost public access. As mentioned above, the Wharf is visited by approximately 2.5 million people a year, and provides significant public access and recreational opportunities for both residents and visitors year round.

### **Analysis**

The Wharf is located on public trust land in the Monterey Bay and the Sanctuary. The Wharf entrance is aligned in a north-south direction and is located between Main Beach to the east (downcoast) and Cowell Beach to the west (upcoast). The Wharf provides public access for vehicles, bicycles and pedestrians over the waters of Monterey Bay. It is open to public access for pedestrians, bicycles and vehicles between 5 a.m. and 2 a.m. all year round. The Wharf is available for public use even when the shops and restaurants are closed and has been available for public access for 100 years.<sup>1</sup>

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<sup>1</sup> The City is presenting a fireworks display to celebrate the Wharf's 100-year anniversary on October 4<sup>th</sup>, 2014 as per CDP 3-13-0960, approved on May 15<sup>th</sup> 2014.

The proposed enclosed seating area is approximately 33 feet by 23 feet for a total development footprint of approximately 760 square feet. The enclosed seating area will cover part of the existing 9,700 square foot public deck area approved by the original CDP (3-81-41). The public deck area is a large open space area with few public amenities and is currently underutilized. This area of public deck does not see a great amount of public use because it has limited seating, it is not directly adjacent to visitor-serving commercial uses, visitors have to walk relatively far to reach it, and it is unprotected from the northwesterly wind. The proposed project will convert approximately 8% of the existing public deck area from an open deck to an enclosed seating area that can be utilized by both the general public, as well as by restaurant patrons (**Exhibit 2: Project Plans**). In many cases, a project that results in coverage of an existing public deck could not be found consistent with the Coastal Act's public access and recreation policies. In this case, however, there are a number of factors specific to this location and fact set that argue in favor of the project.

The Commission approved the original CDP (3-81-41), which allowed for the expansion of the Wharf by increasing the available deck area, more than 30 years ago. At the time of approval, the City had proposed a tram turnaround and outdoor restaurant seating area at this same location (**Exhibit 1**). The Commission action included a condition of approval to maintain the public deck area for public recreational use and prohibited restaurant seating. The staff report findings stated:

*“Additionally, the model completed for the project shows an outdoor restaurant seating area on the deck. Both of these uses, a tram turnaround and a restaurant are not coastal-dependent uses. Therefore, it would be inconsistent to allow the construction of additional decking over open coastal waters for such purposes. In order to approve the additional decking its use must be so conditioned to limit it solely for free public recreation.”*

When the City submitted this application for the enclosed seating area, it included supporting information showing that changes over the last thirty years provide a basis to support the proposed conversion of 760 sq. ft. of the existing 9,700 sq. ft. public deck area from an open deck to an enclosed seating area. According to the City, there were more public events and general usage of the open space deck area just after the approval was granted, more than 30 years ago. However, since then, the number of public events has been reduced from eight to three events being held in the public open space area each year.

In addition, there have been a series of public access improvement projects that have enhanced overall public access at the wharf since the original permit was approved. For example, the City has constructed two additional public landings to increase public access recreational opportunities on the Wharf, directly benefiting the general public and boating community. In addition, in 2007, the City improved public access along the eastern portion of the Wharf by creating a 7 ft. wide and approximately 350 ft. long (total 2,478 sq. ft.) pedestrian walkway adjacent to the main Wharf entrance. Further, in 1993, CDP 3-93-47 approved the promenade and 6,700 square foot public deck area (6,700 sq. ft.) at the Ideal Fish Company restaurant, providing a public access connection from the Main Beach area to the Wharf as well as both general public and restaurant seating areas. This well-used public deck area facilitates handicap

access and creates a scenic route for pedestrians, as well as providing picnic tables and benches (**Exhibit 5**).

In addition, as proposed, the entire enclosed seating area will be open to the general public free of charge during events held on the public deck area that are sponsored by the Applicant (City of Santa Cruz). During events sponsored by the restaurant and permitted by the City, the patio seating area will not be available to the general public. As proposed, however, the restaurant may sponsor no more than four events per year.

The proposed project is located above open coastal waters, and therefore, as required by the Coastal Act, public access must be protected, provided and maximized. The Applicant proposes that 50% of the tables will be available during regular business hours from 10:30 a.m. until close of business<sup>2</sup> for the public to use without the need to purchase food or drink. In addition, the Applicant proposes that before the restaurant opens for business between 8:30 a.m. and 10:30 a.m., 100% of the tables located within the enclosed seating area will be available for general public use. The seating area can be easily accessed via two entrances: one located in the public deck area to the south and the other from the public access pathway to the west. In addition, restaurant patrons can enter the area through the restaurant. As proposed, these entrances and the availability of the tables will be identified through the display of three public access signs placed around the perimeter of the patio area. One sign will be wall-mounted and located at the restaurant entrance (to the east); another sign will be on a moveable pedestal located in the public deck area and placed nearby the retractable panels that provide access that will remain open from 8:30 a.m. until the restaurant closes (to the south); and the third sign will be located at the side entrance (to the west) located adjacent to the public access pathway that runs parallel to the patio area and Wharf perimeter (**Exhibit 2**). As part of the project, the Applicant proposes additional public amenities including two bicycle racks, planters, two picnic benches and two benches to be placed within the existing public deck area outside of the enclosed seating area.

The enclosed seating area will convert 8% of the existing public deck from open space to seating area. Therefore, a significant portion of the deck area (i.e. more than 90% of the existing deck area) will remain available as open deck for the general public (see **Exhibit 2**). Because the proposed project will cover only a small portion of the public deck, which is currently underutilized by the public, and will provide additional public enhancement with the addition of a public seating within the enclosed seating area as well as picnic tables and benches which will benefit public recreation and enjoyment in this location, the proposed project will enhance public recreational use.

The new deck and seating area will create an alternative access experience for those who don't want to just walk along the Wharf, by providing a place to sit and enjoy views of the ocean. The glass windscreens will allow for visual access of the beach and ocean. Outside of the enclosed seating area, the proposed additional sitting benches and picnic tables will be available for those who want to sit and enjoy the views or read a book. These public access improvements will be available year round so that even when the restaurant is closed (i.e. prior to 8:30 am) visitors will

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<sup>2</sup> The hours of operation cited in the lease with the City of Santa Cruz requires the restaurant and patio to close no later than 1:00 a.m. daily.

be able to utilize them. In addition, public use tables will be provided within the enclosed seating area. These will be clearly marked as available for visitors to use, including visitors who may want to eat a meal that they have brought with them without having to make a purchase. Thus, the proposed project will enhance public access.

In summary, the proposed project would support public access and recreation along the Wharf by providing public access amenities i.e. tables and benches within the existing public deck area that is currently underutilized by the public and by designating 50% of the enclosed seating area for general public use during restaurant business hours and 100% of the area for general public use between 8:30 a.m. and 10:30 a.m.. All of these measures would provide an enhanced experience for visitors to sit and enjoy the views in this location and improves the public access opportunities in this area.

Although the currently proposed project would provide for some public recreational access enhancements, it will also result in the loss of an existing public deck area that is currently available solely for general public access and recreation. The underlying permit required the deck to be open and available for free public recreational use (picnicking, fishing, sightseeing) only and did not allow for restaurant seating. The Applicant has demonstrated, however, that the public is underutilizing the area of the proposed project, so that it is not currently being used very often for the public recreational use intended by the underlying permit.

By enclosing a portion of the deck area with windscreens, the Applicant believes that this area will be more heavily used by the general public as well as restaurant patrons, thereby increasing public use of the area. Given the improved public access amenities proposed by this project and that the area is currently underutilized by the public, the Commission may amend **Special Condition 1** of the permit to allow for 50% of the seating in the enclosed patio to be utilized by restaurant patrons, and the remaining 50% to be maintained as a free visitor-serving use area for the general public (i.e. not restaurant patrons), while ensuring the project is still consistent with the Coastal Act.

In addition, **Special Condition 2** of the permit is amended to allow restaurant seating in this area, but it also requires that the public deck area may not be used for exclusive restaurant seating and must continue to allow free public recreational use. Specifically, **Special Condition 2** is amended to allow 760 square feet of the 9,700 square foot deck area to be utilized as an enclosed seating area. The entire 760 sq. ft. area will be available for free public visitor serving use from 8:30 a.m. until 10:30 a.m. and then 50% of the seating area shall be available for free public use after 10:30 a.m. until close of business, with the remainder of the seating area being used by restaurant patrons.

Further, new **Special Condition A24-1** requires revised final plans, and **Special Condition A24-2** requires a Public Access Plan, to enhance the proposed public access amenities and to ensure the public access benefits of the proposed project are carried out. **Special Condition A24-2(g)** requires all public access areas and amenities to be available to the general public free of charge prior to 10:30 a.m. and limits exclusive restaurant use of the tables to only 50% of the tables from 10:30 a.m. until close of business. The picnic tables and sitting benches in the existing public deck area are open to the public when the Wharf is open (i.e. between 5 a.m. and 2 a.m.)

all year round. **Special Condition A24-2(h)** requires all public access components of the project to be maintained in their approved state in perpetuity.

In addition to providing a different type of access to the coast, the proposed deck provides an opportunity to inform the public, through the use of interpretive signage, about coastal issues, such as sea level rise and climate change. Such interpretive signage can also serve to raise public awareness of the California Coastal Trail, a section of which is located adjacent to the Wharf. Therefore, **Special Condition A24-2(e)** requires the Applicant to include at least one interpretive sign that contain information about such topics, to be located adjacent to the restaurant's outdoor patio seating area.

**Special Condition A24-2(a) and (e)** require all public access area signs and amenities to be clearly identified on the plan and **Special Condition A24-2(d)** requires the provision of public access amenities including benches, tables, trash and recycling receptacles, etc. in the existing public deck area adjacent to the outdoor seating area.

In addition, to ensure that construction of the outdoor patio does not adversely impact public access and generally intrude and negatively impact the aesthetics, ambiance, serenity, and safety of the recreational experience at this location, **Special Condition A24-3** requires construction parameters to: limit the area of construction; limit the times when work can take place (to avoid both weekends and peak summer use months when recreational use is highest); clearly fence off the minimum construction area necessary; keep equipment out of coastal waters; require equipment and material storage during non-construction times to be removed from the Wharf; clearly delineate and avoid to the maximum extent feasible public use areas; and restore all affected public access areas at the conclusion of construction.

Section 30211 requires that Commission actions on shorefront projects ensure that the development does not interfere with the public rights of access acquired through use. In light of the potential historic rights that may exist on the site, especially given its ongoing public use for 100 years, **Special Condition A24-4** requires the applicant to acknowledge that the Commission's approval does not in any way waive any public rights that may exist on this site, and that the permit shall not be used or construed to interfere with any public prescriptive or public trust rights.

Finally, in order to provide maximum information to the public during all construction, the Applicant must maintain copies of the CDP and approved plans available for public review at the construction site, as well as provide a construction coordinator whose contact information is posted at the site to respond to any problems and/or inquiries that might arise (**Special Condition A24-3**).

In conclusion, the proposed project will improve and enhance the visitor-serving amenities in an area of the Wharf that is currently underutilized by the public by providing public amenities and a new enclosed seating area located within the public access deck at this highly visited coastal recreational area. As conditioned, the project is consistent with Coastal Act's public access and recreation policies (Sections 30210 through 30213, 30221 and 30223).



## **D. COMMUNITY CHARACTER & VISUAL RESOURCES**

Coastal Act Section 30251 states:

***Section 30251.** 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The Coastal Act protects special communities that are popular visitor destinations, like the Santa Cruz Wharf. Coastal Act Section 30253 (e) states:

***Section 30253.** New development shall do all of the following:*

*...(e) Where appropriate, protect special communities and neighborhoods that because of their unique characteristics, are popular visitor destination points for recreational uses.*

Although not the standard of review, the LCP includes many policies that protect community character, including historic resources. Thus, the LCP embodies the requirements of Coastal Act Section 30253(e) through policies that protect both community character generally, and historic resources specifically. These policies, which provide guidance in this case, include requirements to protect structures designated as historic structures and landmarks, including when such structures may be affected by redevelopment.

### **Visual Resources**

The proposed amendment and project will have a relatively small impact on visual resources. As the project is adjacent to existing development on the Wharf and will blend into the surrounding area, it will have minimal impact on views as seen from the beach. The outdoor patio area has been designed to incorporate glass windscreens that provide visual access to the ocean and beach scenic views that can be seen from the Wharf and through the deck area not only by visitors using the restaurant's outdoor patio seating area but also by pedestrians walking by the restaurant and along the Wharf promenade.

The enclosed seating area is adjacent to the existing public decking area which will remain largely the same. The enclosed seating area will include design elements which will provide access to the scenic views using glass windscreen panels to enclose the seating area. The proposed seating area will blend in with the surrounding community character of the neighboring buildings which exhibit a variety of architectural styles and will help preserve the character of the existing public deck space by minimizing the seating area footprint to less than 10% of the existing public deck area. Thus, the proposed outdoor seating area, glass windscreen designs and public amenities are all visually compatible with the surrounding development with regards to their physical layout, form, proportion and finish materials. In addition, the deck will be viewed in the larger context within the adjacent and surrounding development in this area of the Wharf

and will not block or degrade public views. Thus, the proposed project is consistent with Coastal Act Section 30251 and 30253 with regards to visual resources and community character.

## **E. MARINE AND BIOLOGICAL RESOURCES**

The Coastal Act protects the marine resources and habitat offshore of this site. Coastal Act Section 30230 requires that marine resources be maintained, enhanced and restored. New development must not interfere with the biological productivity of coastal waters or the continuance of healthy populations of marine species. Coastal Act Section 30230 states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Coastal Act Section 30231 requires that the productivity of coastal waters necessary for the continuance of healthy populations of marine species shall be maintained and restored by minimizing waste water discharges and entrainment and controlling runoff. Coastal Act Section 30231 states:

*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 entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

### **Analysis**

The proposed project involves construction and installation of an approximately 760 square foot enclosed seating area and installation of related components such as the placement of tables and benches on the existing public deck. The project is located on the Wharf and over the open coastal waters of the Monterey Bay National Marine Sanctuary and therefore, construction activities have the potential to result in adverse environmental impacts to marine resources, as well as adversely affect water quality. Monterey Bay is considered to be an area of special biological significance because it provides habitat for highly productive, diverse and dynamic ecosystems, and thus requires protection. Therefore, new development must be consistent with the above Coastal Act marine resource protection policies to minimize adverse impacts to the marine environment.

To ensure the proposed project maintains biological productivity and protects marine resources consistent with the Coastal Act, the Commission imposes **Special Condition A24-3**, which includes best management practices (BMPs) typically required by the Commission to protect water quality and marine resources during construction, including: maintaining good construction site housekeeping controls and procedures; the use of appropriate erosion and sediment controls; a prohibition on equipment washing, refueling, or servicing on the Wharf, etc.

To further protect marine resources and offshore habitat, **Special Condition A24-3(e)** requires construction documents to be kept at the site for inspection, and **Special Condition A24-3(f)** requires a construction coordinator to be available to respond to any inquiries that arise during construction. In addition, **Special Condition A24-3(a)** requires mitigation measures such as the use of inland staging areas and equipment storage to minimize adverse public access and environmental effects; **Special Condition A24-3(b)** outlines construction methods to separate the construction areas from Monterey Bay and public recreational use areas and **Special Condition A24-3(d)** requires all public access recreational use areas and all public access points to be restored to their pre-construction condition following completion of construction.

Finally, as discussed above, a 9-foot high glass windscreen with retractable panels will be installed around the perimeter of the outdoor patio seating area. However, the proposed windscreen has the potential to injure or harm migratory and shore birds. **Special Condition A24-3(f)** therefore requires that the windscreen shall use frosted or partially-frosted glass or other visually permeable barriers designed to prevent the creation of a bird-strike hazard at this location and this will be included in the Revised Final Plans (**Special Condition A24-1**).

As conditioned, the project is consistent with Coastal Act policies protecting marine and biological resources, including Sections 30230, 30231 regarding protection of marine resources and offshore habitats.

## **F. OTHER**

Coastal Act Section 30253 requires the project to assure long-term stability and structural integrity, and to minimize risk to life and property in areas of high geologic, flood, and fire hazard. The Commission recognizes that there is a certain amount of risk involved in development that is located at the shoreline edge and that can be directly subject to erosion, violent storms, large waves, flooding, earthquakes, and other geologic hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. The Commission has sought, through this review, to limit such risks, but they cannot be eliminated entirely, and this fact must be recognized and liabilities assumed by the Applicant accordingly. Specifically, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that development has continued to occur despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, Applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see **Special Condition 24-5**).

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 that the activity may have on the environment.

The City of Santa Cruz, acting as lead agency, found that the project was exempt from CEQA requirements. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding coastal development permit findings discuss the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A)

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

1. CDP 3-81-41 Administrative File Record
2. City of Santa Cruz Local Coastal Program

# Project Location Map

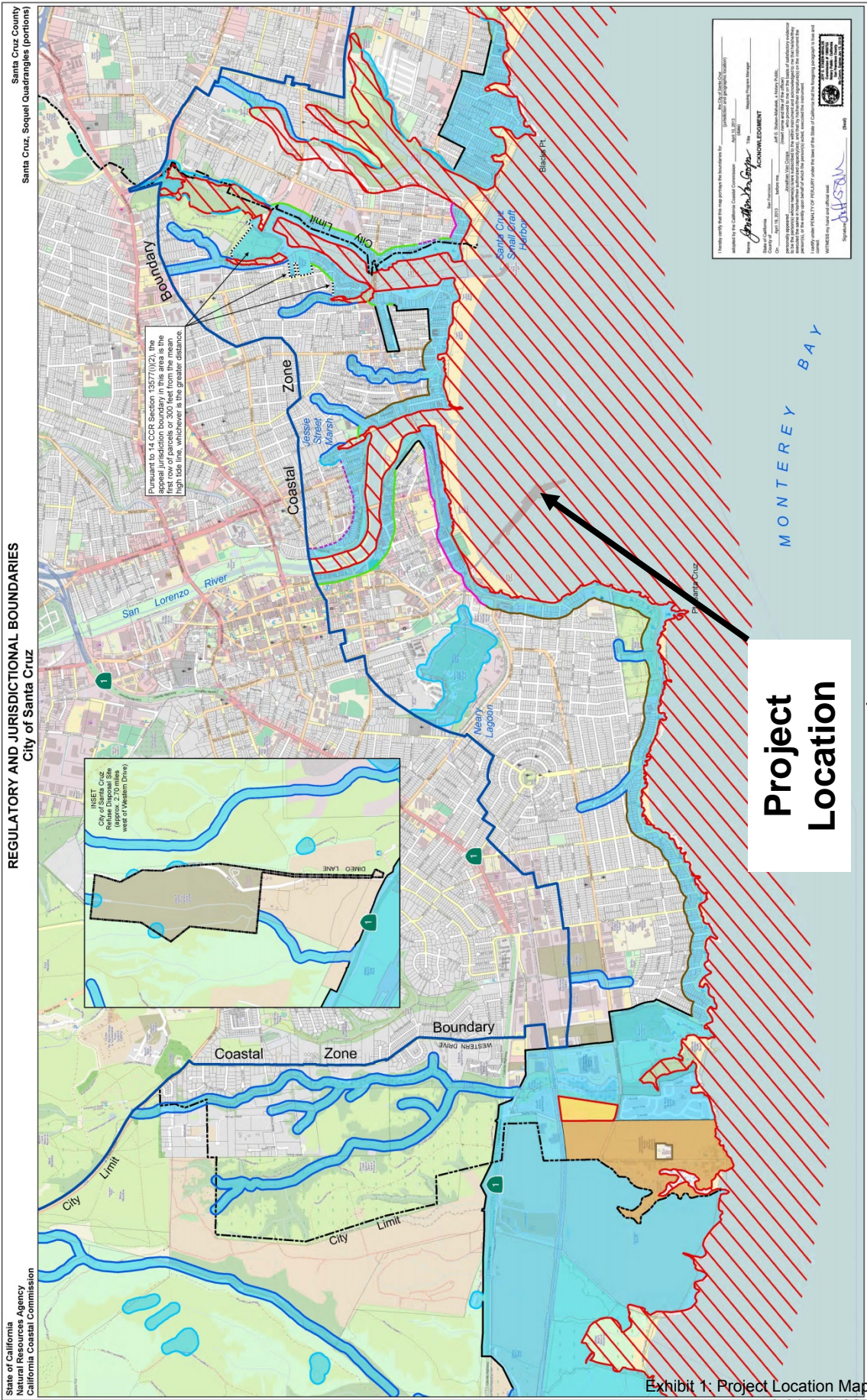
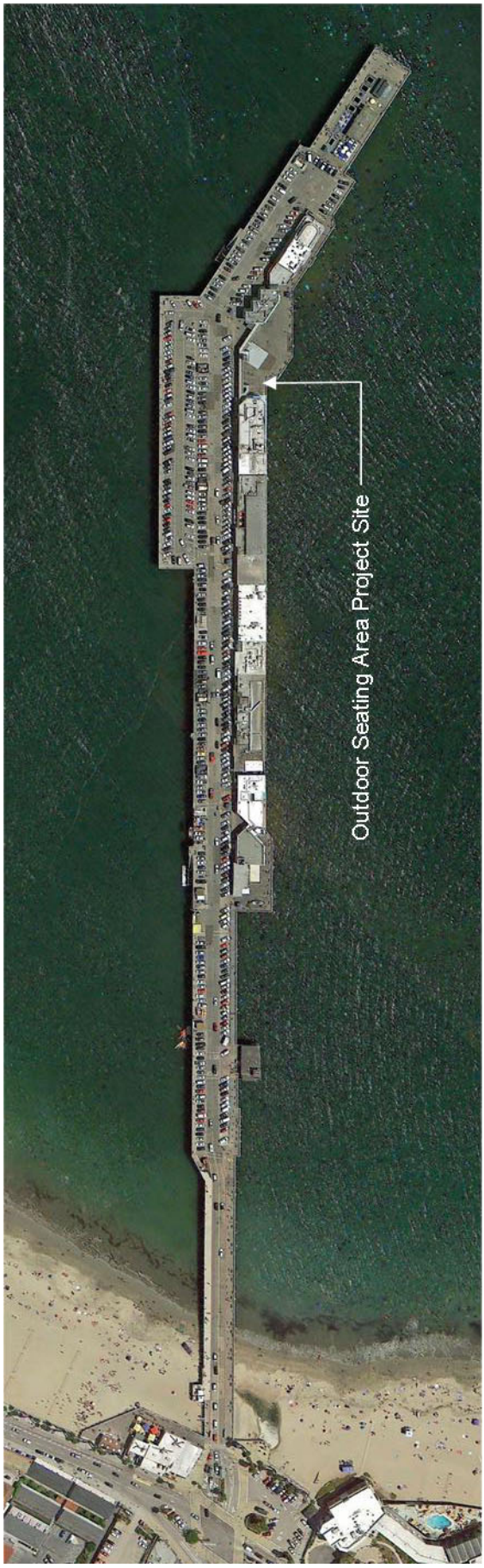
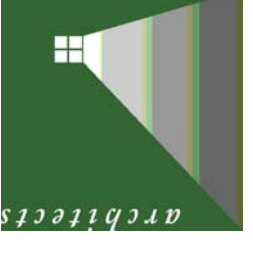


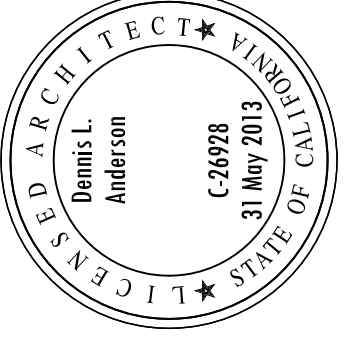
Exhibit 1: Project Location Map



# Aerial View of Santa Cruz Municipal Wharf: Project Site Location

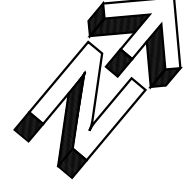


**ANDERSON  
MCKELVEY**  
ARCHITECTS  
536 SOQUEL AVENUE  
SANTA CRUZ, CA 95062  
TEL: 831.423.2724  
FAX: 831.423.2724



**SPLASH! RESTAURANT PATIO**  
TENANT IMPROVEMENT  
49 MUNICIPAL WHARF  
SANTA CRUZ, CA 95066  
APN: 005-651-01

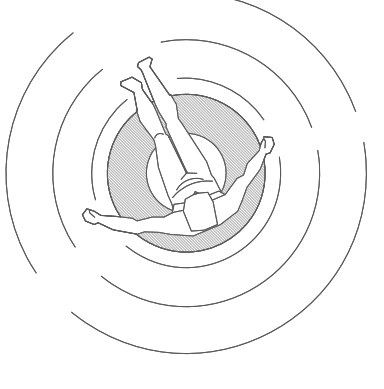
**SPLASH!**



OUTDOOR  
SEATING AREA

DRAWN RCR  
SCALE 1/2" = 1'-0"  
DATE 5 March 2014

**A1**



2 NEW BENCHES  
LOCATION T.B.D. BY THE CITY OF SANTA CRUZ

PROPOSED 8 FOOT LONG PICNIC BENCH, TYPICAL OF 2

PUBLIC SEATING SIGN

EDGE OF WHARF

PLANTERS, TYPICAL OF 2

108" HIGH GLASS SURROUND

PAIR OF GLASS BARN DOORS

48" Ø FIREPIT WITH FIRE SCREEN  
NATURAL GAS ONLY

COASTAL ACCESS SIGN ON MOVABLE PEDESTAL

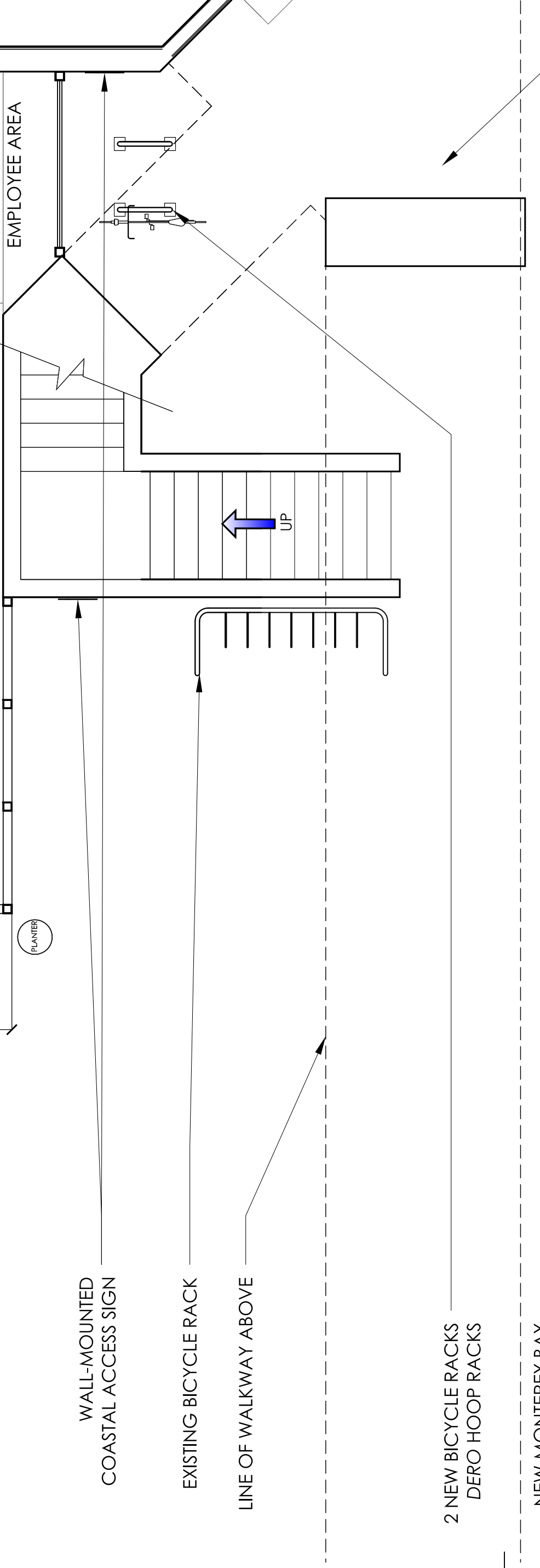
WALL-MOUNTED  
COASTAL ACCESS SIGN

EXISTING BICYCLE RACK

LINE OF WALKWAY ABOVE

2 NEW BICYCLE RACKS  
DERO HOOP RACKS

NEW MONTEREY BAY  
MARINE SANCTUARY SIGN



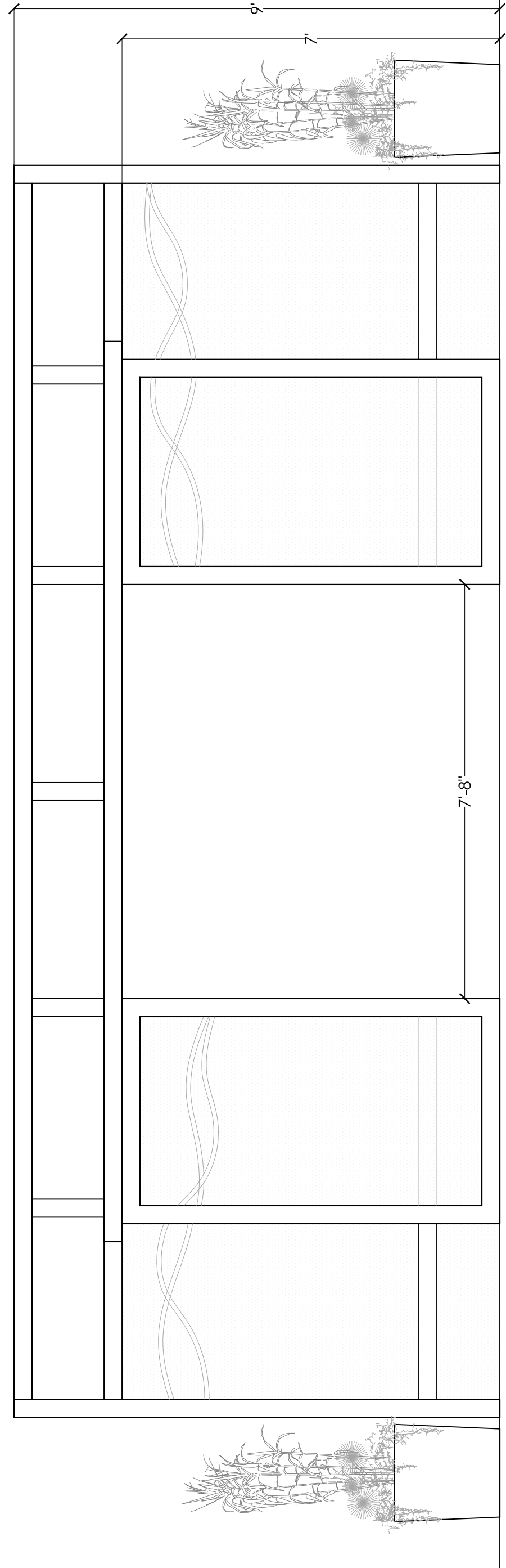
**1** OUTDOOR SEATING PLAN  
Scale: 1/4" = 1'-0"



**3** PUBLIC SEATING SIGN



**4** PUBLIC SEATING SIGN



**2** SOUTH ELEVATION  
Scale: 1/2" = 1'-0"

# Project Site Location

Existing Restaurant



Outdoor Seating Area Perimeter  
No Scale





Cowell Beach

Outdoor Seating Area Perimeter  
No Scale



Existing Public Deck Area:  
View from Project Site Location

II. RECOMMENDED CONDITIONS**ADOPTED**Special Conditions

1. Within 120 days of the effective date of this permit, and in any case prior to commencement of construction, permittee shall submit the following to the Executive Director for his review and approval:

a) A revised site plan showing the provision of public access in the following areas: Agora Shops: provide a 10 ft. wide lateral accessway along the rear (western) edge from the north edge of the deck behind the boat rentals shop to the south end of the deck behind the Agora Shops; a 10 ft. wide vertical accessway from the sidewalk to the northern boundary of the boat rental shop; the new deck area behind the Agora Shops and the boat rental shop will be open for free public use (picnicing, fishing, sightseeing). The above described accessway and public/recreation areas are shown on attached Figure 1. North and South Commons: provide a 10 ft. wide lateral accessway along the rear of South Commons; enhance the existing Stagnaro deck by removing the chain link fence and installing new fencing, signing, and trash enclosures; provide a 10 ft. wide lateral accessway along the rear of the Stagnaro building connecting to the lateral accessway from South Commons to the existing parking area south of the Stagnaro building as a part of the Phase II wharf improvements or when any modifications to the Stagnaro building are proposed. The above described accessway and public recreation areas are shown on attached Figure 2. The new 9700 sq.ft. deck will be open for free public use (picnicing, fishing, sightseeing).

b) The revised site plan, as required in a) above, shall include accessway improvements, such as benches, tables, fencing, signing, etc. Improvements to the deck area behind the Stagnaro building, i.e. fencing, signing, shall also be submitted as a part of this plan.

2. The two new deck areas, behind the Agora Shops and the 9700 sq. ft. deck, shall be open for free public recreational use only. Improvements such as transit turnaround, restaurant seating, etc. are not permitted uses.

3. Within 120 days of the effective date of this permit, and in any case prior to commencement of construction, permittee shall submit the following to the Executive Director for his review and approval:

a) final building exterior details, including materials to be used, color scheme, window treatment, signing, etc., consistent with the Beach Area Plan.

b) final pedestrian bridge plans: either improvements such as bays, to allow for public use areas, or elimination of the bridge.

4. Within 120 days of the effective date of this permit, or in any case prior to commencement of construction, permittee shall submit a parking-traffic circulation program to the Executive Director to mitigate the impacts from the increased commercial space. This program shall include the use of a shuttle system and may include other plans, consistent with the Beach Area plan component of the LCP such as restriping of the existing spaces, off-site parking lot, road (intersection) improvements to the Beach and Washington/Front Street area, or any other means acceptable to the

ADOPTED

3-81-041  
ORIGINAL  
CDP

3-81-41

CITY OF SANTA CRUZ

Page four

Executive Director. Additionally, a monitoring program to determine the appropriate levels of parking for recreational and commercial users which reflects the parking demands of these two groups, shall be submitted to the Executive Director for his review and approval.

5. Prior to commencement of construction, permittee shall submit a construction plan detailing the timing and scope of work involved with pile driving activities to the Executive Director for his review and approval. This plan shall also include a program to prevent foreign materials (i.e. construction scraps, creosote, other chemicals, etc) from entering the water.

6. Prior to commencement of construction, permittee shall submit, to the Executive Director for his review and approval, a selection program which encourages coastal dependent and visitor-serving uses, consistent with the Use Criteria contained in the adopted Beach Area Plan, component of the certified LUP.

7. State Lands Commission Review: Prior to commencement of construction, the permittee shall submit to the Executive Director a written determination from the State Lands Commission that State Lands are involved in the development and all permits required by the State Lands Commission have been obtained.

8. In accepting this permit, permittee acknowledges that the permitted development is subject to natural and manmade conditions that increase its potential as a public safety hazard; and further acknowledges that the State of California assumes no liability for loss of life or property which may result from the place, use, or operations of the development.

9. Prior to commencement of construction permittee shall provide to the Executive Director a copy of U.S. Corps of Engineers permit, or letter of permission, or evidence that no Corps permit is necessary.

ADOPTED

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CITY OF SANTA CRUZ

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Standard Conditions

(See Exhibit A)

III. FINDINGS & DECLARATIONS

The Commission finds and declares as follows:

1. The City is proposing to: demolish three existing buildings (5200 sq.ft.); construct three new buildings (18,700 sq.ft.) construct a new deck area (9,700 sq.ft.). The three buildings to be demolished (Cardinales, Look's Den, Bucanneer, and Burger Bar) are located at the bend in the wharf (both ends of the bend). Two new buildings are proposed to be constructed at the bend, North Commons and South Commons. The third proposed building (Agora Shops) will be located on a deck area, constructed per P-6-73-333, adjacent to the Wharf headquarters. The proposed new deck area, 9,700 sq.ft., will be located at the bend in the Wharf. Additionally, twenty-five replacement pilings will be installed. The proposed new deck area will require the placement of 104 new pilings. The proposed project is the first phase of the ultimate planned development of the Wharf.

The project is located adjacent to existing development and all services are available to serve the proposed uses. Thus, the project is consistent with Section 30250(a) of the Coastal Act.

(Note: The City's wastewater plant is under a cease and desist order to upgrade its discharge).

2. The marine environment policies of the Coastal Act emphasize the need to protect and enhance the biological productivity and quality of coastal waters.

The proposed project includes the drilling of 104 new piling and the replacement of 25 existing pilings. The EIR, completed in 1978, states that the pile driving activity will increase turbidity during the time of construction only. Suspended sediments will be quickly dispersed by wave action beyond the wharf, and will quickly resettle after pile driving operations cease. The construction activity will temporarily disturb some of the subtidal species of anadromous game fish, the sea lions, and some local bottom-dwelling species. The EIR concludes that none of these species will be seriously disturbed or permanently discouraged by construction activities.

The long term effects from construction of the deck area include littering (trash and water run-off) shading and transformation of habitat.

OCEAN  
RESOURCES  
SECTION  
30230-35

STAFF RECOMMENDATION

The Staff recommends that the Commission adopt the following resolution:

Approval with Conditions

The Commission hereby grants, subject to the conditions below, an amendment to the approved development on the grounds that the amendment, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located over open coastal water, and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECOMMENDED CONDITIONSSpecial Conditions

1A. PRIOR TO TRANSMITTAL OF THE PERMIT AMENDMENT authorizing the mooring buoys, permittee shall submit to the Executive Director new or revised approvals from the State Lands Commission and Army Corps of Engineers (Conditions #7 and #9) for these buoys.

2A. All other conditions of Coastal Permit 3-81-41 remain in full force and effect, except for the following modifications:

Condition #1 of Coastal Permit 3-81-41 is revised as follows:

1. Within 120 days of the effective date of this permit, and in any case prior to commencement of construction, permittee shall submit the following to the Executive Director for his review and approval:

a) A revised site plan showing the provision of public access in the following areas: Agora Shops: provide a 10 ft. wide lateral accessway along the rear (western) edge from the north edge of the deck behind the boat rentals shop to the south end of the deck behind the Agora Shops; a 10 ft. wide vertical accessway from the sidewalk to the northern boundary of the boat rental shop; the new deck area behind the Agora Shops and the boat rental shop will be open for free public use (picnicking, fishing, sightseeing). The above described accessway and public/recreation areas are shown on attached Figure 1. North and South Commons: provide a 10 ft. wide lateral accessway along the rear of South Commons to the breezeway; enhance the existing Stagnaro deck by removing the chain link fence and installing new fencing, signing, and trash enclosures; provide a 10 ft. wide lateral accessway along the rear of the Stagnaro building and the southern portion of the South Commons connecting to the lateral accessway from South Commons to the existing parking area south of the Stagnaro building as a part of the Phase II wharf improvements or when any modifications to the Stagnaro building are proposed.

The above described accessway and public recreation areas are shown on attached Figure 2. The new 9700 sq. ft. deck will be open for free public use (picnicking, fishing, sightseeing).

b) The revised site plan, as required in a) above, shall include accessway improvements such as benches, tables, fencing, signing, etc. However, signing need not be submitted until May 1, 1984.

Improvements to the deck area behind the Stagnaro building, i.e. fencing, signing, shall also be submitted as a part of this plan.

Condition #3 of Coastal Permit 3-81-41 is revised as follows:

3. Within 120 days of the effective date of this permit, and in any case prior to commencement of construction, permittee shall submit the following to the Executive Director for his review and approval:

a) final building exterior details, including materials to be used, color scheme, window treatment, ~~signing~~, etc., consistent with the Beach Area Plan.

b) final pedestrian bridge plans: either improvements such as bays, to allow for public use areas, or elimination of the bridge.

Prior to May 1, 1984, permittee shall submit a signage program to the Executive Director for his review and approval.

Standard Conditions

See Exhibit A.

FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

PROPOSED  
MOORING  
BUOYS

1. The proposed amended project is to install 100 mooring buoys east of the municipal wharf. The City proposes to temporarily install the buoys during the summer months, from April through September. The mooring location, currently used by both pleasure and commercial craft, does not conflict with other water activities such as swimming, surfing and windsurfing. Buoys will be rented on a long-term basis, i.e. through the summer; other buoys will be rented on a short-term basis.

Section 30233(4) of the Coastal Act allows the expansion of boating facilities in open coastal waters. Therefore, the proposed project is consistent with Section 30233(4) of the Coastal Act. Approval of this project will not alter the findings made by the Commission in approving the original project 3-81-41.

LCP/CEQA

2. The City issued a negative declaration for the project. As proposed, the project will not create any significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The certified Santa Cruz City IUP does not designate a use for the open water, which remains under the original permit jurisdiction of the Coastal Commission. The adjacent municipal wharf is designated Tourist Commercial/Coastal-Dependent. The proposed project is consistent with the adjacent land use

**Exhibit 4: Special Conditions to CDP 3-81-41 as amended**

**3-81-041-A24**

**Page 5 of 18**

# ♦ AMENDMENT ♦ COASTAL DEVELOPMENT PERMIT

3-81-41-A  
PERMIT NO.

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction 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. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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:

(See Staff Report)



- 4. All conditions of Coastal Permit 3-81-41 remain in full force and effect except as specifically modified by subsequent amendments.

FINDINGS & DECLARATIONS

The Commission finds and declares as follows:

1. Location and Description of Development

On the Santa Cruz Municipal Wharf the City is proposing demolition of an existing 2-story building (3,076 sq. ft.) containing a restaurant/fish market, replacement and addition of pilings; replacement of decking; addition of 650 sq. ft. of decking; construction of a new restaurant/fish market (4,676 sq. ft.). This project is one in a series of improvements proposed under the ultimate planned development of the wharf. Under master permit 3-84-41 major demolition (3 buildings) and construction (5 new buildings) with 10,000 sq. ft. of deck expansion was completed.

The project is located adjacent to existing development and all services are available to serve the proposed uses. Thus the project is consistent with Section 30250(a) of the Coastal Act.

2. Marine Environment

The marine environment policies of the Coastal Act emphasize the need to protect and enhance the biological productivity and quality of coastal waters.

The proposed project includes the drilling of new pilings and the replacement of existing pilings. The EIR for phase I wharf development, completed in 1978, states that the pile driving activity will increase turbidity during the time of construction only. Suspended sediments will be quickly dispersed by wave action beyond the wharf, and will quickly resettle after pile driving operations cease. The construction activity will temporarily disturb some of the subtidal species of anadromous game fish, the sea lions, and some local bottom-dwelling species. The EIR concludes that none of these species will be seriously disturbed or permanently discouraged by construction activities.

The long term effects from construction of the deck area include littering (trash and water run-off) shading and transformation of habitat. As the proposed project does not include boat fueling facilities, there will not be any significant long term pollution from fuel spills. The proposed deck will shade 650 sq. ft. of open water. As the wharf is constructed in an area which contains a sandy bottom habitat which supports a relatively limited variety of species (rather than a natural reef area which would support a greater variety of species), the

3-81-41-A2

STAFF RECOMMENDATION

The Staff recommends that the Commission adopt the following Resolution:

Approval with Conditions

The Commission hereby grants, subject to the conditions below, an amendment to the approved development on the grounds that the amendment, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located over open coastal water, and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECOMMENDED CONDITIONS

Standard Conditions

See Exhibit A.

Special Conditions

1. PRIOR TO TRANSMITTAL OF PERMIT, permittee shall submit to the Executive Director for review and approval:
  - a) final elevations indicating colors and materials and signing and providing for a maximum height of 23 feet
  - b) a demolition and construction plan detailing the timing and scope of work including work associated with pile driving activities. This plan shall also include a program to prevent foreign materials (i.e. construction scraps, creosote, other chemicals, etc.) from entering the water.
2. Through public access from the South Commons deck to the parking area south of Stagnaro's shall be completed at least 5 days prior to Santa Cruz City authorization to occupy building.
 

Permittee shall arrange with the Executive Director to review and approve in the field all access improvements including removal of "no fishing and crabbing" signing. Occupancy cannot be authorized until all access improvements are completed and open to the public.
3. As part of any future application submittal for intensification of wharf uses (including use of 2nd floor decking of the subject building), the permittee shall include parking and circulation provisions that fully mitigate project impacts.

STAFF RECOMMENDATION

The Staff recommends that the Commission adopt the following resolution:

Approval with Conditions

The Commission hereby grants, subject to the conditions below, an amendment to the approved development on the grounds that the amendment, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located over open coastal water, and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECOMMENDED CONDITIONS

Standard Conditions

See Exhibit A attached.

Special Conditions

1. Prior to Transmittal of Permit, permittee shall submit to the Executive Director for review and approval final plans. The plans may include relocation of the exterior stairway to the building interior.

FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

1. Project Location and Description

The Santa Cruz City Lifeguard Headquarters is located on the Municipal Wharf approximately 500 feet from the wharf entrance. The existing building is sited on an approximate 32 x 65 foot rectangular wharf projection on the west side of the wharf. The building is approximately centered in the space and areas to each side are used for boat, vehicle, surfboard and other emergency equipment and supply storage. The building lookout tower which gives visual access to the Santa Cruz boardwalk and Dream Inn beaches and surrounding waters is reached by way of a ladder in the building interior.

The proposal will expand the building north and south to fill the available area. Emergency equipment and supplies will be stored within, protected from the elements and vandalism. An exterior

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed amendment, subject to the conditions below, is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the local government's Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. (See Exhibit A)

III. Special Conditions.

NOTE: Unless specifically altered by the amendment, all conditions attached to the previously approved permit remain in effect.

1. Operational Plan

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT to install the Wharf entry gates, the permittee shall submit an Operational Plan for the Executive Director's review and approval that accomplishes the following:

- A. Continues to allow the Wharf to be accessible to vehicles, bicyclists, and pedestrians at all times except between 2 A.M. and 5 A.M. and during emergencies.
- B. Maintains at least the proposed 30-minute free grace period for short-term vehicular access on the Wharf.
- C. Maintains current free pedestrian and bicyclist access onto the Wharf.
- D. Does not preclude recreational and visitor use of the Wharf by any preferential parking program (e.g., reserved employee spaces).
- E. Provides for emergency vehicle access onto the Wharf.

The submittal shall include evidence that the Operational Plan has been approved by the City Council after public hearing. Any changes to the approved Operational Plan shall be submitted for Executive Director review and approval prior to being implemented.

## 2. Parking Mitigation

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit a Parking Mitigation Program for the Executive Director's review and approval. The program shall provide 34 replacement parking spaces, not currently within the City's parking inventory, to offset the loss of 34 parking spaces near the Cowell Beach entrance. These spaces shall be within reasonable walking distance to Cowell Beach and in any case no more than one-quarter mile from Cowell Beach. The spaces shall be of equivalent public availability as the spaces at Cowell Beach. The required parking spaces shall be made available for public use by long-term lease agreement or other equivalent mechanism prior to operation of the Wharf entry gates.

## 3. Shuttle Commitment

Condition No. 4 of the original permit 3-81-41 to the City of Santa Cruz, requiring the use of the shuttle system, shall remain in full force and effect. In order to implement it, PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall provide for the Executive Director's review and approval, updated condition compliance information. The updated information shall include current City plans and commitments to:

- A) maintain and operate the Wharf employee shuttle system, including an off-site employee parking lot;
- B) maintain, operate existing weekend/holiday summer beach shuttle system and study expansion of the beach shuttle system;
- C) continue investigating a shopper shuttle to link the downtown area with the beach/Wharf area; and
- D) develop an incentive program to encourage the use of remote parking and the employee and beach shuttles.

## 4. Design Review - Kiosks or Restroom

PRIOR TO COMMENCEMENT OF CONSTRUCTION of the kiosks or the restroom, the permittee shall submit the following for the Executive Director's review and approval:

- A. Final plans for the two ticket kiosks and the restroom. The submittal shall include evidence of review and approval by the City.

5. Design Review - Wharf Entrance

PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE WHARF ENTRANCE IMPROVEMENTS, the permittee shall submit final project plans for the Executive Director's review and approval. Final project plans shall include the following:

- A. Final striping plan. The plan shall maintain at least 18 parking spaces at Cowell Beach, including 4 handicapped parking spaces, and the bicycle lanes from Beach Street to the Wharf entrance.
- B. Final landscaping plans incorporating Monterey pines as required by the Local Coastal Program (page 3.30) along with a planting schedule.
- C. Bicycle parking racks at Cowell Beach parking lot.
- D. Pedestrian circulation plan which provides for continuous public access onto the Wharf and to Cowell Beach.

6. Future Intensifications

Condition No. 3 of the previous amendment #3-81-41-A2, requiring full parking and circulation mitigations for any intensification of Wharf uses, remains in full force and effect. Because no parking is available on the Wharf to serve intensified uses without further diminishing the supply for non-patron visitors, compliance with this condition will require any future application which involves intensification for parking to include an off-site parking area and shuttle to the project. In order to address the non-commercial visitor parking deficit, this shuttle shall be available to the public.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

1. Project Description and Background

The portion of the proposed project within the Commission's jurisdiction consists of the realignment of the Wharf intersection, the installation of new entry gates, a shuttle turnaround, a beach overlook, landscape island with public art space, public restroom, and two ticket kiosks, at the intersection of the Municipal Wharf, Beach, and Front Streets in Santa Cruz City. The Municipal Wharf entry is a mix of recreational and commercial uses that serve the beach and Wharf. The Wharf intersection is a complex of traffic islands, parking areas and travel lanes. This intersection serves as a primary gateway to the beach area but is confusing and lacks identity. Proposed improvements would modify the intersection and provide a visual focal point that serves as an art area and bus stop. The proposed alignment allows the shuttle turnaround and art area and eliminates 34 parking spaces located at the entrance to the Wharf (plus 7 on-street outside of the Commission's original

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions below, is consistent with the requirements of the Coastal Act.

The Commission found that mitigation in the form of a shuttle and other parking/traffic programs was necessary in order to approve a major commercial expansion of the City of Santa Cruz's Municipal Wharf in 1981. Interim suspension of one shuttle and extension of a parking study is justified for financial and logistical reasons and does not diminish the overall intent of the original (and previously amended) conditional approvals. The City indicates that per person shuttle costs have risen as ridership has decreased and wishes to suspend operation until the Parking Study is completed. The required study elements have been proposed to be addressed in a larger study context, which has taken longer than expected to progress.

The Commission also found that a proposed 30 minute free vehicular use of the Wharf helped carry out the Coastal Act access policies. As conditioned, to waive this provision (and charge for all vehicular Wharf entries) during no more than one special event per month; the project remains consistent with these policies.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the development with the proposed amendment is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. Remain in effect. See Exhibit 3.

III. Special Conditions.

A. NOTE: Unless specifically altered by this amendment (3-81-41-A-12), all conditions attached to the previously approved permit, as amended, remain in effect.

- B. Condition 1, (OPERATIONAL PLAN), part B, of permit 3-81-41-A-5 is amended as follows: (see Exhibit 3)

"Maintain at least the proposed 30-minute free grace period for short-term vehicular access on the Wharf, except during no more than one special event per month.

- C. Condition 2 (PARKING STUDY) part A, of permit #3-81-41-A-5 is amended as follows: (see Exhibit 3)

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit for Executive Director review and approval an outline of the elements of the "Beach and South of Laurel Parking District Feasibility Study" listed below.

Any changes to the outline that affect compliance with this condition shall also be submitted for Executive Director review and approval prior to being undertaken. Semi-annual reports on progress toward completion of the listed study elements shall be submitted to the Executive Director.

The completed study elements shall be submitted for Coastal Commission review and approval two years from the effective date of this amendment (i.e., by June 1997).

If, at the end of ~~four~~ six years (i.e., October 11, ~~1995~~ 1997), this study has not been completed and implemented to the satisfaction of the Executive Director, the City shall have provided 34 replacement parking spaces. These spaces shall be within the Study area (see Exhibit B), in addition to those currently in the City's parking inventory, and of equivalent public availability as the spaces now at Cowell Beach.

- D. Condition 3 (PROVISIONS FOR SHUTTLE) of permit 3-81-41-A-5 is amended by adding the following language at the end:

Notwithstanding the above, the existing weekend/holiday summer beach shuttle system may be suspended for the years 1995 and 1996 only.

#### IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

##### A. Background for parking study and shuttle:

The City of Santa Cruz is requesting a suspension of the requirement to operate the beach shuttle this summer and next and an extension of the parking study completion and implementation deadline until October 11, 1997. These



SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions below, is consistent with the requirements of the Coastal Act.

By attracting more visitors, the restaurant addition will intensify wharf use. Conditions of 3-81-41-A5 required specifically identified parking mitigation. Though such mitigation has not been provided, the Commission finds that the City has made considerable progress in managing wharf circulation and parking through its Wharf Entrance Gate, among others, which would indicate a small incremental increase in use would not significantly impact public access. An origin/destination study of wharf users is needed to quantify and substantiate the protection of priority use access, e.g., fishing and boating. As conditioned to require the needed study before further commercial intensification beyond this amendment, the proposed development can be found consistent with the Coastal Act access and recreation policies.

STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following Resolution:

Approval:

The Commission hereby grants a permit for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to carry out its Local Coastal Program in conformance with the provisions of Chapter 3 of the Coastal Act, is located over coastal waters and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECOMMENDED CONDITIONS

Standard Conditions

1. Notice of Receipt and acknowledgement. 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 this permit is reported to the Commission. Development shall be pursued in a

## Santa Cruz City/Stagnaro's

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for the permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any conditions will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24 hour advance notice.

6. 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.

7. 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

1. NOTE: Unless specifically altered by this amendment (3-84-41-A15), all conditions attached to the previously approved permit, as amended, remain in effect.

2. PRIOR TO SUBMITTAL OF ANY ADDITIONAL REQUESTS FOR COMMERCIAL INTENSIFICATION OF USE OF THE WHARF AND PRIOR TO JANUARY 1, 1997, the permittee shall submit to the Executive Director for review and approval a completed origin/destination and user group study. The permittee shall review the methodology and the definition of users with the Executive Director prior to distribution of the questionnaire.

3. PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval a construction scheduling plan and a program to prevent construction materials from entering the water.

#### FINDINGS AND DECLARATIONS

The Commission hereby finds and declares.

##### 1. Background, Location and Description of Development

The Santa Cruz Municipal Wharf is located off the Main Beach and Boardwalk area in the Beach Area of Santa Cruz City. This is the most heavily visited area in Santa Cruz

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the coastal development permit amendment request with the following standard and special conditions:

**I. STAFF RECOMMENDATION ON PERMIT AMENDMENT**

**MOTION:** *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 3-81-041-A22 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

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

**II. CONDITIONS OF APPROVAL**

**A. Standard Conditions**

1. **Notice of Receipt and Acknowledgment.** The permit amendment 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **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.



4. **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.

## B. Special Conditions

1. **Funding for the construction and maintenance** of permanent restrooms at the south end of the Wharf shall be provided for in the City of Santa Cruz's budget for the 2002/2003 fiscal year.
2. **Prior to construction of permanent restroom facilities at the south end of the Wharf**, the City shall submit final plans to the Executive Director for review and approval. These plans shall provide for permanent restrooms in the same location as the restrooms slated for demolition.
3. **The permanent restrooms shall be constructed** and ready for use no later than June 30, 2003.

## IV. FINDINGS AND DECLARATIONS

### A. Standard of Review

The Santa Cruz Municipal Wharf is within the original jurisdiction of the Coastal Commission for the purposes of issuing a coastal development permit. Therefore, the standard of review for this project is the Coastal Act. The City has a certified Local Coastal Program, which includes recommendations for development on the wharf, that may be consulted for guidance.

### B. Project Location and Description

The Santa Cruz Municipal Wharf, a City-owned facility, was built in 1914 (see Exhibit 1 for location map). Originally the Wharf primarily was used for the docking of cargo vessels. The Wharf's function as a shipping utility ceased in 1938. Currently the Wharf's main function is that of a tourist center, attracting an estimated two to three million visitors annually. At approximately one-half mile in length, the Santa Cruz Municipal Wharf is the longest wharf on the West Coast. The Wharf is designated as an historical landmark in the City of Santa Cruz LCP.

Like all wharves, the Santa Cruz Municipal Wharf must undergo periodic inspections of its supportive substructure. In March 1999, at the request of City staff, a marine engineering firm performed an inspection of the supporting structure under the public restroom at the south end of the Municipal Wharf (see Exhibit 2 for location map). This inspection confirmed that the majority of the pilings and bearing lumber had deteriorated and would need to be replaced in the near future. To replace these materials, however, the existing 735 square foot restroom building at the south end of the Wharf would need to be removed (two other restroom facilities are located at other points on the wharf). The City gained limited success in extending the life of this highly used public restroom

