

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
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P.O. BOX 1450  
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(310) 590-5071

Filed: 10/27/95  
49th Day: 12/15/95  
180th Day: 4/24/96  
Staff: MV-LB MV  
Staff Report: 11/20/95  
Hearing Date: 12/12-15/95  
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: A-5-HNB-95-098-A

APPLICANT: City of Huntington Beach, Department of Community Services

AGENT: Ron Hagen & Wayne Carvalho, City of Huntington Beach

PROJECT LOCATION: 317 Pacific Coast Highway (south of Municipal Pier at Main Street on the ocean side of Pacific Coast Highway), Huntington Beach, Orange County.

## DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

Demolition of an existing restaurant building (Maxwell's) and construction of a 31,000 square foot, 3 story, 28 foot high restaurant with banquet facility.

## DESCRIPTION OF AMENDMENT:

Modify the previously approved restaurant structure by reducing the square footage to 18,000 square feet, 2 stories and 25 feet high and a reduction in the required parking.

## LOCAL APPROVALS RECEIVED:

City of Huntington Beach Approval in Concept; Conditional Use Permit No. 94-25; local Coastal Development Permit No. 94-10.

## SUBSTANTIVE FILE DOCUMENTS:

City of Huntington Beach certified Local Coastal Program; Coastal Development Permit A-5-HNB-95-098 (City of Huntington Beach); Coastal Development Permit; A-5-HNB-94-135 (Huntington Beach Redevelopment Department); A-5-HNB-91-312 (Chodos/Redevelopment Agency).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

In this case the Executive Director has determined that the proposed amendment is a material change.

SUMMARY OF STAFF RECOMMENDATION:

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

STAFF RECOMMENDATION

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, an amendment to the 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 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 between the sea and 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. SPECIAL CONDITIONS

NOTE: All previous conditions, except as modified herein, remain effective.

1. Special Condition No. 2 imposed under Coastal Development Permit No. A-5-HNB-95-098 which required a parking and signage plan is replaced with:

2. Parking Plan

- a. Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a parking and signage plan which identifies where and how parking will be provided and managed to serve the proposed development. At a minimum the parking plan shall include:

1. Certification that existing parking spaces identified in the Downtown Parking Master Plan will not be displaced.
2. The parking plan shall provide, at a minimum, one-hundred-eighty (180) parking spaces.
3. The parking plan shall provide up to seventy-four (74) total parking spaces located within the existing beach lease area currently reserved for the former Maxwell's restaurant and the remainder of the 180 spaces provided for by restriping the top level of the City's existing downtown parking structure.
4. The beach area parking spaces reserved for the subject restaurant's patrons shall be clearly separate from the public beach parking, shall be subject to valet parking, and shall be signed for exclusive use by the subject restaurant's patrons. There shall be a fee for the beach valet parking, however, the fee shall not exceed the parking fee of the adjacent public beach parking lot. The beach parking area shall be conspicuously posted informing restaurant patrons that free (validated) parking is available at the downtown parking structure.
5. At a minimum, a total of one-hundred-six (106) spaces shall be provided at the City's downtown parking structure. If valet parking is required to achieve this number of parking spaces, the valet parking shall be provided at no charge to the patrons of the subject restaurant. The subject restaurant shall provide a minimum of ninety minutes of free validated parking for patrons using the spaces within the downtown structure. Conspicuously posted signage shall be provided at the structure informing the public of availability of free (90 minute with validation) parking for patrons of the subject restaurant.
6. A site plan of all parking for the proposed project shall be provided including the parking within the existing beach lease area. The plan shall show existing striping and proposed restriping. The site plan shall also include the location, size, and content of all signage as required above.

b. The operation of the parking program shall be consistent with the approved plan.

2. Special Condition No. 3, Limitation of Use of the Banquet Facilities, imposed under Coastal Development Permit No. A-5-HNB-95-098 is hereby deleted. New Special Condition No. 3 regarding public restroom signage is added as follows:

3. Public Restroom Signage

Prior to issuance of the Coastal Development Permit the applicant shall submit, for the review and approval of the Executive Director, a public restroom signage plan. At a minimum the signage plan shall include location where the signs will be posted, the size of the signs, and the wording of the signs.

Public restroom signage shall occur consistent with the approved plan.

### III. FINDINGS AND DECLARATIONS

The Commission finds and declares:

#### A. Amendment Description

The proposed amendment requests a modification to the previously approved project by reducing the size of the structure from 31,000 square feet to 18,000 square feet, reducing the number of stories from 3 stories to 2 stories, and reducing the maximum height from 28 feet to 25 feet. The use of the structure is still proposed as a restaurant. The amendment request also includes modifications to the special conditions regarding parking to reflect the reduction in parking demand based on the reduction in square footage of the structure. The previously approved structure included public restrooms accessible from outside the structure. The amendment request proposes public restrooms accessible from inside. Signage indicating that the public restrooms are available to the general public is proposed to be conspicuously posted at the Pacific Coast Highway entry area and at the beach level entry area.

The project is located at the site of an existing restaurant structure commonly known as Maxwell's. The Maxwell's structure has existed at the site since 1938. The structure was originally used as "an ocean front civic hall suitable for dances and other events. ... In the 1960s the Pavilion [Maxwell's] was used as a skating rink and teen club, until it was gutted by a fire in 1966." (Pierside Village SDEIR, 90-2, page 20). In 1966, the structure was converted to restaurant use, and in 1977 it became Maxwell's restaurant.

The subject site is located between the sea and the first road paralleling the sea (Pacific Coast Highway). The site is within the certified area of the City of Huntington Beach. The permit came under the Commission's jurisdiction when the City's approval of a local coastal development permit was appealed to the Commission and the Commission found substantial issue was raised by the appeal. At the de novo stage of the appeal the Commission approved the project, subject to four special conditions. The four special conditions were: 1) incorporation of the City's conditions; 2) requirement of a parking plan indicating how parking would be provided; 3) limitation on the use of the banquet facilities; and 4) limiting the project to that portion of the site now occupied by the existing Maxwell's structure to assure no further encroachment onto the 1932 granted easement.

The proposed amendment would modify special conditions 2 and 3. Because the square footage of the proposed restaurant would be significantly reduced by the proposed amendment, the parking demand would be reduced correspondingly. The City has proposed to provide parking by adding 12 new spaces within the leased area historically used by Maxwell's, bringing the total in that area to 74 spaces and providing the remaining spaces by restriping the adjacent public beach parking lot. Restriping the adjacent public beach parking lot by providing 20% compact stalls would provide an additional 106 new parking spaces. This is the City's preferred alternative. However, the City also suggested two other options which are not preferred by the City. These are to

provide the 62 existing spaces within the parking area historically used by Maxwell's and provide the remaining 118 spaces in the parking structure; or to restrict the use of the proposed banquet facility to after 4:00 p.m. between Memorial Day and Labor Day.

#### B. Standard of Review

The City of Huntington Beach has a certified local coastal program. Section 30604(b) of the Coastal Act states that "after certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program." Evaluation of the proposed amendment will therefore be based on the certified local coastal program for the City of Huntington Beach. In addition, Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

#### C. Public Access

##### 1. Parking

Section 30252(4) of the Coastal Act provides that new development shall maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation. This Coastal Act section is specifically incorporated into the Land Use Plan portion of the City's certified LCP. In addition, the certified Implementation Plan provides parking ratios to determine parking demand generated by new development.

Because the proposed amendment would significantly reduce the parking demand, the previously imposed special conditions should be modified to reflect the decrease. The previously approved 35,651 square foot structure generated a parking demand of 313 spaces (the public restroom and City storage areas, 4,260 square feet, were not included in the parking demand calculations). Use of the 10,466 square foot banquet facility was restricted to after 4 p.m. between and including Memorial Day weekend and Labor Day weekend and on weekends from April 1 to Memorial Day weekend and on weekends after Labor Day through October 15. The restriction on the banquet facility was imposed during the peak beach use periods based on a City survey. This reduced the parking demand by 105 spaces.

The remainder of the parking demand was met by providing a minimum of 125 parking spaces in the parking structure, and up to 83 spaces in the existing Maxwell's lease area (62 existing spaces plus up to 21 additional spaces by restriping). If all 83 spaces could not be accommodated in the existing Maxwell's lease area, the previous approval required that the additional spaces be provided in the parking structure. Only if these options proved infeasible could up to 21 spaces be provided by restriping the adjacent public beach parking lot. Provision of the additional spaces by restriping the public beach parking lot was also only allowed if there was no loss of existing beach parking.

The City's LCP provides two standards for determining parking demand. The first, one space for every sixty square feet of gross floor area, is for free standing restaurants. The second, one space for every one hundred square feet of gross floor area, is applied to restaurants within an integrated complex. In approving the project the Commission found that the one space per every hundred square feet of gross floor area was the appropriate ratio. In making this determination the Commission found:

"Although the project is not strictly within an integrated complex, it is within walking distance of additional visitor uses such as the Main Street shops, nearby movie theater, and the Municipal Pier. It is possible that patrons of the restaurant may also partake of some of these uses. In addition, it is likely that a stroll along the pier or along the beach level pedestrian/bicycle path may be a part of the restaurant patron's overall outing."

Based on this parking ratio, the proposed 18,000 square foot restaurant would require 180 parking spaces. The existing Maxwell's structure has historically used 62 spaces within the Maxwell's lease area. The City has indicated that this area could be restriped to provide a total of 74 parking spaces. This leaves 106 spaces still to be provided.

The City's preferred alternative for providing the remaining 106 spaces is to restripe the adjacent public beach parking lot. In restriping, by providing 20% of the lot with compact stalls, an additional 106 spaces could be provided. However, this option does not protect or enhance public access to the sea. The public beach parking lot should remain available to the general public. If additional parking can be accommodated within the public beach parking lot it should serve the general beach goer, not private development, to assure that public beach access is maximized. Alternatives to providing parking for private development within the public beach parking lot do exist.

In the previously approved project, 125 parking spaces were to be provided in the City parking structure. The City's public parking structure exists approximately one block inland from the project site. The parking structure provides a little over 800 parking spaces which are allotted for the use of development within the Downtown Parking Master Plan area. The subject restaurant site is not located within the Downtown Parking Master Plan area and therefore is not entitled to use the existing spaces within the structure to meet the parking demands of the proposed project. The City has indicated, however, that the top level of the parking structure could be restriped to provide an additional 125 parking spaces. Under the previously approved permit, a minimum of 125 new parking spaces were to be provided by restriping the top level of the parking structure.

With the proposed reduction in square footage and provision of up to 74 spaces in the existing restaurant lease area only a minimum of 106 new parking spaces, rather than 125 spaces, would need to be provided in the parking structure. The City has stated and the Commission's previous approval indicates that this option is feasible. Therefore, the proposed project's parking demand can be met by providing parking within the parking structure rather than allowing parking within the public beach parking lot to serve private development.

Under the City's current proposal, their preferred option is to provide 106 parking spaces by restriping the adjacent public beach parking lot. The public beach parking lot is located adjacent to the public bicycle/pedestrian path adjacent to the beach. It is located on either side of the foot of the pier and at the end of Main Street. This area is one of the most heavily used areas of all of the Huntington Beach beach areas. If additional spaces are created within this lot, they should serve the general beach going public, not private development.

Under the previous approval the City indicated that a minimum of 125 additional parking spaces could be created by restriping the top level of the parking structure. The proposed amendment would result in needing only 106 parking spaces in the structure. Consequently, it has been demonstrated that providing the parking in the parking structure is feasible. The previous approval only allowed parking within the existing beach parking area if the other alternatives proved to be infeasible. Therefore, the City's second parking option must be pursued: any parking that cannot be accommodated within the restaurant lease area must be provided in the top level of the City's parking structure. Special condition 2 has been modified accordingly.

Special condition 2, subsections a.2 and a.3, as a result of this amendment reflects the overall parking demand reduction to 180 spaces, and that the spaces shall be provided in the existing restaurant lease area and by restriping the top level of the City's parking structure. Also special condition 2, subsection a.5, has been modified to reflect the reduction in parking demand.

Finally, special condition 2 has been changed to correct references to "Maxwell's" restaurant. The existing special condition refers to the future restaurant at the subject site as "Maxwell's." However, the future tenant at the subject site will not be operating as "Maxwell's." Consequently, the future restaurant should not be referred to as "Maxwell's." Any reference to Maxwell's should refer only to the previously existing restaurant, not future development. Therefore to correct this and for clarification, special condition 2 has been modified to delete references to the proposed restaurant as "Maxwell's." The remainder of special condition 2 is unchanged.

Special condition 3 required limitations on use of the previously proposed banquet facilities. Because of the overall reduction in the size of the structure, parking is available to serve the entire restaurant. Therefore the existing special condition 3 is no longer necessary and has been eliminated.

## 2. Public Restrooms

As part of the City's proposal, the two interior restrooms are to be available to the general public. The City's amendment proposal states that "the City's lease with its tenant requires posted public access to restrooms. Interior access will be provided to the bathrooms through the entry area on the beach level, and near the entry area on the Pacific Coast Highway level. Signs will be placed on the building in conspicuous locations to identify the availability of public restrooms."

The previously approved project included public restrooms accessible from outside the structure. The provision of public restrooms has the effect of greatly enhancing public access by enabling greater public use and longer visits to beach areas.

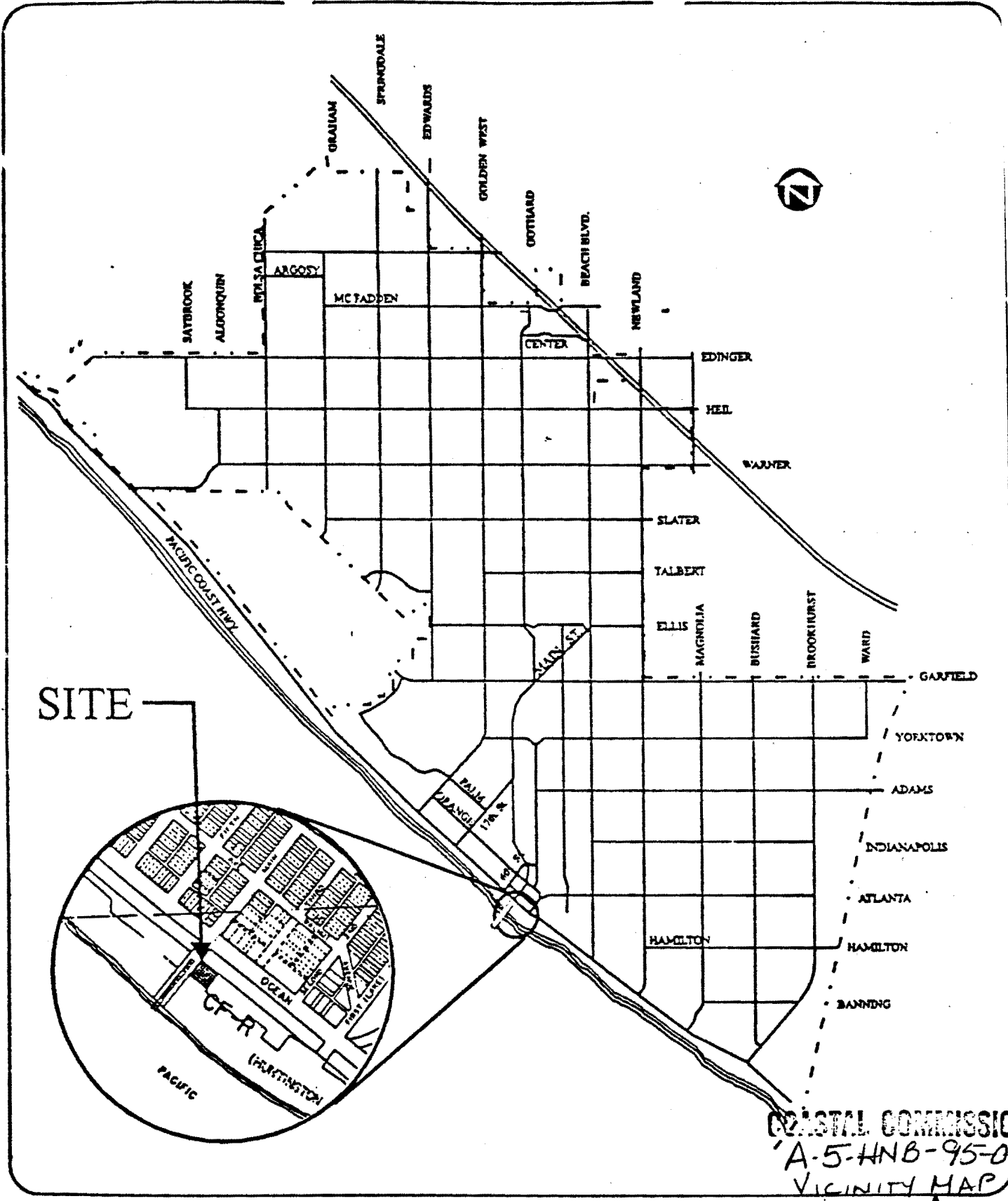
Although the City has proposed the restrooms as public as well as signage indicating their public nature, no signage plan has been submitted for Commission review. The size and placement of the signs can effect their usefulness. In order to assure the proposed public restroom signage is conspicuous and effective, as a condition of approval, the applicant (the City) shall submit a public restroom signage plan. At a minimum the signage plan shall indicate the dimensions of the signs including lettering, the wording of the signs and the location of the signs. Existing special condition 3 is deleted and shall be replaced with a new special condition 3 which requires a public restroom signage plan. Therefore, as conditioned, the Commission finds the project is consistent with the City's certified LCP and Section 30210 of the Coastal Act which requires maximum public access be provided with new development.

#### D. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

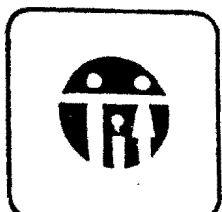
The proposed project, as conditioned to provide additional parking, avoids any potential adverse impacts resulting from the project. Therefore, the Commission finds that the project, as conditioned, will not have any adverse impacts on the environment within the meaning of CEQA.





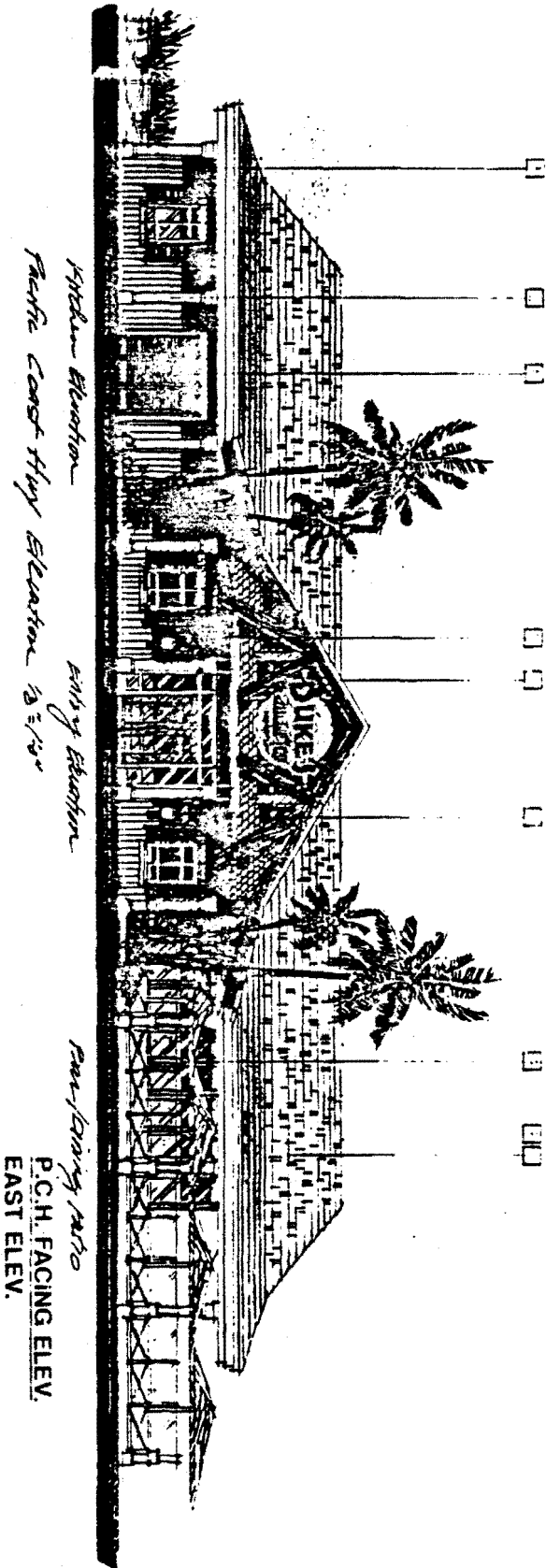
COASTAL COMMISSION  
 A-5-HNB-95-0  
 VICINITY MAP

EXHIBIT # A  
 PAGE 1 OF 1



CUP 94-25/CDP 94-10/CE 94-33

HUNTINGTON BEACH PLANNING DIVISION



P.C.H. FACING ELEV.  
EAST ELEV.

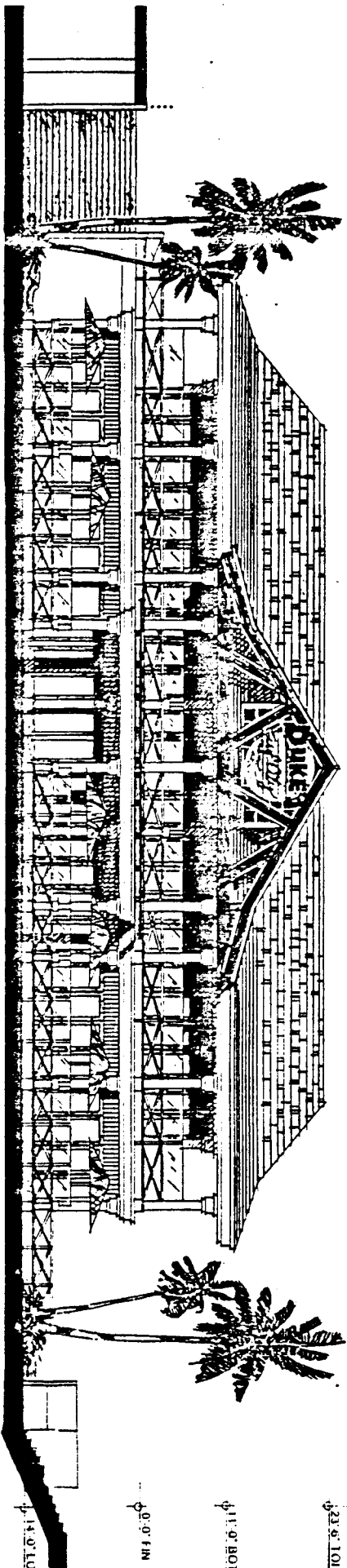
**DUKE'S SURF CITY**

1100 11th Street, Santa Cruz, CA

EAST ELEVATION

EXHIBIT B

A-5-HNB-95-098A



OCEAN FACING ELEVATION  
WEST ELEV.

**DUKE'S SURF CITY**  
HAWAIIAN DEVELOPMENT COMPANY, INC.

28'-6" TOP OF  
GRADE ROOF FRAMING  
23'-6" TOP OF ROOF PARAPET

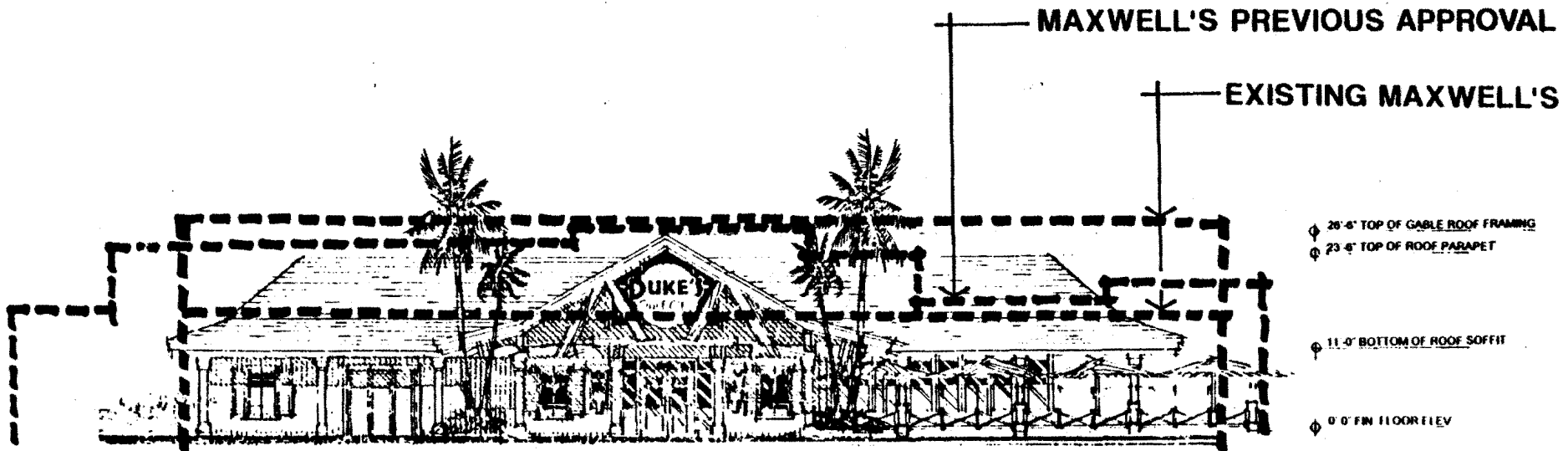
11'-0" BOTTOM OF ROOF SOFFIT

0'-0" FIN FLOOR ELEV.

14'-0" LOWER LEVEL FIN FLOOR

WEST ELEVATION  
A-5-HNB-95-098A  
EXHIBIT C

EXHIBIT D



*Kitchen Elevation*      *Entry Elevation*      *Pool, Living Area*  
*Pacific Coast Hwy Elevation 13'-1/4"*      **P.C.H. FACING ELEV.**

**DUKE'S SURF CITY**



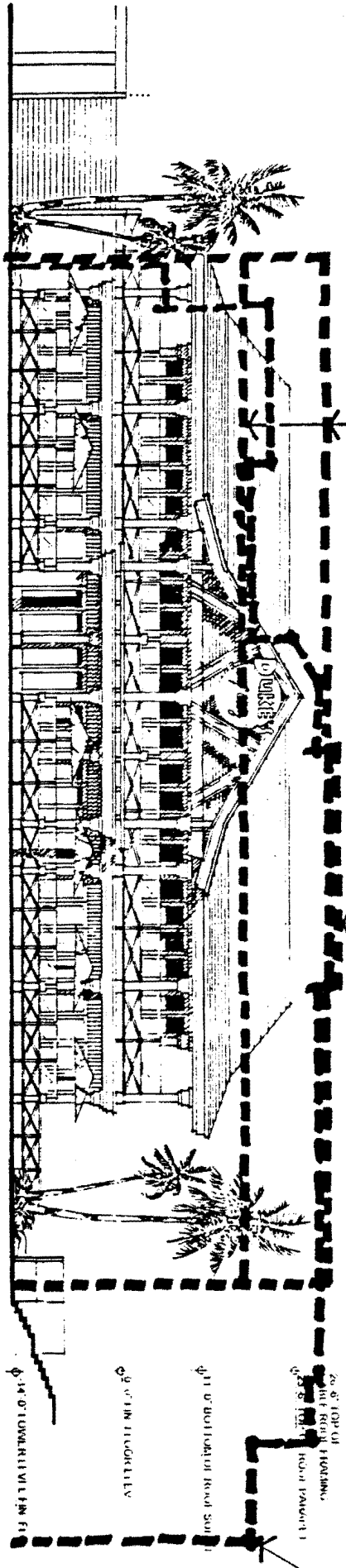
STELZENFELDER AND ASSOCIATES, INC.  
 ARCHITECTS

06 SEP 1995  
 1" = 1'-0"  
 95-0520

A-5-HNB-95-095A

EXISTING MAXWELL'S

MAXWELL'S PREVIOUS APPROVAL



OCEAN FACING ELEVATION

**DUKE'S SURF CITY**  
**HUNTINGTON BEACH, CA.**

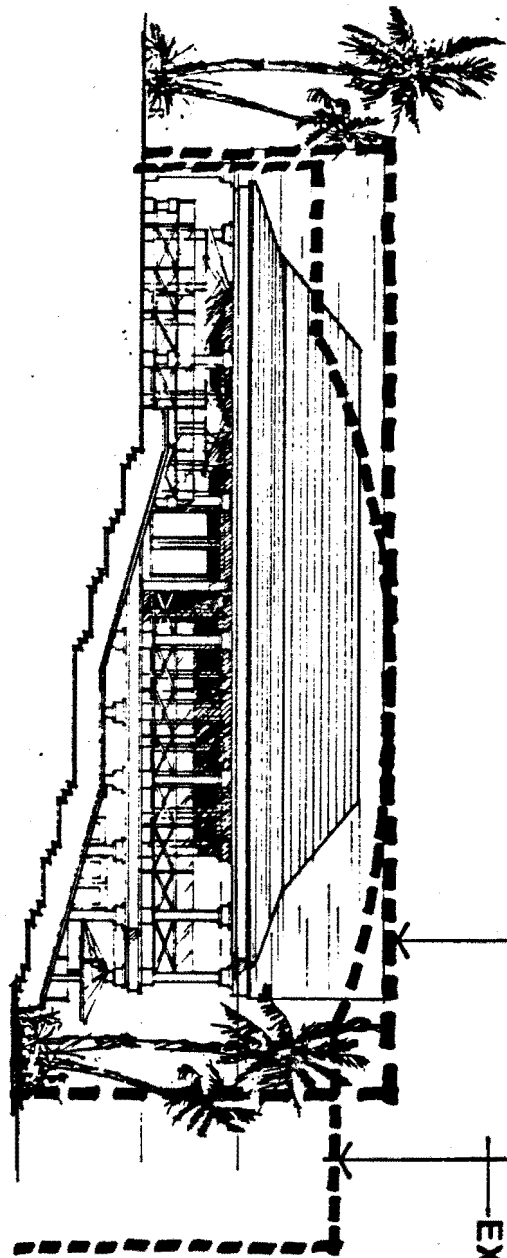


STEVEN LANGFORD ARCHITECTS, INC.  
 ARCHITECTS • INTERIOR DESIGN • FOOD SERVICE  
 14501 WILSON AVENUE, SUITE 100, WEST LA BEACH  
 CA 90406  
 TEL: 310 309 3000

06 SEP 1995  
 1" = 1'-0"  
 95-0520

A-5-HNB-95-098A

EXHIBIT E



MAXWELL'S PREVIOUS APPROVAL  
EXISTING MAXWELL'S

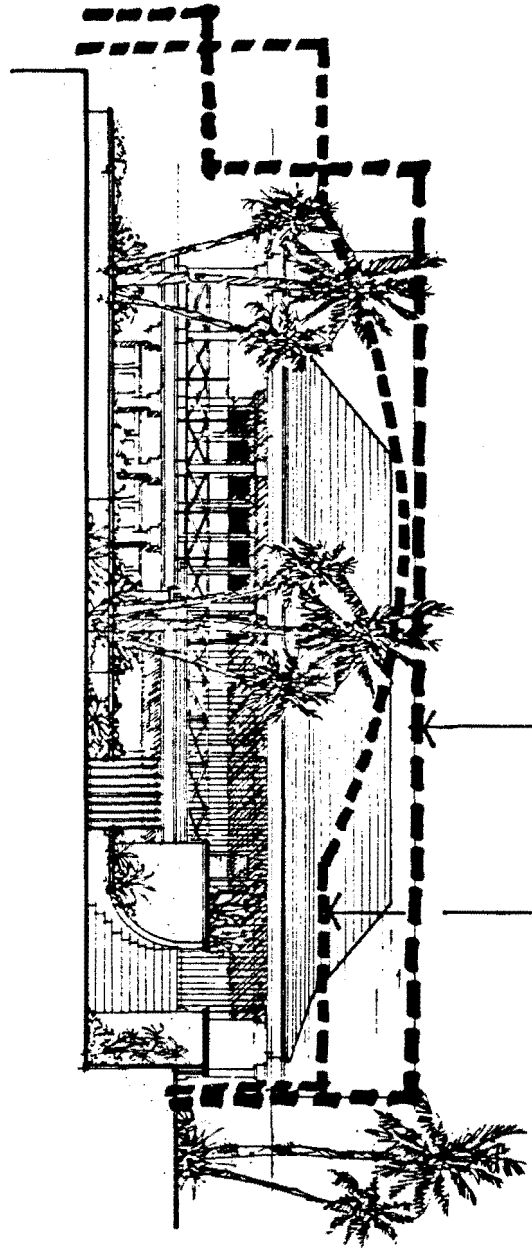
**DUKE'S SURF CITY**  
**HUNTINGTON BEACH, CA.**

STEVEN LANGFORD ARCHITECTS, INC.  
ARCHITECTURE - INTERIOR DESIGN - FOOD SERVICE  
10000 BAYVIEW BLVD., SUITE 100  
HUNTINGTON BEACH, CA 92648  
TEL: 714/363-1111



A-5-HNB-95-098A

EXHIBIT F



MAXWELL'S PREVIOUS APPROVAL

EXISTING MAXWELL'S

**DUKE'S SURF CITY**  
HUNTINGTON BEACH, CA.



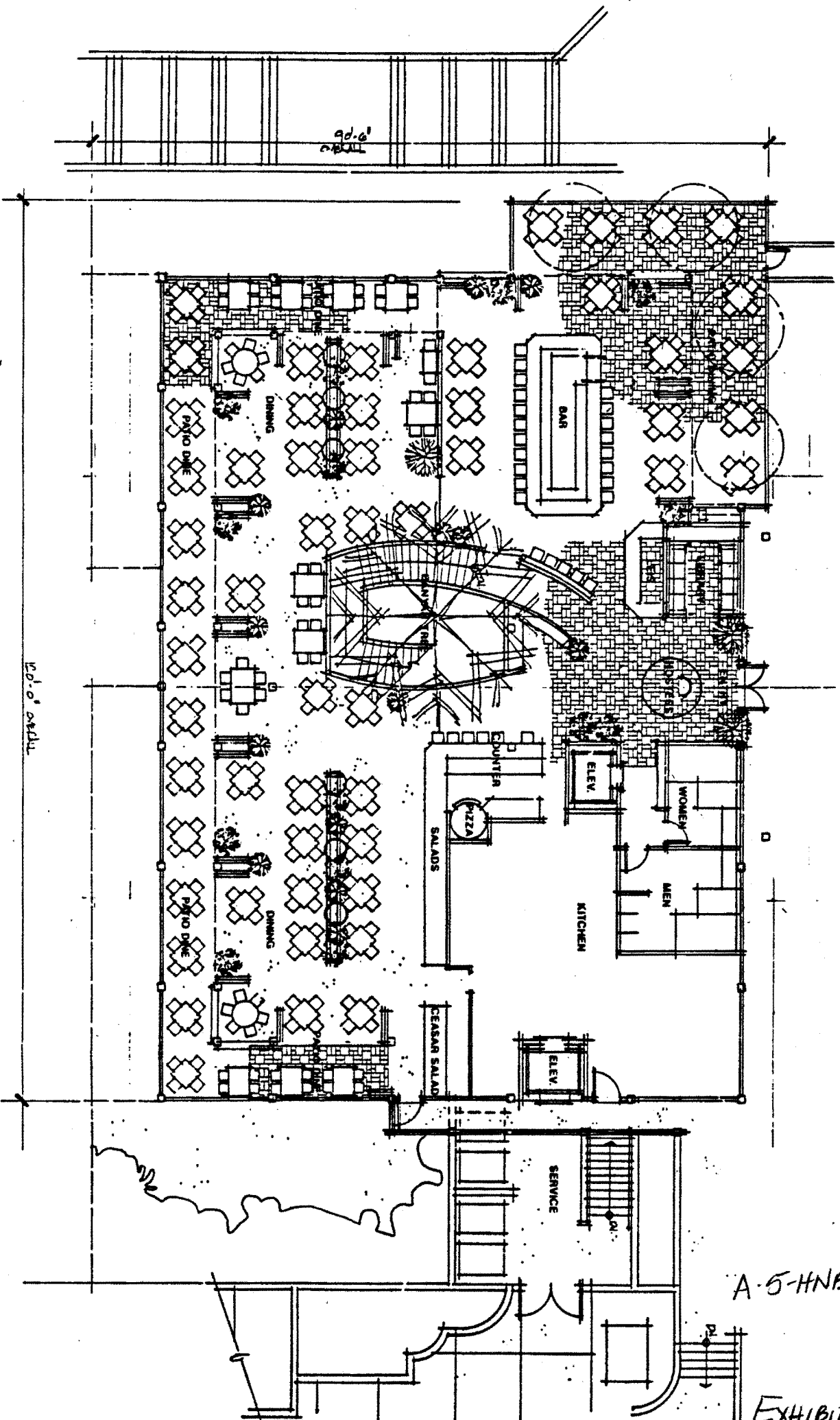
STEVEN LANGFORD ARCHITECTS, INC.  
ARCHITECTURE • INTERIOR DESIGN • FOOD SERVICES  
10000 WILSON AVENUE, SUITE 100  
HUNTINGTON BEACH, CA 92646  
TEL: 714.363.1111 FAX: 714.363.1112

A-5-HNB-95-098A

EXHIBIT G

**DUKE'S SURF CITY**  
HUNTINGTON BEACH, CA.

**ENTRY LEVEL PLAN**

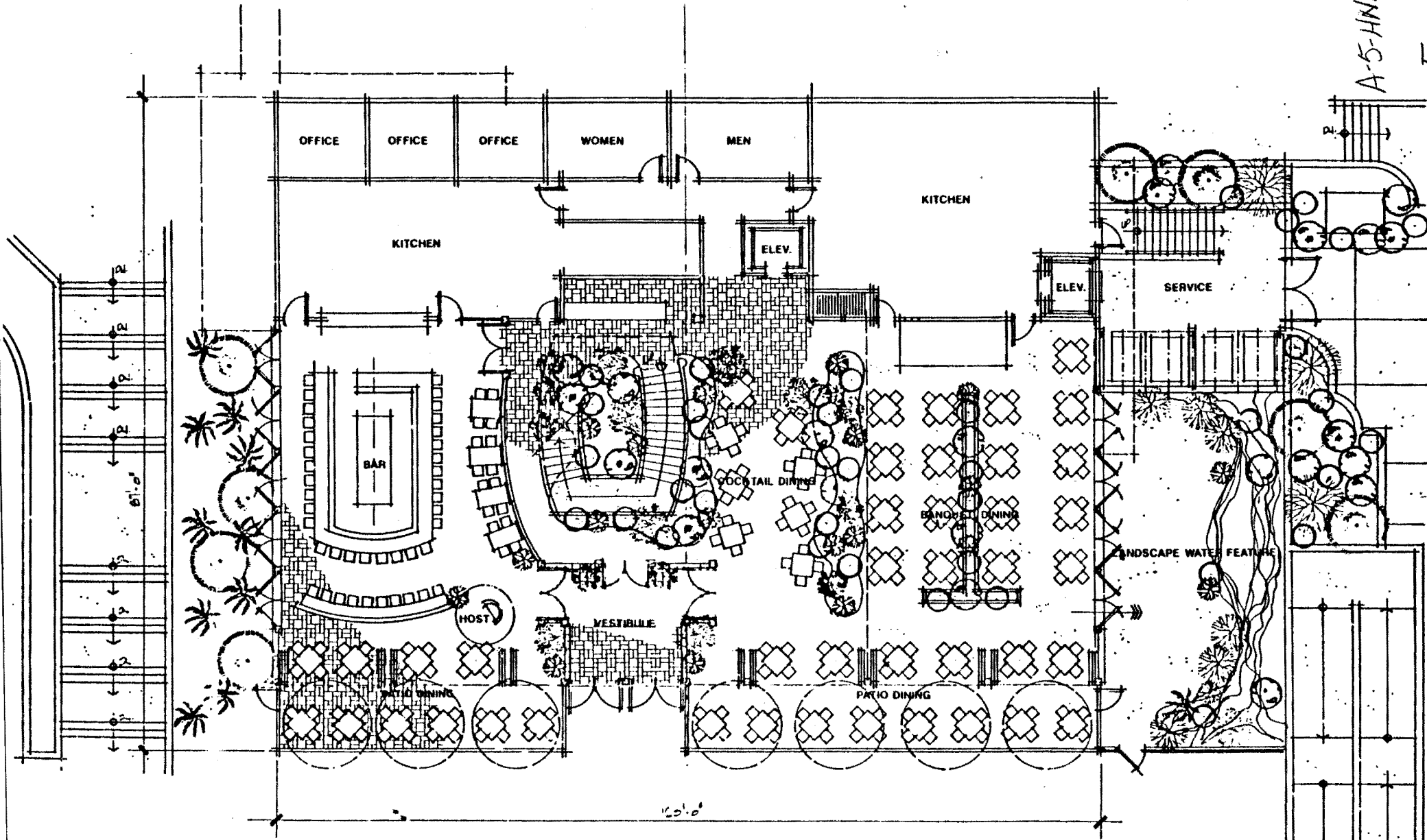


A-5-HNB-95  
-0924

EXHIBIT H

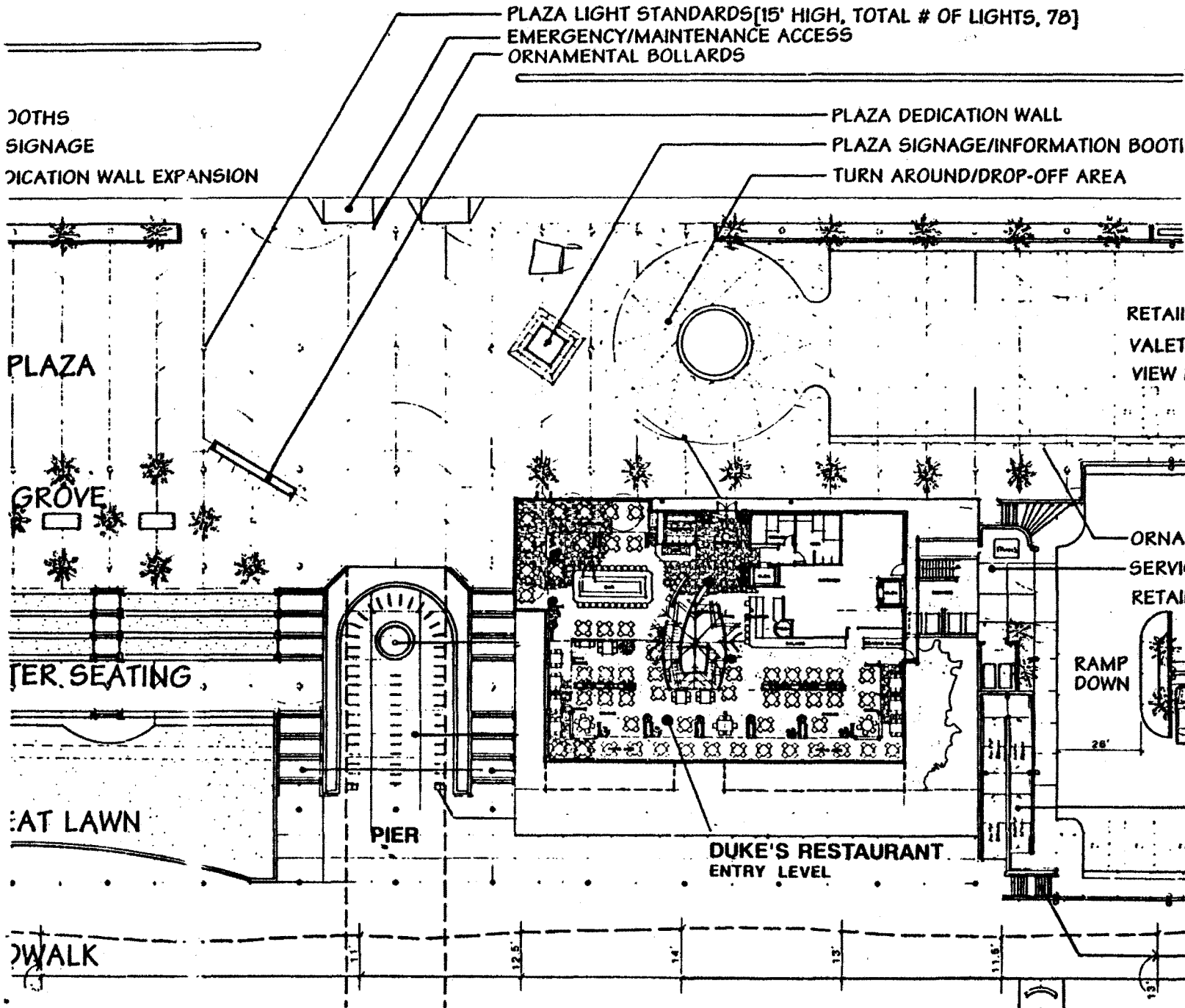


A-5-HNB-95-098  
FLOOR T



**BOARDWALK LEVEL PLAN**

**DUKE'S SURF CITY**  
HUNTINGTON BEACH, CA.



STEVEN LANGFORD ARCHITECTS, INC.  
 ARCHITECTURE • INTERIOR DESIGN • FOOD SERVICE  
 1 SANDHILLS AVENUE, SUITE 200, SAN JOSE, CA 95128  
 TEL: 415-947-1000

**DUKE'S SURF CITY**  
 HUNTINGTON BEACH, CA

ADDRESS:  
 2906 Main Street  
 Huntington Beach CA

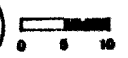
APPLICANT:  
 TS RESTAURANTS  
 325 Plaza Street, Suite 300  
 Solana Beach, CA 92708  
 (619) 942 1442

**SITE PLAN**

06 SEP 1995

1" = 10'

95-0520

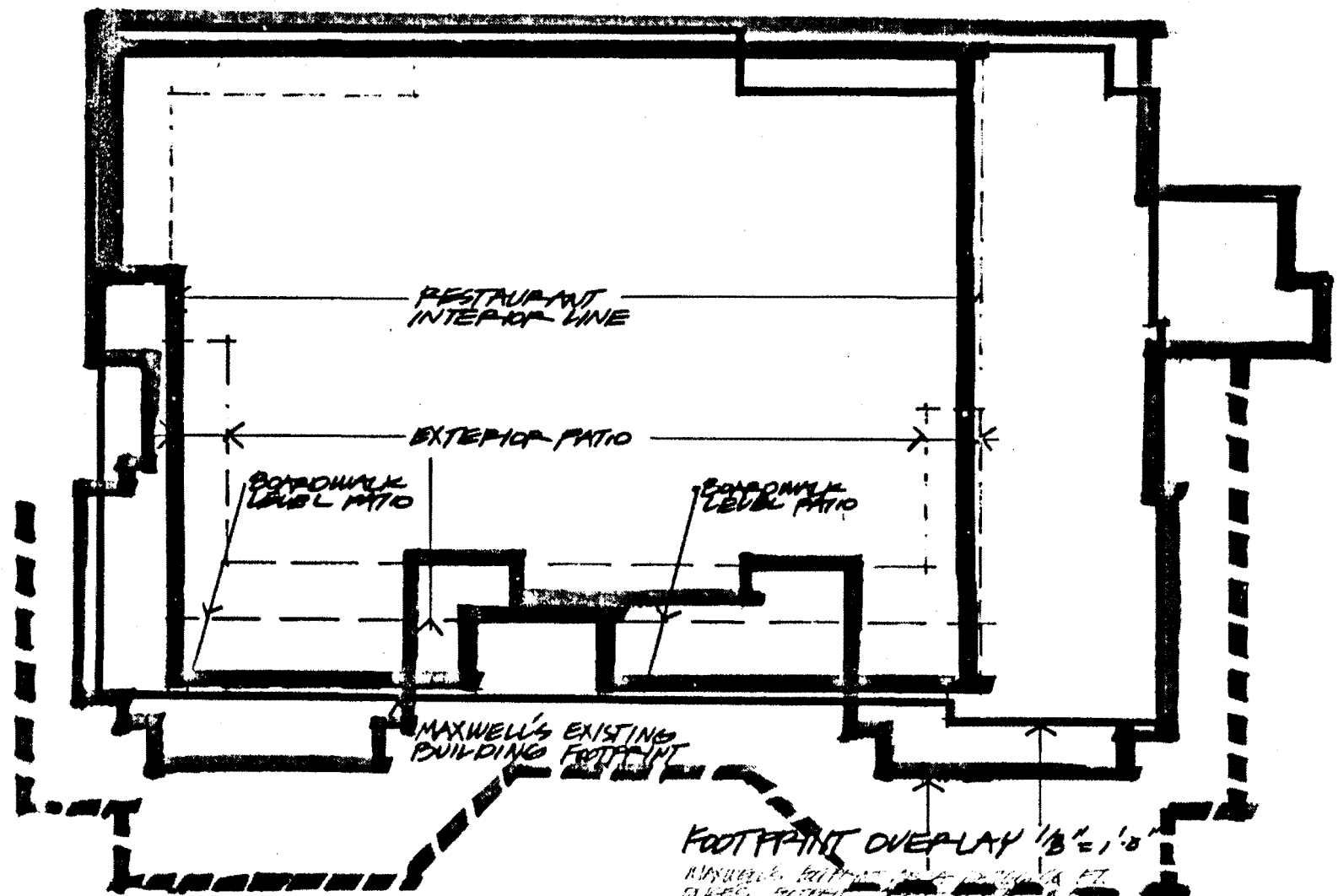


A-5 HNB-95-098 A

EXHIBIT J

A-5-HNB-95-098A

EXHIBIT K



- DUKE'S PROPOSED FOOTPRINT
- MAXWELL'S PREVIOUS PROPOSED FOOTPRINT
- MAXWELL'S EXISTING FOOTPRINT

EXISTING MAXWELL'S

MAXWELL'S PREVIOUS APPROVAL

FOOTPRINT OVERLAY 1/8" = 1'-0"

*MAXWELL'S FOOTPRINT IS 1'-0" FROM THE EXISTING FOOTPRINT*

