

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
MONTEREY, CA 95060
7-4863



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Staff: SG
Staff report: 04/18/00
Hearing date: 05/9-12/00

PERMIT AMENDMENT

Application number3-92-063-A1

Applicant.....Mr. John Pisto

Agent:Mr. Wayne Iversen, Architect

Project location.....Abalonetti's Restaurant, #57 Fisherman's Wharf #1, City of Monterey, Monterey County.

Project descriptionRemove five outdoor artists' booths, expand outdoor dining area from 594 sq. ft. to 1188 sq. ft., and relocate public access area eight feet to the north.

Approvals ReceivedCity of Monterey: Resolution No. 99-172.

File documents.....Coastal Commission Coastal Development Permit 3-92-063.

Staff recommendation ...Approval with Conditions



California Coastal Commission
May 11, 2000 Meeting in Santa Rosa
Staff: S. Guiney, Approved by: *C.F.R.* 4/19/00

Staff Report Contents

I.	Summary.....	2
II.	Staff Recommendation on Coastal Development Permit Amendment	3
III.	Conditions of Approval	3
	A. Standard Conditions.....	3
	B. Special Conditions	4
IV.	Recommended Findings and Declarations	4
	A. Project Location and Description	4
	B. Local Review	6
	C. Standard of Review.....	6
	1. Public Access and Recreation.....	6
	2. Visual Resources	7
	D. LCP Planning Process.....	7
	E. California Environmental Quality Act (CEQA)	7
V.	Exhibits	
	1. Project Location	
	2. Project Site Plan, Elevations, and Photos	

I. SUMMARY

The applicant proposes to remove five outdoor artists' booths that were originally permitted in 1992 and expand the existing outdoor dining area from 594 square feet to 1188 square feet. Twenty additional seats would be accommodated by the enlarged outdoor dining area. Even with the increase in the total number of seats, no increased overall restaurant use would occur because of an overriding condition in the City's approval and the Commission's previous approval limiting the total number of seats that may be in use at any one time and requiring that when outdoor seating is in use, an equal number of seats indoors must be closed off from use. For this same reason, there would be no increase in parking demand or water use. The existing public coastal access out to the edge of the wharf would be relocated about eight feet to the north, in the area where the artists' booths are now. Views would be changed insignificantly. The only structural development would be an increase in the perimeter and height of the windscreen around the outdoor dining area. Currently four feet six inches tall, the proposal would increase the windscreen height to six feet (bottom 2 ft. 5 in. solid wood, top 4 ft. 1 in. glass). Because there would be no adverse impacts to coastal resources and the proposal is consistent with the Chapter 3 policies of the Coastal Act, staff is recommending approval.



II. STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT AMENDMENT

The staff recommends that the Commission, after public hearing, **approve** the proposed amendment to Coastal Development Permit 3-92-063 subject to the standard and special conditions below.

Motion. *I move that the Commission approve the proposed amendment to Coastal Development Permit Number 3-92-063 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 Coastal Development Permit Amendment. The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

III. CONDITIONS OF APPROVAL

A. *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. Compliance.** All development 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 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.

B. Special Conditions

1. **Approved Project.** As shown on the approved plan for the project and subject to all standard and special conditions herein, this coastal development permit amendment authorizes only the development described in this permit and the plans. Any other development will require a separate Coastal Commission-approved coastal development permit or a separate Coastal Commission-approved amendment to Coastal Development Permit 3-92-063.
2. **Maximum number of seats.** A total maximum of 110 seats is allowed (56 outdoor, 54 indoor). When the 56 seat outdoor seating area is open, an equal number of indoor tables containing 56 seats shall be closed off and not used. Any changes in use, intensity of use, or structures in Concession area #9 shall require review by the Coastal Commission.
3. **Public Access and Views.** Public access through to the public benches and views therefrom as shown on Exhibit 2 shall be maintained as long as the development permitted by this amendment exists.

IV. RECOMMENDED FINDINGS AND DECLARATIONS

A. Project Location and Description

The proposed development is located on Fisherman's Wharf in the Harbor segment of the uncertified LCP in the City of Monterey. The Harbor segment is comprised of shoreline property along Monterey Bay adjoining the US Naval Post Graduate School property to the east and Cannery Row to the west. This is the hub of the tourist and fishing industry and includes the City's marina, commercial fishing facilities on Wharf II as well as the recreational Fisherman's Wharf. The Harbor Area is almost entirely recreational or visitor serving. Fisherman's Wharf is owned by the



City of Monterey and air rights are leased to private concessionaires for structures housing commercial fish markets, sportfishing trip concessions, restaurants, and gift shops. This area is entirely within public trust lands granted to the City by the State.

On September 9, 1992, the Coastal Commission granted a permit to construct a glass and landscape enclosure contiguous with Abalonetti's Restaurant for an outdoor dining area totaling approximately 594 square feet to contain 36 seats; and to construct five artists' stations with counters and umbrellas, totaling approximately 400 square feet. As a component of the coastal development permit application and as a condition of the City of Monterey approval 36 interior restaurant seats were required to be closed off from use whenever the outdoor seating is made available to the public.

Over the last seven years, according to the applicant, the artists' booths have not been successful.

We . . . find that there is not enough interest by the vendors or the public to continue their [the artists' booths] use. The artist cabinets are used by transients as shelters or places to hang out. The management of the art contest, the artists, their schedules and attendance does not work as originally hypothesized.

Therefore, the decision has been made to remove the artist stations and to propose an alternative that will allow the retention and maintenance of the public access way to the wharf's edge while providing a return on the lease and the new wharf underpinning costs and related work.

The applicant proposes to remove five outdoor artists' booths that were originally permitted in 1992 and expand the existing outdoor dining area from approximately 594 square feet to 1188 square feet. Twenty additional seats would be accommodated by the enlarged outdoor dining area. Even with the increase in the total number of seats, no increased overall restaurant use would occur because of an overriding condition in the City's approval and the Commission's previous approval limiting the total number of seats that may be in use at any one time and requiring that when outdoor seating is in use, an equal number of seats indoors must be closed off from use. For this same reason, there would be no increase in parking demand or water use. The existing public coastal access out to the edge of the wharf would be relocated about eight feet to the north, in the area where the artists' booths are now. Views would be changed insignificantly. The only structural development would be an increase in the perimeter and height of the windscreen around the outdoor dining area. Currently four feet six inches tall, the proposal would increase the windscreen height to six feet (bottom 2 ft. 5 in. solid wood, top 4 ft. 1 in. glass).



B. Local Review

The City of Monterey has reviewed and approved the proposal. It was determined that it was consistent with the Wharf Master Plan (uncertified) and that the architectural style of the renovations is compatible with the existing architecture of the building.

C. Standard of Review

The proposed development would take place on Fisherman's Wharf within the Coastal Commission's retained coastal permitting jurisdiction where the standard of review is the Coastal Act, with guidance provided by the certified LCP, if there is one. Here, the City does not have a certified LCP.

1. 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 private project is located on the City-owned Fisherman's Wharf, seaward of the first through public road. Coastal Act Section 30211 specifically protects existing public access. In particular:

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.

Concerning public access, the proposed project would simply move the existing access that runs from the center of the wharf to the edge of the wharf north by about eight feet. Comparison of the existing situation and that proposed shows that the public access area would actually increase by about 48 square feet. The City has placed an access condition on the lease for this concession site. The condition states

A public access area is required between the outdoor seating area and adjacent concession #10, as shown on the plans submitted, dated June 4, 1999. A sign indicating the public access is required.

Public access shall be required only as long as the outdoor seating is on the premises. If the outdoor seating is no longer in use on the premises, the public access requirement shall automatically terminate. If this public access requirement is ever terminated, City and lessee retain the right to negotiate other development of this area and reinstatement of a public access corridor.

As proposed and as conditioned by the City, the amendment is consistent with Coastal Act section



30211 regarding public access. Special Condition number 3 of this permit appears as Special Condition number 2 in the 1992 permit and is reproduced in this permit to ensure continuance of the public access.

2. 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 additional outdoor dining area will partially block some existing public views, although no more so than the existing artists' booths. The upper four feet of windscreen (from about 2 ft. above the wharf deck to about 6 ft. above the wharf deck) will be glass that will provide some view. Additionally, the existing and relocated 10 foot wide public accessway provides and will continue to provide public views. Therefore, the proposed amendment is consistent with Coastal Act section 30251 regarding views. Special Condition number 3 of this permit appears as Special Condition number 2 in the 1992 permit and is reproduced in this permit to ensure continuance of the public views.

D. LCP Planning Process

The Monterey City Local Coastal Program Land Use Plan has been segmented into five segments. Fisherman's Wharf is located in the Harbor LUP, which is uncertified. The LUP was certified with one suggested modification on May 12, 1987. The City rejected the modification and resubmitted the LUP in January 1988. Due to a time limit waiver, the Commission hearing was postponed indefinitely, at the City's request. Subsequently, the City has devoted resources to other work. It is not known when the Harbor Land Use Plan may come back before the Commission.

E. 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 which the activity may have on the environment.

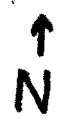
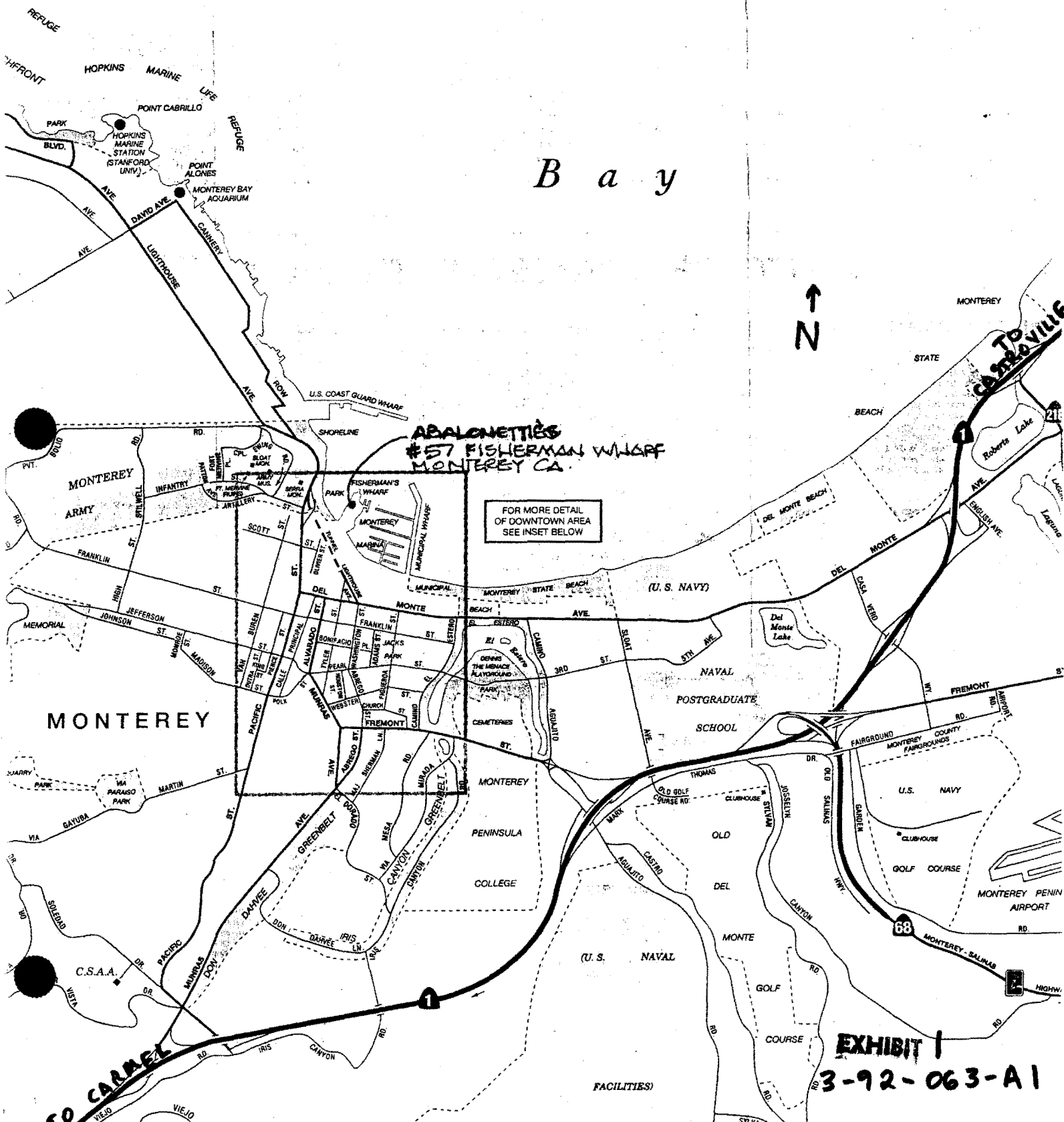


The City determined that the proposal was categorically exempt from CEQA review. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate Special Conditions to address coastal resource issues. Therefore, the Commission finds that as conditioned by this permit the proposed project will not have any significant adverse effects on the environment within the meaning of CEQA.



Monterey

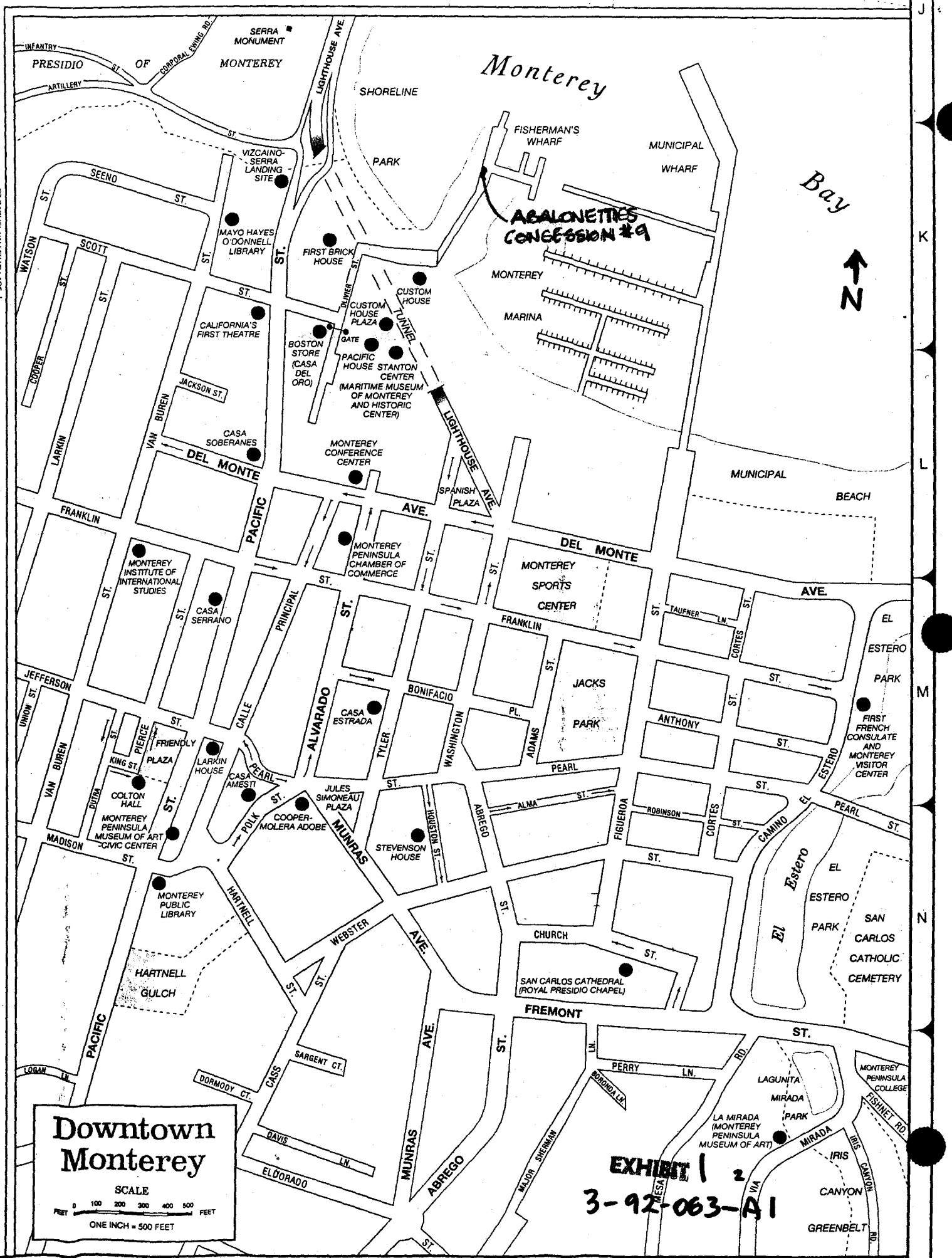
Bay



**ABALONETTI'S
#57 FISHERMAN WHARF
MONTEREY CA.**

FOR MORE DETAIL
OF DOWNTOWN AREA
SEE INSET BELOW

EXHIBIT I
3-92-063-A1



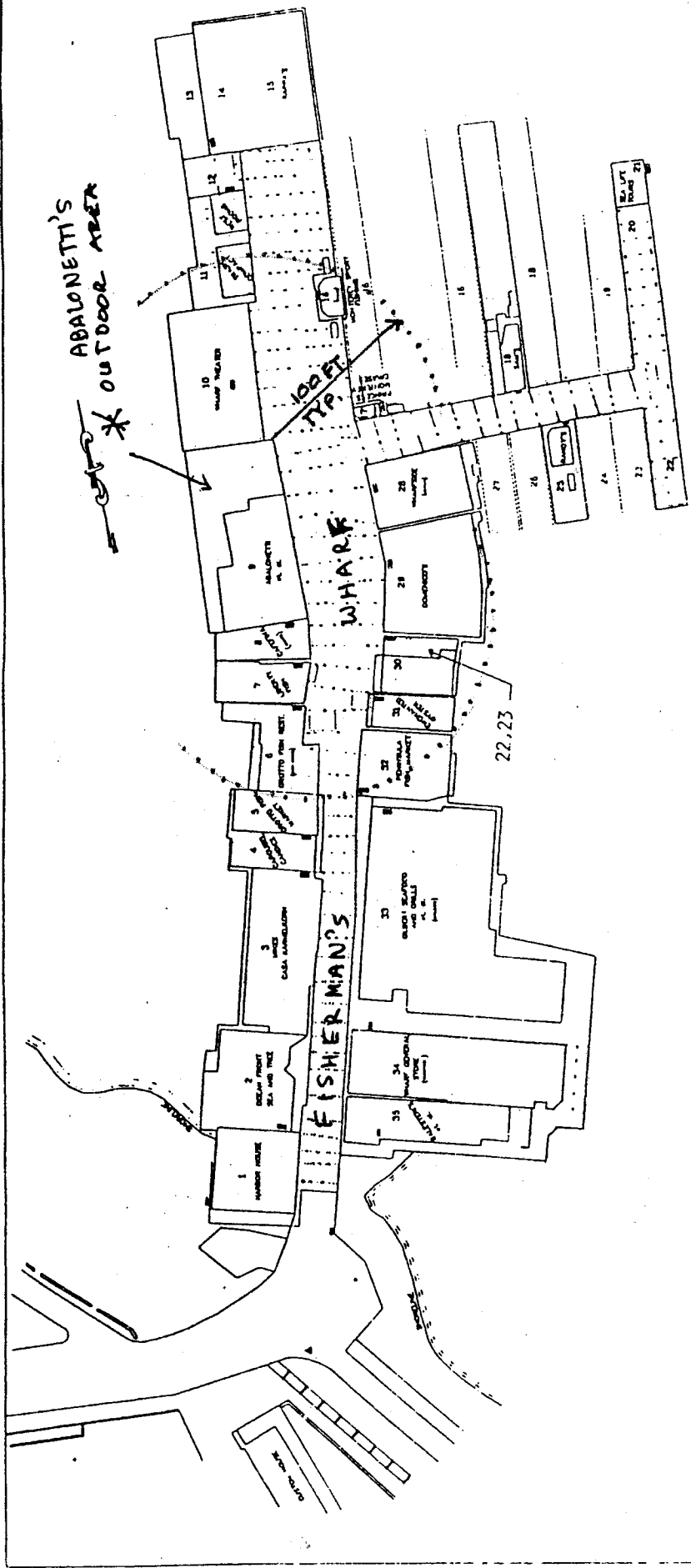
Downtown Monterey

SCALE
 0 100 200 300 400 500 FEET
 ONE INCH = 500 FEET

ABALONETTES CONCESSION #9

EXHIBIT 1 2
3-92-063-A1

TO CHABERT VALLEY VILLAGE

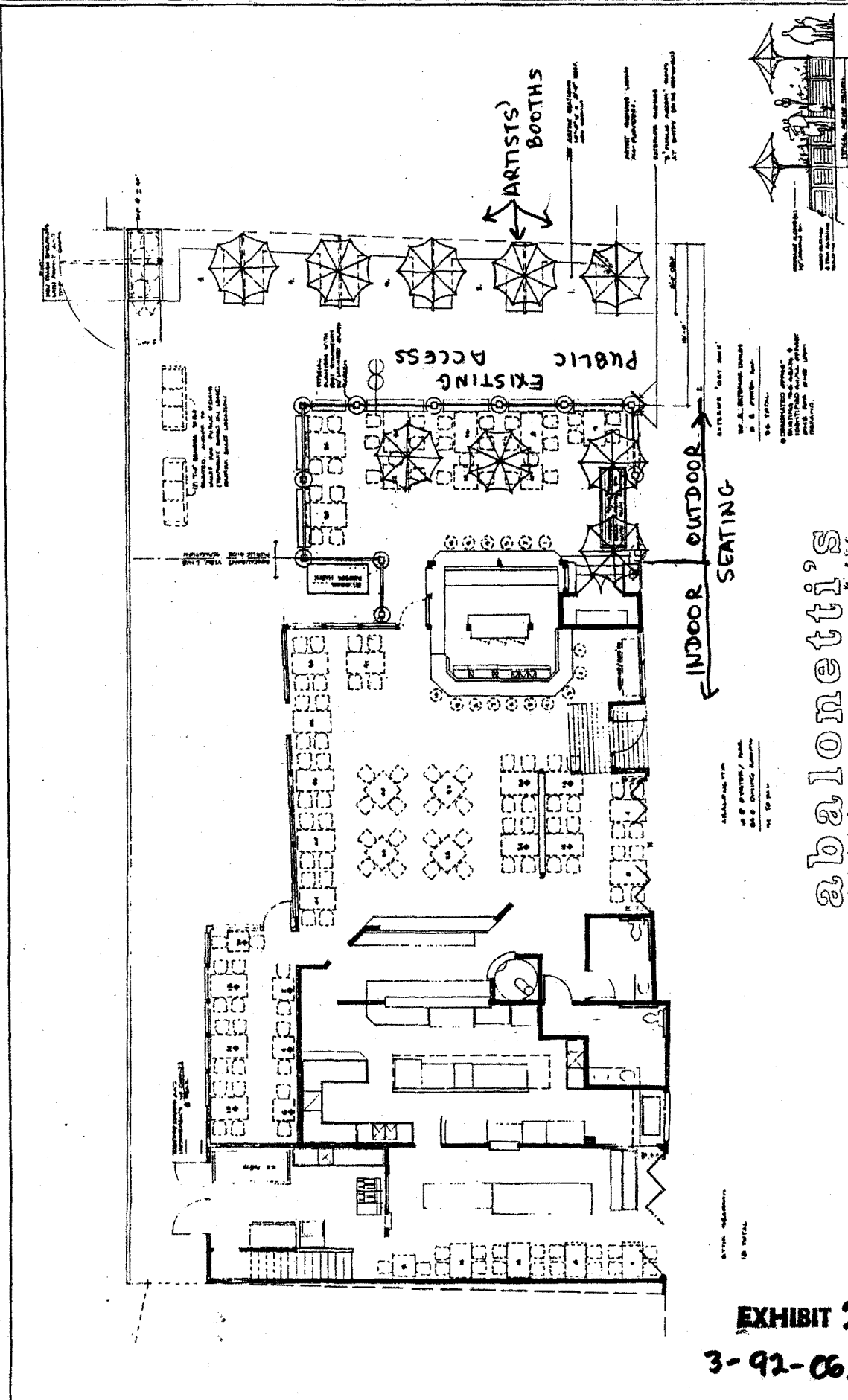


MONTEREY
BAY

6-10-76 24

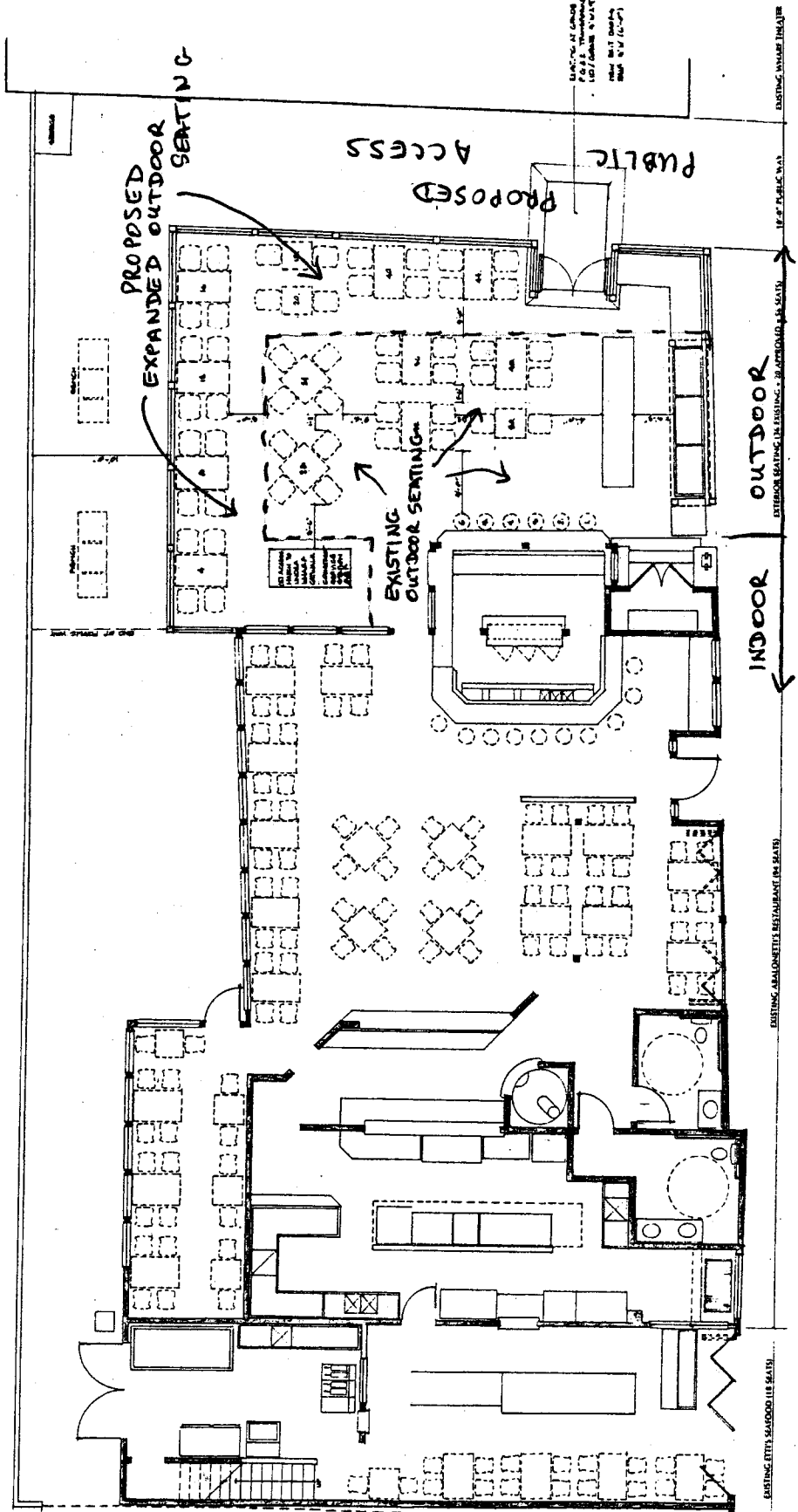
CITY OF MONTEREY	
ENGINEERING AND MAINTENANCE DEPARTMENT	
PROJECT NO.	WHARF No. 1
DATE	KEY MAP
MONTEREY, CALIFORNIA	
APPROVED	
DATE	

EXHIBIT 1 3
3-92-0B3-A1



abalonetti's
 557 FIFTH AVENUE
 NEW YORK, N.Y. 10017

EXHIBIT 2
 3-92-063-A1

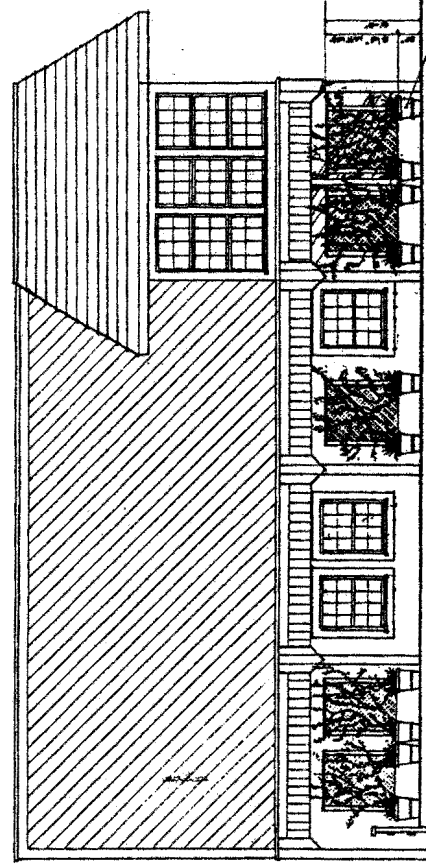


PROPOSED EXTERIOR SEATING PLAN

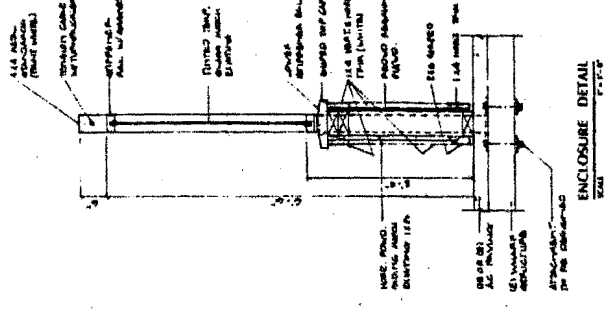
EXISTING FLOOR PLAN
SCALE: 1/8" = 1'-0"

APPROVED NEW

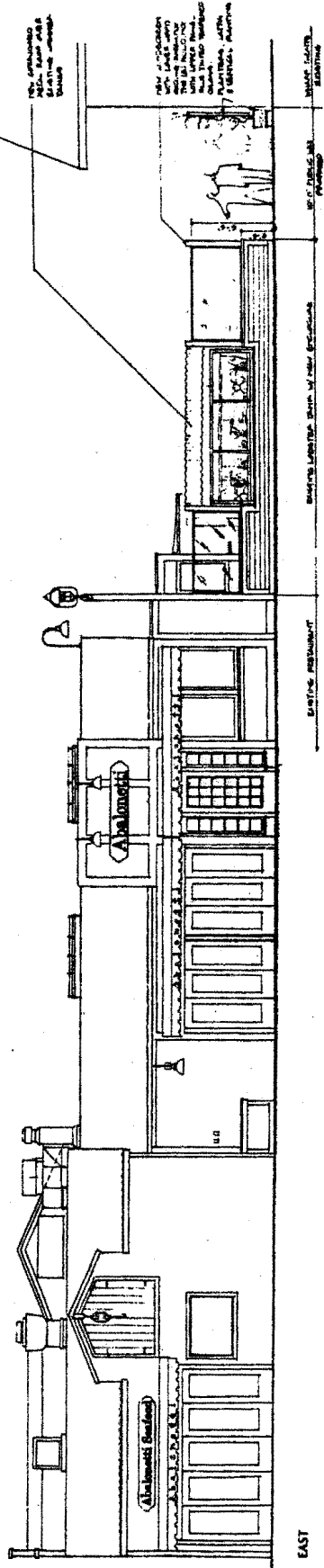
EXHIBIT 2
 3-92-063-A1



PROPOSED EXTERIOR PLANTING/SCREEN AT WHARF THEATER



ENCLOSURE DETAIL
SCALE: 1/4\"/>



PROPOSED EXTERIOR SEATING/SCREEN ELEVATION
SCALE: 1/4\"/>

EXISTING EXTERIOR BUILDING ELEVATION
SCALE: 1/4\"/>

EXHIBIT 2
 3-92-063-A1

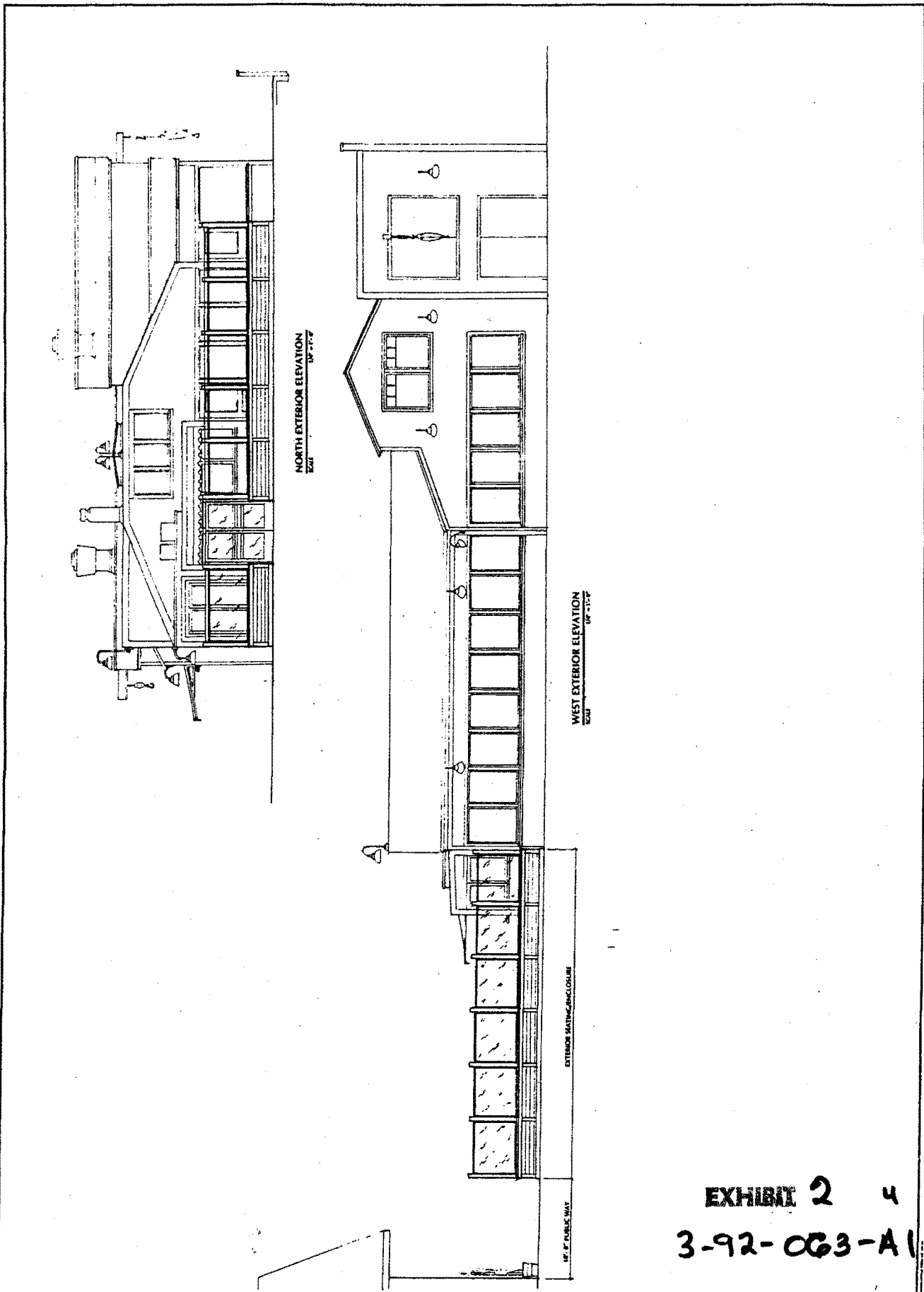
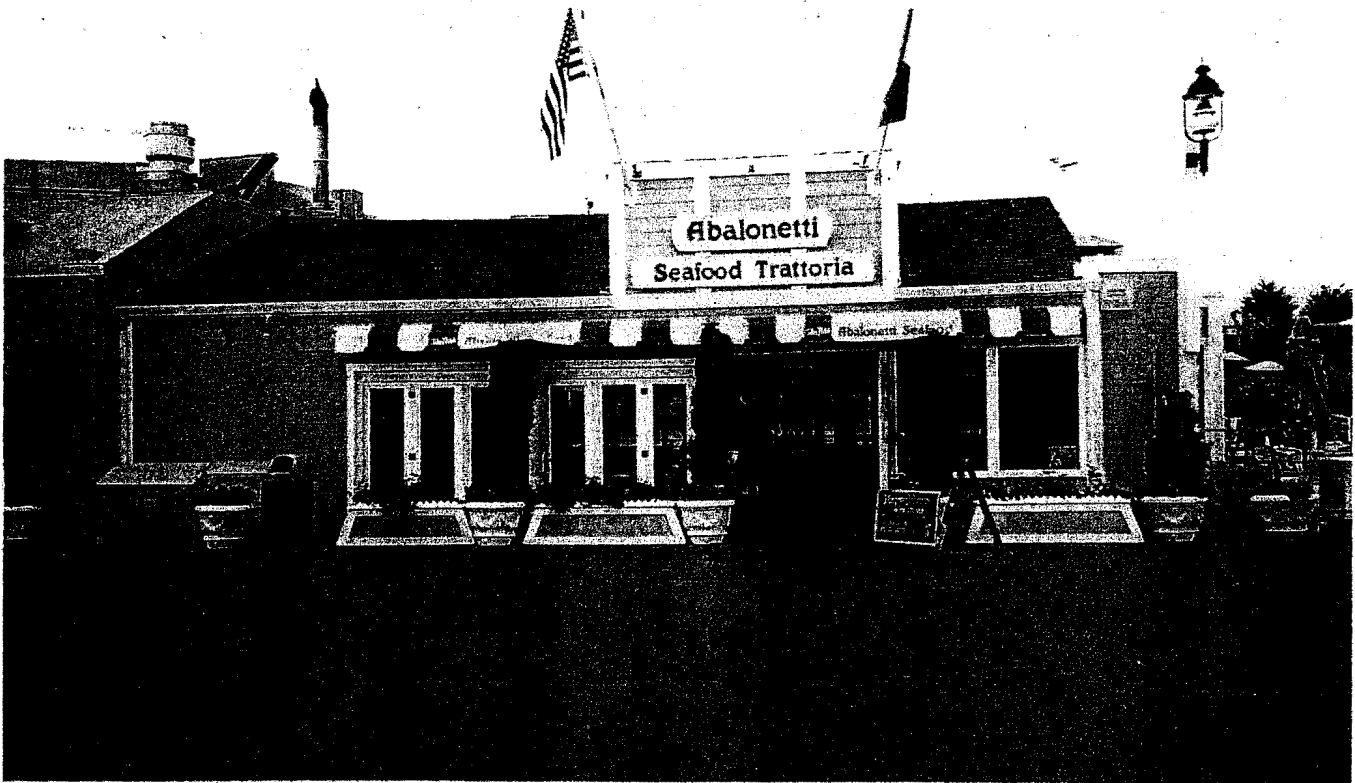


EXHIBIT 2 4
 3-92-063-A1

ABALONETTI'S SEAFOOD TRATTORIA

#57 FISHERMAN'S WHARF NO.1, MONTEREY, CALIFORNIA

COLOUR BOARD



ALL NEW EXTERIOR IMPROVEMENTS SHALL MATCH THE EXISTING COLOUR SCHEME:
VERTICAL STEEL WINDSCREEN WHITE PAINT.
GLASS WINDSCREEN TINTED BLUE GLASS.
WOOD PONY WALL BLUE WITH WHITE TRIM

