

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

# Th6a



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original staff report](#)

## ADDENDUM

May 24, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM Th6a, CDP NO. 5-16-0210 (Novus Ordo Seclorum, LLC & Temple Mishkon Temphilo) FOR THE COMMISSION MEETING OF THURSDAY, JUNE 9, 2016.**

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### 1. CHANGES TO STAFF REPORT

Commission staff recommends clarifications to the staff report dated 05/20/2016 in the following section of the staff report: Section III (Special Conditions) and Section IV (Findings and Declarations). Section language to be added to the conditions and findings is shown in the underlined text, and language to be deleted is identified by ~~strike-out~~.

#### **Section III, Special Conditions, Page 6, Special Condition 6, add and delete the following:**

- 6. Generic Deed and Lease Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) and lessor have executed and recorded against the parcel(s) governed by this permit a deed and lease restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed and lease restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed and lease restriction shall also indicate that, in the event of an extinguishment or termination of the lease restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **Section IV, Subsection A. Project Description & Location, Page 8, the last paragraph, add and delete the following:**

Because the property is being leased, the Commission imposes **Special Condition 6** requiring the applicants to record a Generic Deed and Lease Restriction acknowledging that...

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# Th6a

Filed:	05/19/2016
180 <sup>th</sup> Day	11/15/2016
Staff:	M. Alvarado-LB
Staff Report:	05/20/2016
Hearing Date:	06/09/2016

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-16-0210

**Applicant:** Novus Ordo Seclorum, LLC & Temple Mishkon Temphilo

**Agent:** Gregory H. Ginter

**Location:** 3116 2<sup>nd</sup> Street, Santa Monica, Los Angeles County  
(APN: 4288-005-011)

**Project Description:** Conversion of an existing 1,375 sq. ft. storage building into a restaurant. The project involves the construction of an approximately 200 sq. ft. storage mezzanine and a 84 sq. ft. trash enclosure; reconstruction of an approximately 900 sq. ft. deck; installation of a 28 ft. by 32 ft. trellis, eight on-site parking spaces, a 5-bicycle rack, new fencing, and hardscape and landscape improvements. No change to the existing building envelope and volume is proposed.

**Staff Recommendation:** Approval with conditions

### SUMMARY OF STAFF RECOMMENDATION

The proposed project is a change and intensification of use one block inland of a visitor serving commercial area. The proposed project raises issues regarding impact to public access.

The proposed development has been conditioned to assure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act. The conditions are: **1)** parking management program; **2)** valet parking operation; **3)** future improvements; **4)** permit compliance; **5)** landscape; and **6)** generic lease restriction.

Staff is recommending **APPROVAL** of the proposed coastal development permit as conditioned.

5-16-0210 (Temple Mishkon Temphilo)

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Santa Monica only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION</b> .....	4
<b>II. STANDARD CONDITIONS:</b> .....	4
<b>III. SPECIAL CONDITIONS:</b> .....	5
<b>IV. FINDINGS AND DECLARATIONS:</b> .....	7
A. PROJECT DESCRIPTION & LOCATION.....	7
B. PUBLIC ACCESS.....	8
C. DEVELOPMENT.....	9
D. WATER QUALITY/BIOLOGICAL ASSESSMENT .....	9
E. LEASE RESTRICTION.....	9
F. LOCAL COASTAL PROGRAM (LCP).....	9
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	10

### APPENDICES

Appendix A - Substantive File Documents

### EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Site Plan

Exhibit 3 – Elevations

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-16-0210 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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:

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. 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. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. SPECIAL CONDITIONS:**

This permit is granted subject to the following special conditions:

- 1. Parking and Transportation Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide for review and approval by the Executive Director, a transportation demand management program as follows:

- (1) The applicants shall provide and maintain a minimum of 8 parking stalls on the site to serve the approved development. All available parking shall be shared among and equally available to all of the patrons, employees, and other users of the buildings, and no parking spaces shall be assigned for exclusive use, with exception of required ADA parking, including valet service.
- (2) A public transit fare reimbursement program shall be implemented as proposed by the applicants. The system shall be in effect for at least a 30-year period. The applicant shall provide for 100% reimbursement to the employees of the development for public transit fare to and from work. Posters, brochures and registration materials of the program shall be available to employees at all times. Employees shall be informed of the program upon orientation and annually thereafter.
- (3) The applicants shall provide a bicycle parking area for a minimum of 5 bicycles, free of charge, on the property. All bicycle parking spaces shall be shared among and equally available to all of the patrons, employees, and other users of the buildings.

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

**2. Valet Parking Operation**

- a. On Site Valet Service.

Valet parking service is allowed in order to increase the number of vehicles that can be stored on the site. The valet parking service shall not rely on public street parking spaces and egress/ingress driveways along the public streets.

- b. Off Site Valet Service.

Use of off-site parking for a valet parking operation is not part of this permit. If the applicants decides to implement a valet parking service using an off-site location for restaurant patron parking, a coastal development permit or a Coastal Commission approved amendment to this coastal development permit shall be required prior to

implementation, unless the Executive Director determines that no permit or amendment is required.

- 3. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-16-0210. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-16-0210. Accordingly, any future improvements to the restaurant authorized by this Coastal Development Permit No. 5-16-0210, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-16-0210 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 4. Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this Coastal Development Permit No. 5-16-0210 is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- 5. Landscaping.**

  - a. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
  - b. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.
- 6. Generic Lease Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) and lessor have executed and recorded against the parcel(s) governed by this permit a lease restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The lease restriction shall include a legal description of the entire parcel or parcels governed by this permit. The lease restriction shall also indicate that, in the

event of an extinguishment or termination of the lease restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **IV. FINDINGS AND DECLARATIONS:**

##### **A. PROJECT DESCRIPTION & LOCATION**

The applicants are proposing to convert an existing 1,375 sq. ft. storage building into a restaurant with 560 sq. ft. of public serviceable area. The scope of work includes the interior remodel of the building; the reconstruction of an approximately 900 sq. ft. deck; the construction of an approximately 200 sq. ft. mezzanine for storage and a 84 sq. ft. exterior trash enclosure; and the installation of a 28 ft. by 32 ft. trellis, eight on-site parking spaces, one bicycle rack for five bicycles, new fencing, and hardscape and landscape improvements (**Exhibits 2 and 3**). No change to the existing building envelope and volume is proposed.

The subject site is located at 3116 2<sup>nd</sup> Street within the City of Santa Monica, Los Angeles County (**Exhibit 1**), approximately 0.21 miles inland of the beach and boardwalk. The lot area is 5,000 sq. ft. and the City of Santa Monica Land Use Plan (LUP) designates the use of the site for Main Street Special Commercial (CM4). The proposed project adheres to this designation. The project site is located within an existing highly urbanized area, is located at the edge of the city boundary between City of Santa Monica and City of Los Angeles Venice Subarea, and is not between the first public road and the sea (**Exhibit 1**). The property is owned by Temple Mishkon Temphilo and is leased to the Novus Ordo Seclorum, LLC.

The primary Coastal Act policy raised by the proposed project is the restaurant's parking demand and its relationship to public beach access and access to the City's visitor serving commercial area. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. Further intensification of uses in the project area will increase the demand for parking on 2<sup>nd</sup> Street and Main Street and on the surrounding residential streets. The existing building was constructed early in the twentieth century, circa 1909. According to the City's records, the building was permitted by the City for a "storage and workshop" use in 1971 (pre-Coastal Act). Sometime in the 1980's, however, the building was converted into a performance arts theater with no on-site parking without the benefit of a coastal development permit, which is required for a change in the intensity of use of a structure. The proposed project, however, will result in the removal of the theater use.

The Commission's parking requirement (established through past Commission Action) for restaurants is 1 space for each 50 sq. ft. of service area, which includes indoor, outdoor, bar seating areas. There are currently no parking spaces provided on site. Therefore, based on the Commission's parking requirements, the proposed restaurant will result in an increase in parking demand of approximately 11 parking spaces. Because no demolition is being proposed and the project involves only the conversion of the existing 1,375 sq. ft. building into a restaurant, the applicants can be credited one parking space for the previous pre-coastal use of the building. The Commission's parking requirement for a



storage/warehouse building is 1 space for each 1000 sq. ft. gross floor area. Therefore, the applicants are being credited one parking space. Moreover, the proposed project will provide 8 of the remaining 10 required off-street parking spaces for the restaurant, which will result in insufficient on-site parking by two spaces. Therefore, to compensate for the insufficient parking spaces on-site, the applicants propose an off-street parking management plan, which includes one bike rack for five bicycles and incentives for employees to use public transit to commute to work. The applicants are proposing 100% reimbursement to the employees for public transit fare to and from work through the Metro Employer Annual Pass Program. Staff has determined that the proposed bike rack and the proposed metro employer annual passes can substitute for one on-site parking space each. **Special Condition 1** sets forth the details of the required parking program to ensure implementation. Consequently, the proposed development will provide adequate parking for its patrons, for the life of the proposed use, without negatively impacting the public beach access parking supply.

In addition to the mitigation measures, the applicants are planning to provide a valet parking service. If the area is inadequate to provide the valet service, the valet service can adversely impact existing public parking. However, if the restaurant operator wishes to provide such a service on site, **Special Condition 2** allows for an on-site valet operation provided that it does not rely on public street parking spaces and egress/ingress driveways along the public streets. **Special Condition 2** also establishes that the use of off-site parking lots (public or privately operated) for a valet parking operation is not part of this permit and that if the applicants decide to implement a valet parking service using an off-site location for restaurant patron parking, a coastal development permit or amendment to this coastal development permit is necessary, unless the Executive Director determines that no permit or amendment is required.

Any future improvements to the restaurant authorized by this Coastal Development Permit No. 5-16-0210, including but not limited to repair and maintenance identified as requiring a permit, will require an amendment to Permit No. 5-16-0210 from the Commission as imposed by **Special Condition 3**. The Commission imposes **Special Condition 4** to ensure consistency with the conditions of the permit. In addition, the applicant is proposing landscaping, therefore, the Commission imposes **Special Condition 5**, which implements the installation of drought-tolerant, non-invasive plants and water conservative irrigation systems.

Because the property is being leased, the Commission imposes **Special Condition 6** requiring the applicants to record a Generic Lease Restriction acknowledging that, pursuant to this permit (CDP No. 5-16-0210), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property.

## **B. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

### **C. DEVELOPMENT**

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition must be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

### **D. WATER QUALITY/BIOLOGICAL ASSESSMENT**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials, reducing runoff through installation of roof drains, gutters, downspouts, and a drainage system to rain barrels and storm water runoff to trench drains. Post-construction best management practices should minimize the project's potential adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

### **E. LEASE RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the landowner(s) and lessor record a lease restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

### **F. LOCAL COASTAL PROGRAM (LCP)**

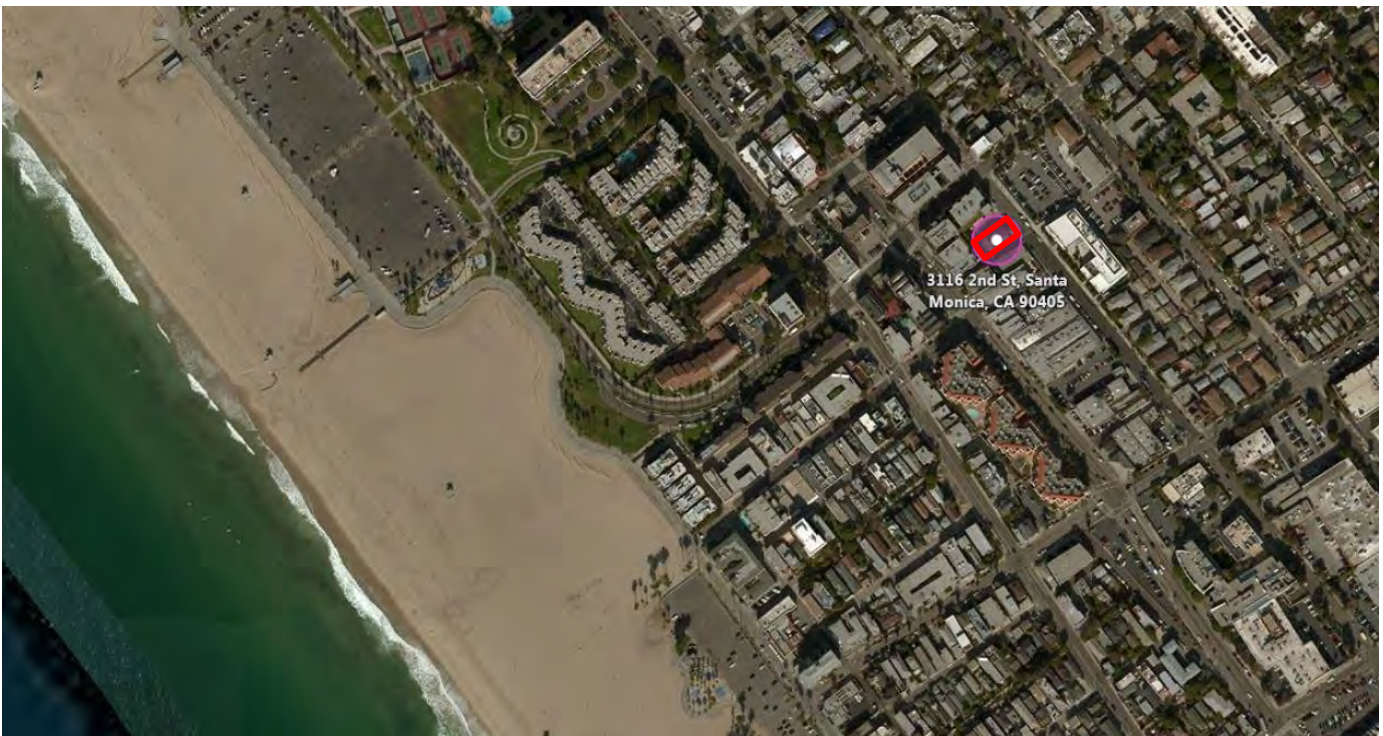
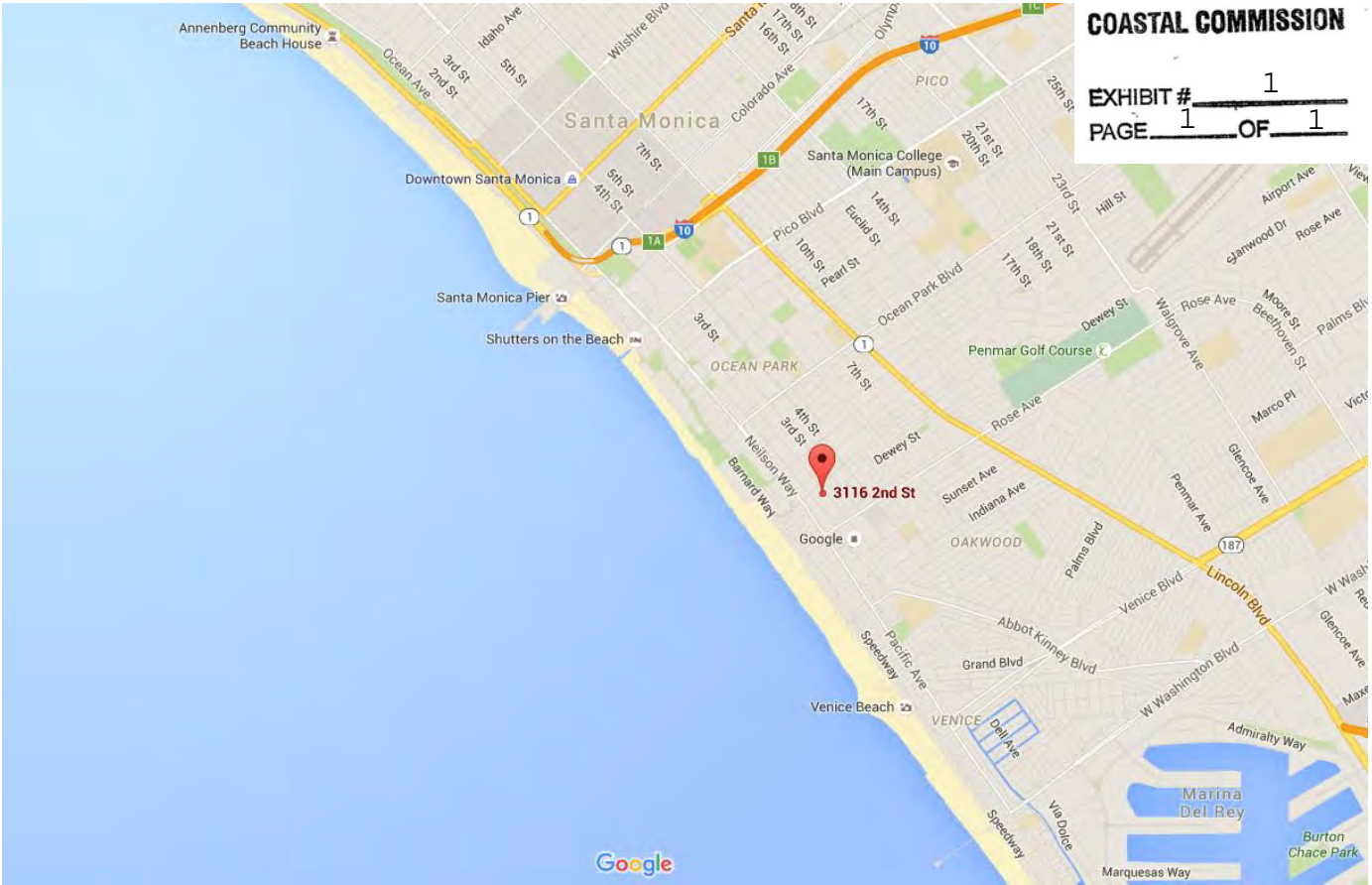
Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District). On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will therefore not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

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

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**Appendix A - Substantive File Documents**

- City of Santa Monica certified Land Use Plan
- Coastal Development Permit Application No. 5-16-0210



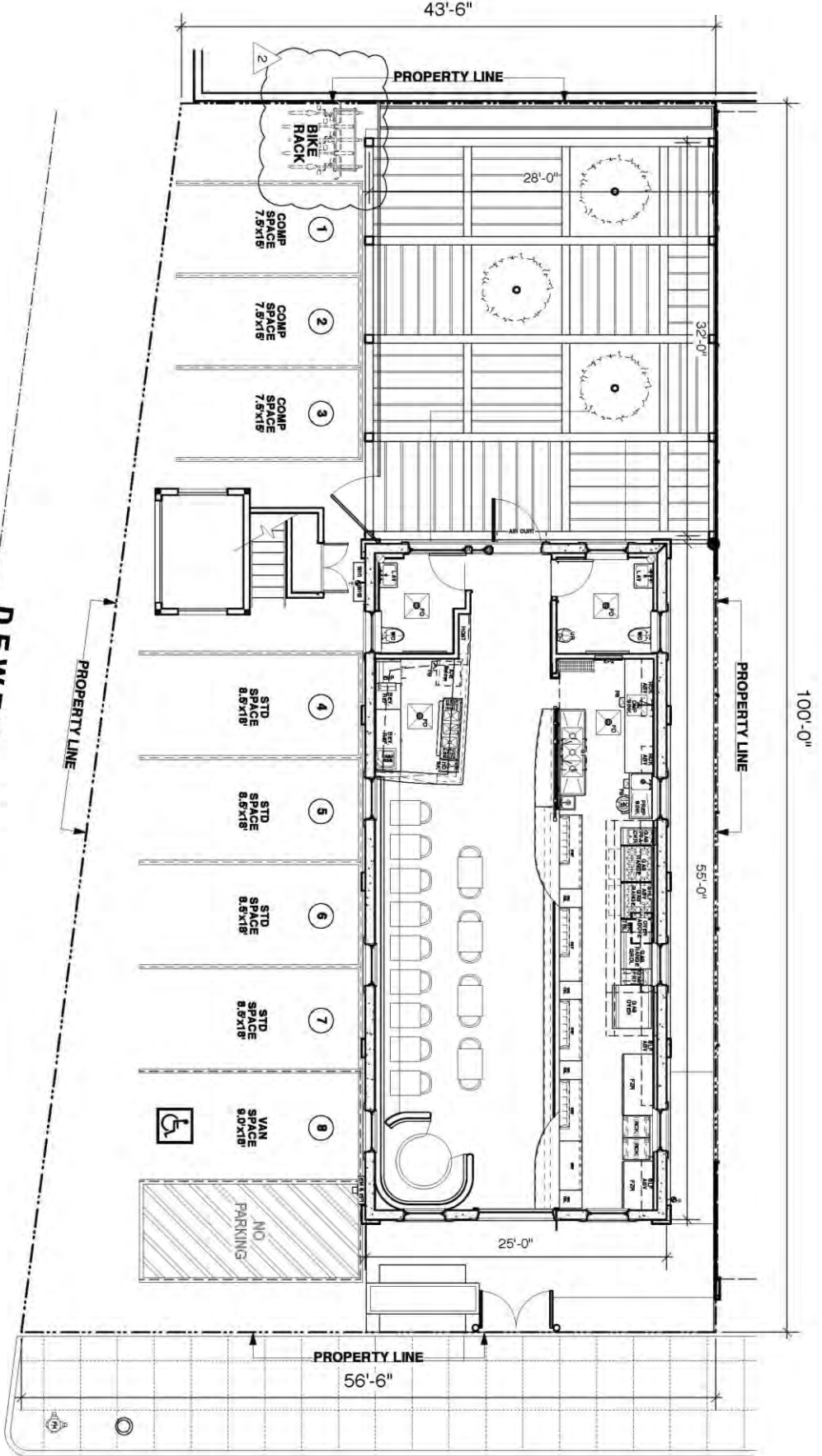
Project Site

2

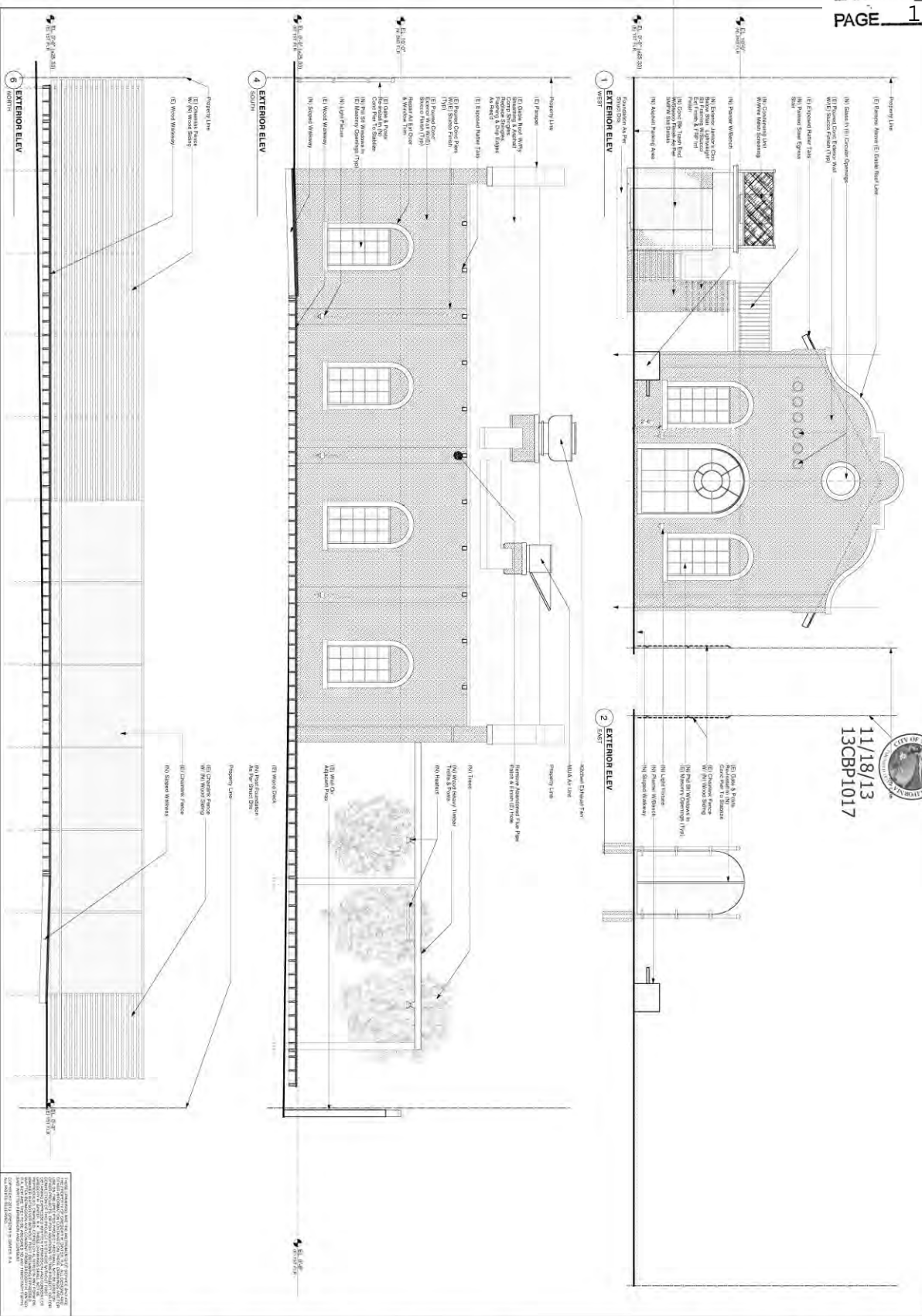
**SITE PLAN**

SCALE: 1/8"=1'-0"

**DEWEY AVE.**  
20 FT WIDE





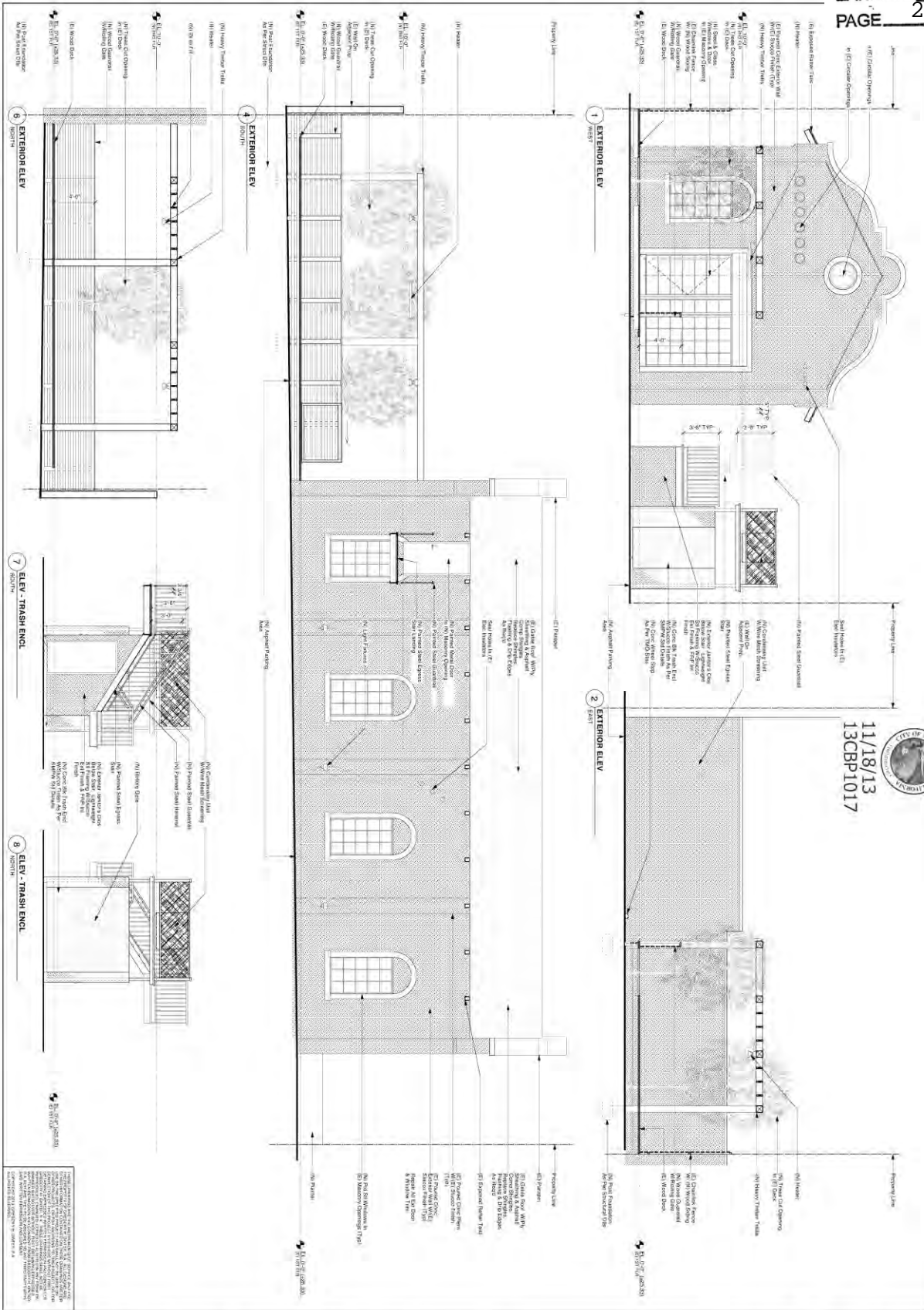


11/18/13  
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	<b>A3.0</b> INTERIOR ELEVATIONS	TEATRO RISTORANTE 3116 2ND STREET, SANTA MONICA, CA 90405	ISSUED: OWNER: SMBSG SMBSG SMBSG	DATE: 06-17-13 07-29-13 08-26-13 10-08-13	COMMENT: FOR REVIEW FOR PERMIT FOR PERMIT	TENANT: PROTO GROUP, LLC 15 GABLE AVE. VENTURA, CA 93103-1432	
	Scale: 1/4" = 1'-0"	Drawing Title: INTERIOR ELEVATIONS	Scale: 1/4" = 1'-0"	OWNER: PROTO GROUP, LLC 201 HANCOCK DRIVE VENTURA, CA 93021	2130 CRAWLEY STREET SANTA MONICA, CA 90405 (818) 313-1144 greg@ggharch.com		



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**A3.1**



**TEATRO RISTORANTE**  
3116 2ND STREET, SANTA MONICA, CA 90405

Scale: 1/2"=1'-0" U.O.M.

DATE: 11-17-13  
11-27-13  
08-29-11  
12-08-11

COMMENT: For REVIEW  
For PERMIT  
For PERMIT

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