

CALIFORNIA COASTAL COMMISSION

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 Hearing Date: October 8, 2001
 Commission Action:

**Item M9a****RECORD PACKET COPY****STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NUMBER: 5-93-389-A1

APPLICANT: Robert Goodfader (Sidewalk Café)

AGENT: Manatt, Phelps & Phillips (Ellen Berkowitz)

PROJECT LOCATION: 1401-1407 Ocean Front Walk, Venice, City of Los Angeles.

LOCAL APPROVALS: City of Los Angeles Draft Encroachment Permit, Department of Recreation & Parks, 1/31/01 (Exhibit #9).
 City of Los Angeles Approval in Concept, Department of Planning, 3/19/01.

DESCRIPTION OF PROJECT APPROVED ON FEBRUARY 15, 1994 (5-93-389):

Remodel of an existing 24-foot high, 7,800 square foot commercial structure containing a restaurant and bookstore. Project includes the conversion of 3,432 square feet of attic space to second floor offices, raising the roof to 30 feet, and addition of a roof deck, elevator, and stairway.

DESCRIPTION OF CURRENT AMENDMENT REQUEST (5-93-389-A1):

Expand existing restaurant's outdoor dining area (on public right-of-way) from 542 square feet to 953 square feet and install new shade canopy.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission approve the permit amendment request for the proposed development with special conditions to protect public parking facilities from the parking impacts of the proposed restaurant expansion, and to protect water quality. The recommended special conditions would: a) require the applicant to provide parking eight parking spaces to serve the proposed 411 square foot restaurant expansion (one space per fifty square feet), b) require the applicant to record a deed restriction on the restaurant property and the parking property in order to ensure the continuing provision of the proposed parking supply, and c) require the applicant to implement BMPs to prevent polluted runoff from affecting marine resources.

The applicant objects to the staff recommendation. **See page two for motion.**

SUBSTANTIVE FILE DOCUMENTS:

1. Commission Regional Interpretive Guidelines for Los Angeles County, 10/14/80.
2. Certified Land Use Plan for Venice, City of Los Angeles, 6/12/01.
3. Coastal Development Permit A-3-31-76-7543 (Goodfader).
4. Coastal Development Permit 5-93-389 (Goodfader).
5. Coastal Development Permit 5-92-203 & Amendments (Dror).
6. Coastal Development Permit A5-VEN-00-173/5-00-198 (Hartley).
7. Coastal Development Permit Application 5-01-177 (TK Restaurant).

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.

In this case, the Executive Director has determined that the proposed amendment is a material change to the previously approved project. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [14 California Code of Regulations 13166].

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the permit amendment request with special conditions:

MOTION:

"I move that the Commission approve with special conditions Coastal Development Permit Amendment 5-93-389-A1 per the staff recommendation as set forth below."

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.

I. Resolution to Approve a Permit Amendment

The Commission hereby **APPROVES** the coastal development permit amendment 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 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 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 further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions of the Permit Amendment

Note: All special conditions of Coastal Development Permit 5-93-389 apply (Appendix A).

1. Parking

PRIOR TO ISSUANCE OF THE PERMIT AMENDMENT, the applicant shall comply with the following conditions of approval:

- A) The applicant shall submit evidence, acceptable to the Executive Director, which shows that eight (8) off-site parking spaces have been provided within five hundred feet of 1401-1407 Ocean Front Walk to meet the demands of the approved restaurant expansion. The applicant shall submit a plan that identifies the specific location of the eight required parking spaces. In addition, the applicant shall submit an inventory of all other parking spaces in the subject parking lot which are leased or rented, and shall demonstrate that the eight required parking spaces are not leased or used by any other person or party.
- B) The eight (8) required parking spaces must be provided for the life of the use permitted in this action. The authorization to operate the approved outdoor dining area granted by this permit amendment is contingent upon the continuing availability of the eight required parking spaces to meet the expanded restaurant's parking demands during all hours that it is open for business. The proposed outdoor dining area at 1401-1407 Ocean Front Walk is not permitted to be used or to operate without the provision of the required eight parking spaces.
- C) The applicant shall execute and record a deed restriction for the restaurant property, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel located at 1401-1407 Ocean Front Walk, Venice, City of Los Angeles. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of

prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission approved amendment to the coastal development permit.

- D) The applicant shall execute and record a deed restriction for the property providing the eight (8) parking spaces required by this condition, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the property providing the eight (8) parking spaces required by this condition. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission approved amendment to the coastal development permit.

The permittee shall operate the proposed project consistent with the terms of this condition.

2. Protection of Marine Resources

PRIOR TO ISSUANCE OF THE PERMIT AMENDMENT, the applicant shall submit plans, subject to the review and approval of the Executive Director, for the implementation of appropriate source control, treatment, and both structural and non-structural Best Management Practices (BMPs) to mitigate the volume, velocity, and pollutant load of stormwaters and nuisance flows from the development site. The BMPs shall include, but are not limited to the following:

- A) The applicant shall, on a weekly basis, sweep the parking areas and impervious surfaces to remove sediment, debris, and vehicular residues. Washing-down of impervious surfaces is prohibited, unless these nuisance flows are diverted through an approved filter and do not contribute any additional pollutants to the runoff.
- B) The applicant shall use trash and recycling containers that, if they are to be located outside or apart from the principal structure, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease, and other pollutants in runoff.
- C) Wash down areas for restaurant equipment and accessories shall be designed as follows: 1) The area should be self-contained, equipped with a grease interceptor (minimum capacity of 750 gallons), and properly connected to a sanitary sewer. 2) If the wash area is to be located outdoors, it should be covered, paved, have primary containment, and be connected to the sanitary sewer. 3) The grease interceptor shall be regularly maintained according to manufacturer's specifications to ensure maximum removal efficiencies.

The permittee shall implement, maintain and carry out the plans for BMP's as approved by the Executive Director.

3. Condition Compliance

WITHIN SIXTY (60) DAYS OF COMMISSION ACTION ON THIS PERMIT AMENDMENT APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act. All development must occur in strict compliance with the proposal as set forth in the application for permit amendment, subject to any special conditions set forth below. Any deviation from the approved plans, no matter how minor, must be submitted for review by the Executive Director to determine whether an amendment to the coastal development permit is required.

III. Findings and Declarations

The Commission hereby finds and declares:

A. Amendment Description and History

The applicant proposes to expand the restaurant's existing 542 square foot outdoor dining area by 411 square feet for a total area of 953 square feet (Exhibit #3). Both the existing 542 square foot outdoor dining area and the proposed 411 square foot expansion are situated within the City's Ocean Front Walk right-of-way (Exhibit #4). The City of Los Angeles Department of Recreation and Parks has authorized the proposed expansion of the restaurant's existing right-of-way encroachment to 12.5 feet (from property line), the same amount of encroachment permitted by the City and Commission for the adjacent structure located at 1411-1421 Ocean Front Walk [See Coastal Development Permit Amendment 5-92-203-A2 (Dror)].

Parking spaces are always in great demand in the project area. The existing restaurant's 26-space parking supply is located at 1501 Ocean Front Walk, one block south of the restaurant (Exhibit #2). The applicant proposes to use the existing parking supply, plus two additional spaces, to meet the demands of the proposed restaurant expansion (Exhibit #8).

The existing restaurant building is situated on two commercially zoned lots on the inland (east) side of Ocean Front Walk in North Venice, between Horizon Avenue and Market Street (Exhibits #1&2). Ocean Front Walk is a popular beachfront walkway (paved boardwalk) which extends more than two miles along Venice Beach, from the southern boundary of the City of Santa Monica to the beach area south of Venice Pier (Exhibit #1). The inland side of the boardwalk is lined with a variety of residential and commercial uses which cater to local residents and the thousands of coastal visitors who are attracted to Venice Beach. The public beach and the recently improved Venice Beach Recreation Area are located in front of the

proposed project between Ocean Front Walk and the sea. The area inland of the project site is a mixed-use residential and commercial neighborhood comprised of one and two-story buildings. The abutting private property (1411-1421 Ocean Front Walk) is occupied by a Commission-approved one-story retail building with a 12.5-foot (from property line) encroachment on Ocean Front Walk [See Coastal Development Permit 5-92-203-A2 & Amendments (Dror)]. The 12.5-foot boardwalk encroachment at 1411-1421 Ocean Front Walk was developed in 1997 with a Venetian-style arched colonnade, reminiscent of the original architectural style of Venice of America.

The existing restaurant building (1401-1407 Ocean Front Walk) was constructed in 1915 during the original development of the Venice Beach area (Venice of America). It is one of the few structures of that era which remain on Ocean Front Walk. The structure retains its original arches and colonnade which represent the original Italian Renaissance architectural style in which this area of Venice was originally developed (Exhibit #5).

The Commission has approved two prior coastal development permits for development on the site of the existing restaurant (1401-1407 Ocean Front Walk, Venice). In 1976, the Commission approved Coastal Development Permit A-3-31-76-7543 (Goodfader) for a remodel of the 7,800 square foot commercial structure. The existing restaurant, outdoor dining area and bookstore were permitted uses in the structure at that time. As a condition of the 1976 coastal development permit, the applicant provides 26 off-site customer and employee parking spaces at 1501 Ocean Front Walk, a lot also owned by the applicant (Exhibit #8).

On February 15, 1995, the Commission approved Coastal Development Permit 5-93-389 (Goodfader) for another remodel of the structure. The approved development also included the conversion of the attic to second floor offices by raising the roof height to thirty feet. The 3,432 square feet of new office space is permitted to be used to administer the existing restaurant and bookstore on the ground floor, as well as the applicant's other enterprises. The structure also has a 1,271 square foot basement that is used as a storage area. As a condition of Coastal Development Permit 5-93-389, the applicant provides six off-site parking spaces for the approved office use at 1501 Ocean Front Walk (Exhibit #8).

The current proposal to increase the encroachment on Ocean Front Walk to 12.5 feet (from property line) and to use the expanded encroachment area for outdoor dining also includes the installation of a new 3.5-foot high railing to enclose the entire 953 square feet of outdoor dining area and a new canopy (Exhibit #6).

B. Land Use

Section 30222 of the Coastal Act requires that visitor-serving commercial uses be given priority over residential and other non-priority land uses.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority

over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The proposed restaurant expansion project would provide coastal visitors and nearby residents with an expanded outdoor area for sit-down dining service. Outdoor dining areas next to and on the Venice boardwalk are visitor-serving commercial uses which enhance opportunities for coastal recreation.

The proposed project, however, is not located on private lands. It is located on the public right-of-way. The use of a public right-of-way for a commercial use is permissible only under very limited circumstances. Encroachments onto the Ocean Front Walk public right-of-way cannot be permitted to interfere with pedestrian access to the shoreline or access along the Venice boardwalk.

Policy I.B.10 of the certified LUP states (bold text added):

- **Policy I. B. 10. Open Air Sales Ocean Front Walk.** *Ocean Front Walk is a significant tourist attraction where the operation of vendors shall be permitted at certain times of the year, with appropriate temporary use and parking requirements for vendors and their employees to ensure they are compatible with neighboring uses. Open air sales on private property shall be permitted through the City's conditional use permit/coastal development permit procedure. Constitutionally protected free speech activities on the seaward side of Ocean Front Walk shall be allowed and regulated by the Department of Recreation and Parks in order to ensure that public access and recreational opportunities are protected. **Restaurant dining areas and other encroachments in front of commercial establishments on the inland side of Ocean Front Walk shall not be permitted to interfere with pedestrian access along the boardwalk.***

The findings in the following section of this staff report state that the proposed project is consistent with the public access and recreation policies of the Coastal Act and the certified Venice LUP because the proposed project will not interfere with pedestrian access along the boardwalk or access to the shoreline. Therefore, the proposed project can be approved with the recommended special conditions of approval.

C. Public Pedestrian Access

One of the basic goals of the Coastal Act is to maximize public access and recreational opportunities along the coast. The Coastal Act has several policies which address public access and recreation. The proposed project must conform to the following Coastal Act policies:

Section 30210 of the Coastal Act states:

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 of the Coastal Act states:

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 of the Coastal Act states, in part:

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

Section 30213 of the Coastal Act states, in part:

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

Section 30221 of the Coastal Act states:

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 of the Coastal Act states:

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

As previously stated, the proposed project is located in the North Venice area at the intersection of Ocean Front Walk and Market Street. The site is located along the main public boardwalk in a highly popular coastal area, seaward of the first public roadway, Speedway Alley. The area is a popular commercial and recreation area on the beachfront which attracts many domestic and international tourists and local day visitors. The Coastal Act requires that public access to the coast be protected from negative impacts associated with new development.

In regards to public access on the boardwalk, Policy II.C.5 of the certified LUP states:

- ***Policy II. C. 5. Ocean Front Walk.*** *It is the policy of the City to complete a continuous public pedestrian walkway that extends from the boundary with City of Santa Monica to the Marina del Rey entrance jetty as indicated on Exhibit 19. Ocean Front Walk shall be preserved and enhanced for public access including*

but not limited to improvements, such as repaving and landscaping along Ocean Front Walk, development of a pedestrian plaza along Washington Boulevard and provision of landscaping and decorative treatments at Windward Avenue as outlined in the 1995 Venice Beach Ocean Front Walk Refurbishment Plan.

The proposed project involves the enlargement of an existing permitted encroachment on the Ocean Front Walk right-of-way (Exhibit #4). The existing permitted encroachment encloses an area 7.25 feet from the applicant's property line (Exhibit #4). The proposed project would increase the depth of the encroachment 5.25 more feet for a total depth of 12.5 feet from the applicant's property line (Exhibit #4).

There are two reasons why the proposed project will not interfere with public pedestrian access along the boardwalk. First, the proposed 12.5-foot deep encroachment would create a consistent and flush line of encroachments along the entire block (1401 to 1421 Ocean Front Walk) due to the Commission's prior approval of a 12.5-foot deep encroachment on the adjacent property (1409-1421 Ocean Front Walk). The Commission's November 14, 1996 approval of Coastal Development Permit Amendment 5-92-203-A2 (Dror) authorized the construction of a roofed colonnade within a 12.5-foot deep (from property line) encroachment area abutting 1409-1421 Ocean Front Walk. The currently proposed project would not extend further into the boardwalk than the existing Commission-approved colonnade (Exhibit #4). Therefore, the proposed 5.25-foot extension of the dining area would not jut out or create a constriction or bottleneck in the boardwalk.

The second and more important reason why the proposed project will not interfere with public pedestrian access along the boardwalk is that there exists a sufficiently wide boardwalk between the proposed encroachment area and the grassy recreation area located on the seaward side of the boardwalk. The portion of the paved boardwalk that would remain publicly accessible to pedestrians after approval of the proposed encroachment would be forty feet wide, a greater width than most of the existing boardwalk located south of the site, and the same width as most of the existing boardwalk located north of the site. Therefore, the proposed project will not have a negative effect on public access or recreation and is consistent with the public access and recreation policies of the Coastal Act.

Additionally, the public will still be able to access and use the encroachment area as restaurant customers. Dining on the boardwalk enhances the coastal experience of many Venice visitors.

D. Public Access/Parking

The proposed project is located on Ocean Front Walk in North Venice (Exhibit #2). The most important coastal planning issue for the North Venice area is the provision of adequate parking facilities to protect coastal access and to meet the competing parking demands of the area's many uses. The area's existing public parking supplies, such as the Venice Boulevard public beach parking lot (321 spaces), must be protected from additional parking demands that could displace the parking supplies that are necessary to support public access to the recreational opportunities that exist in this highly popular coastal area. Therefore, new developments are

required to provide an adequate parking supply to meet the parking demands of the new development.

Many of the existing commercial and residential structures in this area were constructed decades ago at a time when the parking demands generated by development were significantly less than they are today. Most of the restaurants, cafes, vendors and shops that line the inland side of Ocean Front Walk have little or no on-site parking to serve their employees and customers. Most of the residential uses also have inadequate parking supplies to meet their needs. In addition, many residential structures were converted to commercial uses without providing additional parking. Consequently, there is a severe shortage of available parking spaces in the area when the demand for parking peaks. Visitors and users of the various commercial, residential and recreational uses in the area must compete for the limited number of available parking spaces in the area. This situation has negatively impacted the availability of public access to the coast during peak-use periods.

The primary public parking supply that supports public access to Venice Beach is provided in the public beach parking lots. The streets of the surrounding residential neighborhood provide very few on-street parking spaces because most of the streets are walk streets with no vehicular access. Vehicular access to the residential areas is provided primarily by narrow alleys that provide no on-street parking. Therefore, the limited public parking reservoirs provide parking not only for beach visitors and customers of the commercial uses, but also for employees of the commercial uses and guests of the area's residents and some of the residents themselves.

The public beach parking supplies must be protected so its parking supply is available to meet the demands of the public for public beach access. Therefore, the public beach parking supply cannot be used to meet the Commission's parking requirements for the adjacent commercial uses.

The certified Venice LUP states:

Policy II. A. 9. a. Beach Parking Lots. *The beach parking lots located at Washington Boulevard, Venice Boulevard and Rose Avenue shall be protected for long-term (4-8 hours) public beach parking. No parking spaces in the beach parking lots shall be used to satisfy the parking requirements of Policies II.A.3 and II.A.4 (Parking Requirements in Coastal Zone)...*

Policy II. A. 3. Parking Requirements. *The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal*

Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. New developments must provide an adequate parking supply in order to protect the existing public parking facilities that support public access to recreational opportunities. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

Section 30252 of the Coastal Act requires that public access be protected by ensuring that adequate parking is provided to meet the increased parking demand generated by new development. Further intensification of uses in the project area will increase the demand for parking. The demand for parking already surpasses the supply during peak use periods. The peak use periods in the North Venice area are primarily summer days when beach attendance increases. Parking demand is lowest when beach attendance is low, although the restaurants in the area do generate a significant demand for parking during the dinner hours.

Therefore, in order to conform to the requirements of the Coastal Act, the proposed project must provide an adequate parking supply. The amount of parking that is "adequate" for a proposed project is determined by calculating the estimated parking demand of a specific use using a parking standard. The parking standard is typically part of a certified local coastal program or zoning ordinance and is based on studies of similar projects.

Parking Demand

The Coastal Commission Regional Interpretive Guidelines for Los Angeles County (adopted 10/14/80) contain a parking standards table that is often used for guidance when the Commission determines what amount of parking is adequate for a proposed project. The parking standards contained in the Commission's Interpretive Guidelines were derived from parking studies undertaken by the City of Los Angeles Planning Department in the 1970's. The parking studies used field data to determine the average parking demand for various types of land uses. While the data used in the 1970's to establish parking standards is old, driving behavior in Los Angeles has not changed appreciably (i.e. there has not been a significant increase in the public's reliance on public transportation or forms of transportation other than automobiles).

In Venice, the City and the Commission use the parking standards contained in the certified Venice LUP and the Venice Specific Plan, which both use the same parking requirement table. The parking standards contained in the certified Venice LUP are based on the parking standards contained in the Coastal Commission Regional Interpretive Guidelines for Los

Angeles County which have been implemented in Venice for more than twenty years. Prior to the certification of the Venice LUP, the City implemented the same parking standards through the Venice Interim Control Ordinance (ICO).

The certified Venice LUP Parking Requirement Table, referred to in LUP Policy II.A.3 (see above) requires restaurants, bars and similar uses to provide parking at the following rate:

<i>Restaurant, Night Club, Bar, and similar establishments...</i>	<i>1 space for each 50 square feet of service floor area (including outdoor service areas).</i>
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Customer service (service floor) area is defined in the certified Venice LUP as follows:

Service Floor: *All areas where the customer can be served, except the bathroom, including the indoor and outdoor dining area, bar, waiting room and tavern.*

All of the proposed 411 square foot restaurant expansion area would be used as dining area. The parking standards contained in the Venice Specific Plan and the certified Venice LUP would require the proposed 411 square foot restaurant expansion to provide eight additional parking spaces ($411/50 = 8.22$). The eight required parking spaces would be in addition to the 32 off-site parking spaces (26 restaurant and 6 office parking spaces) that the applicant is required to provide at 1501 Ocean Front Walk for the previously permitted restaurant and office uses in the 1401-1407 Ocean Front Walk building [See Coastal Development Permits A-3-31-76-7543 & 5-93-389 (Goodfader)].

Applicant's Proposed Parking Plan

The applicant proposes to maintain the existing off-site parking supply at 1501 Ocean Front Walk that serves the existing uses at 1401-1407 Ocean Front Walk (Exhibit #8). The applicant also proposes to dedicate two existing parking spaces at 1501 Ocean Front Walk to meet the demands of the proposed restaurant expansion.

The applicant also asserts that the certified Venice LUP parking standard of one space for each fifty square feet of dining area should be reduced because the restaurant is not a destination; the public's use of the restaurant is incidental to their visit to the beach and no new customers would come because of the proposed expansion. The applicant asserts that the restaurant's parking demand overlaps with the parking demand generated by the beach.

While it may be true that many of the applicant's customers have come to Venice primarily to use the beach and not to eat at the restaurant, these "overlap" customers very likely represent a bonus clientele which exceeds the café's base parking demand that is estimated to be one car per each fifty square feet of dining area.

The Commission has consistently imposed the Venice LUP parking standard of one car per each fifty square feet of dining area for new restaurants and restaurant expansions [See Coastal Development Permit A5-VEN-00-173/5-00-198 (Hartley)]. Therefore, in order to prevent any further increase in the area's parking deficit, the proposed restaurant expansion

shall be required to provide adequate on-site parking consistent with the Commission's parking standards for North Venice.

Parking Condition

Special Condition One of the permit requires the applicant to provide adequate parking to meet the restaurant's increased demand for parking that would result from expansion of the dining area. The proposed restaurant expansion is required to provide eight parking spaces within a reasonable walking distance (500') of the restaurant for use by customers and employees. The applicant's existing parking lot at 1501 Ocean Front Walk can provide the eight additional parking spaces, and is located within five hundred feet of the restaurant.

Special Condition One states:

- A) The applicant shall submit evidence, acceptable to the Executive Director, which shows that eight (8) off-site parking spaces have been provided within five hundred feet of 1401-1407 Ocean Front Walk to meet the demands of the approved restaurant expansion. The applicant shall submit a plan that identifies the specific location of the eight required parking spaces. In addition, the applicant shall submit an inventory of all other parking spaces in the subject parking lot which are leased or rented, and shall demonstrate that the eight required parking spaces are not leased or used by any other person or party.
- B) The eight (8) required parking spaces must be provided for the life of the use permitted in this action. The authorization to operate the approved outdoor dining area granted by this permit amendment is contingent upon the continuing availability of the eight required parking spaces to meet the expanded restaurant's parking demands during all hours that it is open for business. The proposed outdoor dining area at 1401-1407 Ocean Front Walk is not permitted to be used or to operate without the provision of the required eight parking spaces.
- C) The applicant shall execute and record a deed restriction for the restaurant property, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel located at 1401-1407 Ocean Front Walk, Venice, City of Los Angeles. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission approved amendment to the coastal development permit.
- D) The applicant shall execute and record a deed restriction for the property providing the eight (8) parking spaces required by this condition, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the property providing the eight (8) parking spaces required by this condition. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the

enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission approved amendment to the coastal development permit.

Only as conditioned will the public parking facilities be protected from the parking impacts of the proposed restaurant expansion. Therefore, the applicant is required, as a condition of approval, to provide and maintain eight parking spaces for the proposed restaurant expansion at the rate of one space for per fifty square feet of additional customer service area. As conditioned, the proposed project is consistent with the Section 30252 of the Coastal Act.

BIZ Parking Requirements

The proposed project is located within the Beach Impact Zone (BIZ) of the Venice area as defined in the City of Los Angeles Venice Specific Plan and the proposed Venice LUP. The BIZ parking requirements apply to new developments in the BIZ area, and are in addition to the standard parking requirements. The parking spaces generated by the BIZ parking requirements help offset the cumulative impacts on public access opportunities caused by the intensification of commercial enterprises in the Venice area. The City allows applicants to pay fees into the Venice Coastal Parking Impact Fund in lieu of providing up to fifty percent of the actual number of required BIZ parking spaces. The Venice Coastal Parking Impact Fund is administered by the City of Los Angeles Department of Transportation.

The certified Venice LUP states that commercial uses in the BIZ zone shall be required to "provide one additional parking space for each 640 square feet of floor area of the ground floor." In this case, because there is no new "ground floor area" proposed (only outdoor dining area), the applicant is not required to provide additional parking for the BIZ zone.

E. Control of Polluted Runoff

Section 30230 of the Coastal Act 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.

Section 30231 of the Coastal Act 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.

The proposed project poses a potential source of pollution due to contaminated runoff from the parking area and from the proposed restaurant use. Runoff from the site would enter the City's stormdrain system and would ultimately be discharged into the marine environment. Untreated wastewater from the site must be prevented from negatively affecting the marine resources in the adjacent waters of the Pacific Ocean.

To mitigate potential impacts to marine resources caused by polluted runoff leaving the site, Special Condition Two requires the applicant to incorporate best management practices (BMPs) into the project and site management procedures to reduce or prevent contaminants from running off the site. The BMPs shall include, but are not limited to the following:

- A) The applicant shall, on a weekly basis, sweep the parking areas and impervious surfaces to remove sediment, debris, and vehicular residues. Washing-down of impervious surfaces is prohibited, unless these nuisance flows are diverted through an approved filter and do not contribute any additional pollutants to the runoff.
- B) The applicant shall use trash and recycling containers that, if they are to be located outside or apart from the principal structure, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease, and other pollutants in runoff.
- C) Wash down areas for restaurant equipment and accessories shall be designed as follows: 1) The area should be self-contained, equipped with a grease interceptor (minimum capacity of 750 gallons), and properly connected to a sanitary sewer. 2) If the wash area is to be located outdoors, it should be covered, paved, have primary containment, and be connected to the sanitary sewer. 3) The grease interceptor shall be regularly maintained according to manufacturer's specifications to ensure maximum removal efficiencies.

As conditioned, the proposed project is consistent with past Commission action with regards to water quality requirements and will minimize water quality impacts. The Commission, therefore, finds that, as conditioned, the development will be consistent with Sections 30230 and 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to 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 provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The Los Angeles City Council adopted a proposed Land Use Plan (LUP) for Venice on October 29, 1999. On November 29, 1999, the City submitted the draft Venice LUP for Commission certification. On November 14, 2000, the Commission approved the City of Los Angeles Land Use Plan (LUP) for Venice with suggested modifications. On March 28, 2001, the Los Angeles City Council accepted the Commission's suggested modifications and adopted the Venice LUP as it was approved by the Commission on November 14, 2000. The Venice LUP was officially certified by the Commission on June 12, 2001.

The proposed project, as conditioned, conforms to the proposed Venice LUP. The proposed project, as conditioned, is also consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed development and permit amendment can be found consistent with the requirements of the Coastal Act to conform to CEQA.

H. Unpermitted Development

Prior to receiving the required coastal development permit amendment for the proposed project, the applicant has expanded the encroachment onto Ocean Front Walk as described in

the application. Although development has taken place prior to Commission action on this permit amendment, consideration of the application by the Commission is based solely upon Chapter 3 policies of the Coastal Act. Commission action on this permit amendment application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit or permit amendment.

End/cp

Appendix A: Special Conditions of Coastal Development Permit 5-93-3891. Parking

Prior to issuance of the Coastal Development Permit, the applicant shall comply with the following conditions of approval:

- a. The applicant shall submit evidence, acceptable to the Executive Director, which shows that six off-site parking spaces have been provided within five hundred feet of 1401 Ocean Front Walk to meet the demands of the approved office space. A plan submitted by the applicant shall identify the location of the six required parking spaces. In addition, the applicant shall submit an inventory of all other parking spaces in the subject parking lot which are leased or rented, and shall demonstrate that the six required parking spaces which serve the office space at 1401 Ocean Front Walk are not leased or used by any other person or party.

The six required parking spaces must be provided for the life of the use permitted in this action. Failure to provide the required parking spaces will result in termination of this Coastal Development Permit.

- b. The applicant shall record a deed restriction, free of prior liens and encumbrances except for tax liens, for the property located at 1401 Ocean Front Walk. The deed restriction shall be subject to the review and approval of the Executive Director, and shall run with the land, binding successors and assigns of the applicant or landowner, for the life of the project. The deed restriction shall provide that a minimum of six off-site parking spaces shall be provided within five hundred feet of 1401 Ocean Front Walk to serve the parking demands of the approved office space at 1401 Ocean Front Walk. The six required parking spaces must be provided for the life of the use permitted in this action. Failure to provide the required parking spaces will result in termination of this Coastal Development Permit.
- c. The applicant shall record a deed restriction or lease restriction, subject to the review and approval of the Executive Director, for the property on which the six required off-site parking spaces are located. A deed restriction, free of prior liens and encumbrances except for tax liens, and binding successors and assigns of the applicant or landowner, shall be required if the required parking is provided on property which the applicant is an owner.

The deed restriction or lease restriction shall provide that a minimum of six parking spaces shall be provided on the property to serve the parking demands of the approved office space at 1401 Ocean Front Walk. The six required parking spaces must be provided for the life of the use permitted in this action. Failure to provide the required parking spaces will result in termination of this Coastal Development Permit.

- d. If the provision of the required off-site parking affects the terms or conditions of any previously acted upon Coastal Development Permit, an amendment to the affected Coastal Development Permit shall be required prior to issuance of Coastal Development Permit 5-93-389.

2. Permitted Uses

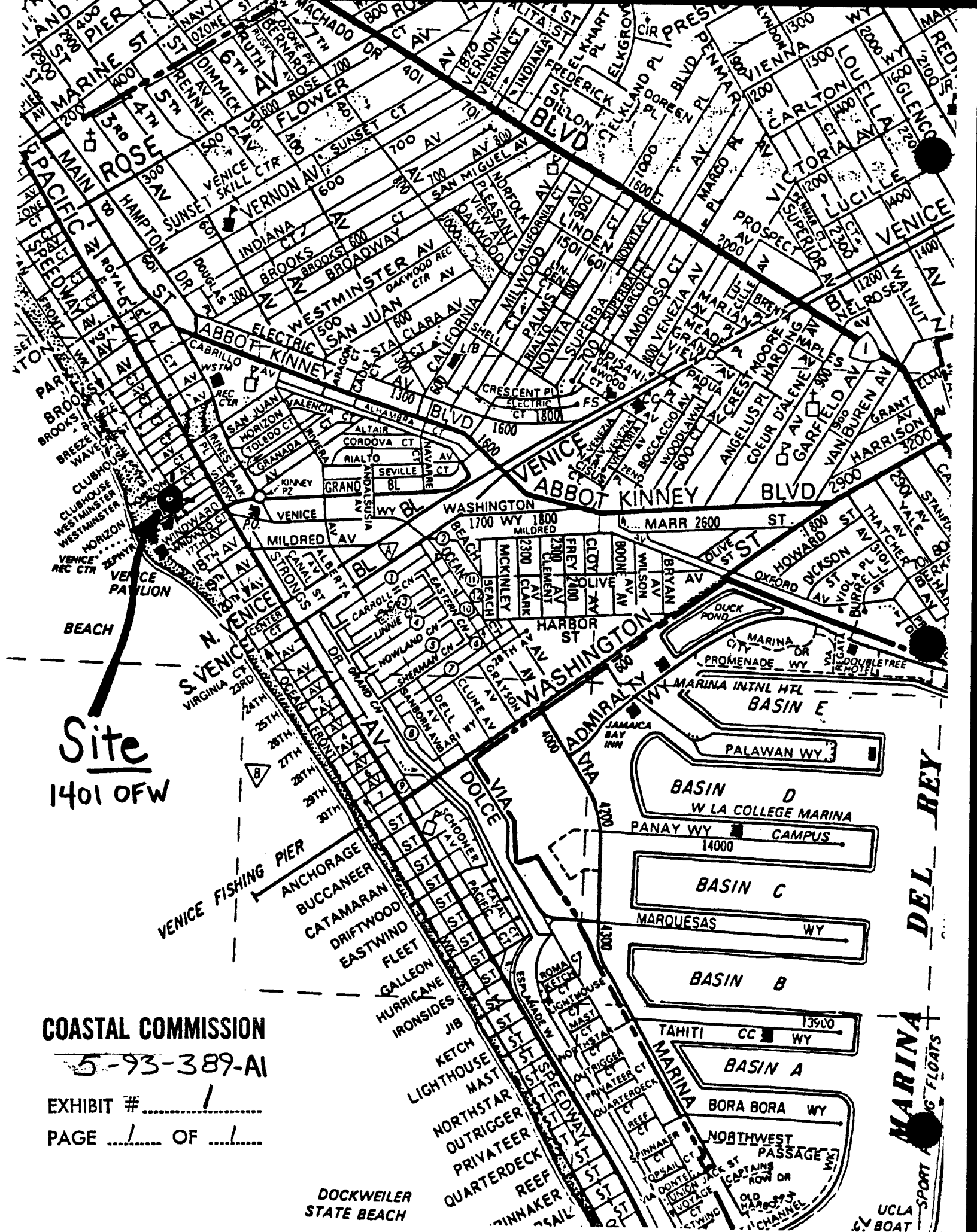
Prior to issuance of the Coastal Development Permit, the applicant shall record a deed restriction, free of prior liens and encumbrances except for tax liens, for the property located at 1401 Ocean Front Walk. The deed restriction shall state that the permitted use of the second floor of the structure is limited to office use only, and that two thousand square feet of the second floor office space is limited to the administration of the ground floor restaurant. The permitted uses of the ground floor of the structure at 1401 Ocean Front Walk are restaurant and general retail use only. No expansion of the existing restaurant use or general retail use is permitted by this action. Any intensification or change in use of the structure will require an amendment to the permit or a new Coastal Development Permit. The deed restriction shall be subject to the review and approval of the Executive Director, and shall run with the land, binding successors and assigns of the applicant or landowner, for the life of the project.

3. Condition Compliance

All requirements specified in the foregoing conditions that the applicant is required to satisfy as prerequisites to the issuance of this Coastal Permit must be met within 180 days of Commission action on this Coastal Permit application. Failure to comply with this requirement within the time period specified, or within such additional time as may be granted by the Executive Director for good cause, will result in the termination of this Coastal Development Permit.

Appendix B: Special Condition of Coastal Development Permit A-76-7543

Prior to issuance of permit, applicant shall secure per staff criteria, one parking space for each 500 square feet of floor area within 500 feet of building. The parking spaces shall be guaranteed by long term lease or easement until such time as alternative commercial customer parking is available. If any food services are installed, applicant shall submit new application for such facilities, parking is insufficient for such.



Site
1401 OFW

COASTAL COMMISSION

5-93-389-A1

EXHIBIT # 1

PAGE 1 OF 1

DOCKWEILER
STATE BEACH

MARINA DEL REY
SPORT BOAT
FLOATS

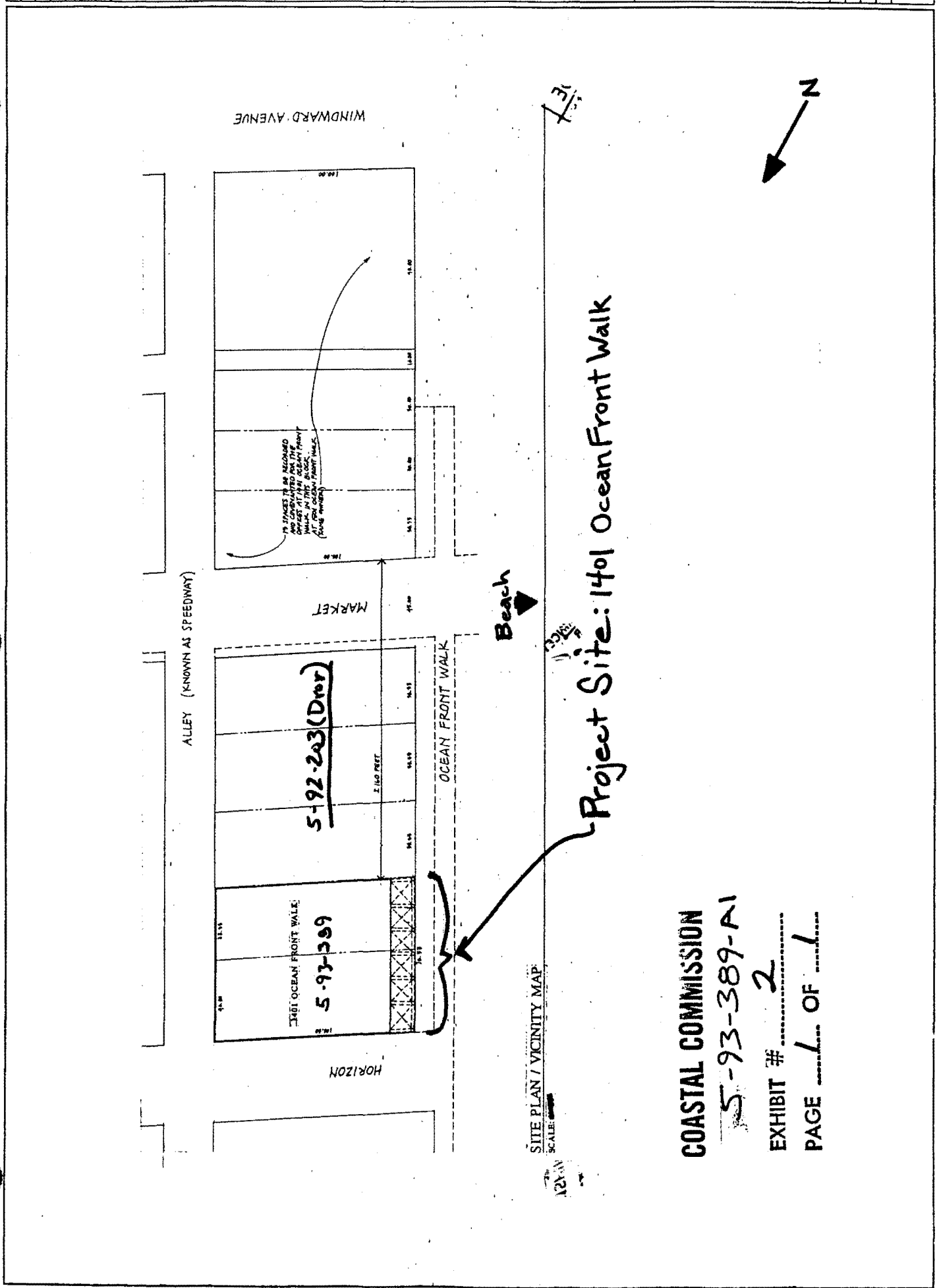
UCLA
BOAT

DATE	
BY	
CHECKED	
APPROVED	
REVISIONS	
NO.	
DATE	
DESCRIPTION	

SITE PLAN / VICINITY MAP

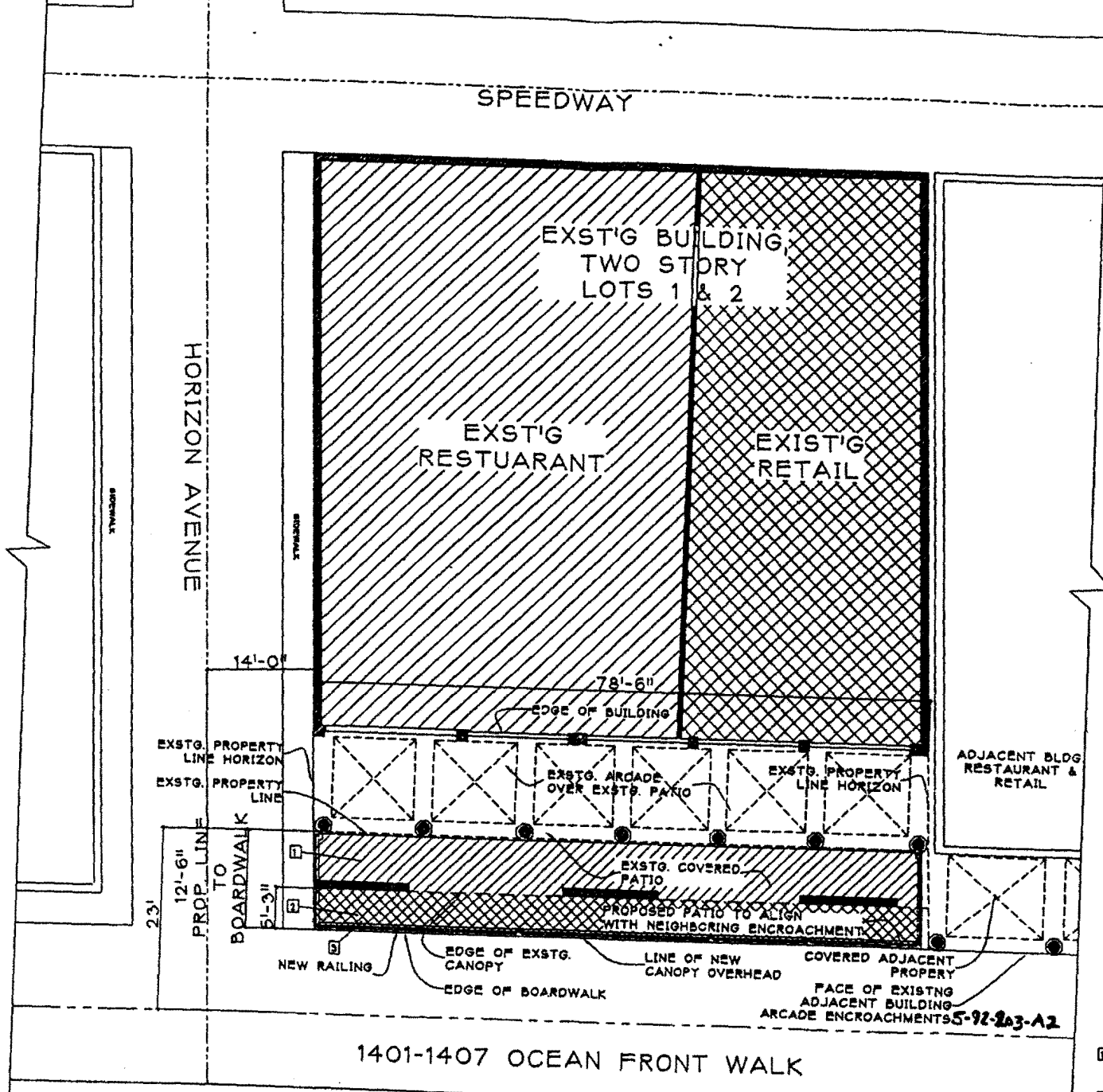
OFFICES at SIDEWALK CAFE
1401 OCEAN FRONT WALK
VENICE, CALIFORNIA 90291

Appleton & Associates, INC
ARCHITECTS
100 Main Street, Venice, CA 90291
Tel: 310-316-1111 Fax: 310-316-1112



SITE PLAN / VICINITY MAP
SCALE: 1/2\"/>

COASTAL COMMISSION
 5-93-389-A1
 EXHIBIT # 2
 PAGE 1 OF 1

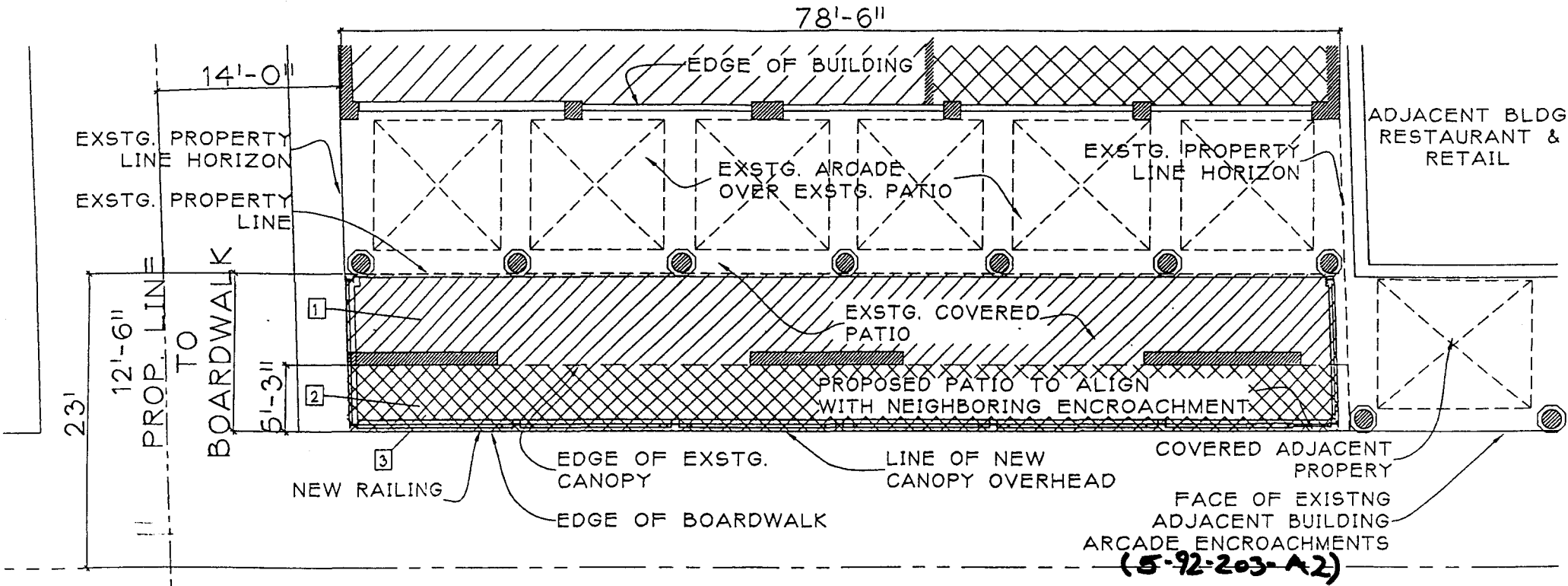


5-93-389-A1
COASTAL COMMISSION

- 1 EXISTING PATIO AREA ALLOWED UNDER COASTAL COMMISSION PERMIT #5-93-589
- 2 PROPOSED ADDITIONAL PATIO AREA AMENDMENT TO PERMIT #5-93-389

EXHIBIT # 3
 PAGE 1 OF 1

A10 SITE PLAN



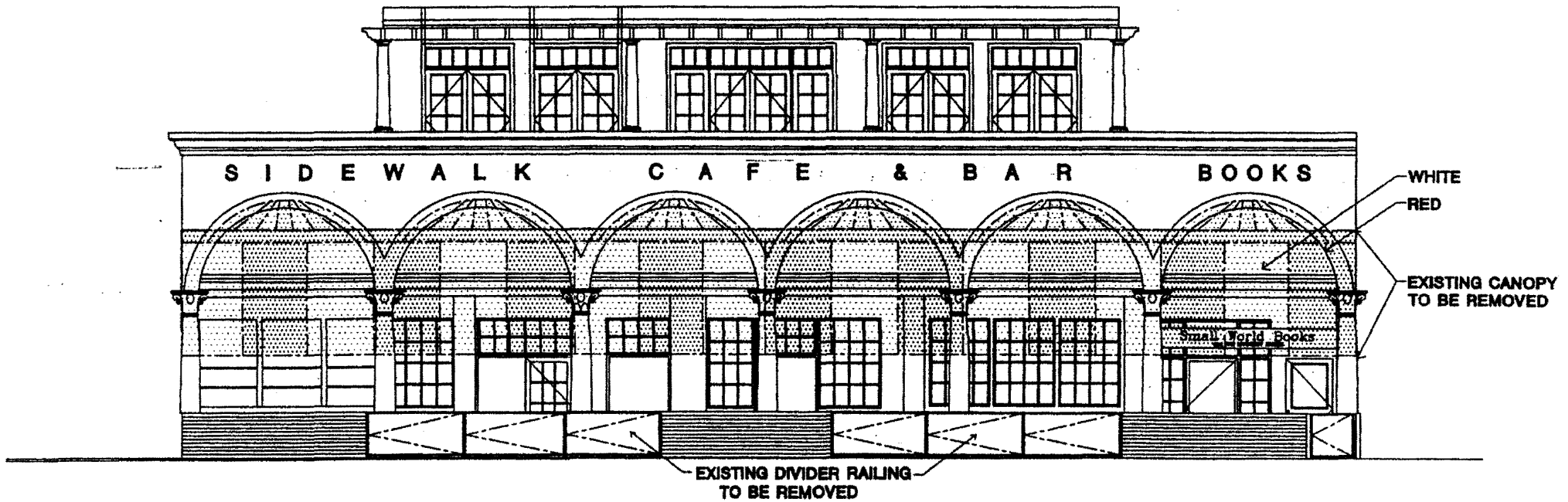
1401-1407 OCEAN FRONT WALK

T1.0B SITE PLAN
 EXISTING & PROPOSED
 STUDIO OF ARCHITECTURE

9/13/01

N
 COASTAL COMMISSION
 5-93-389-A1

EXHIBIT # 4
 PAGE 1 OF 1

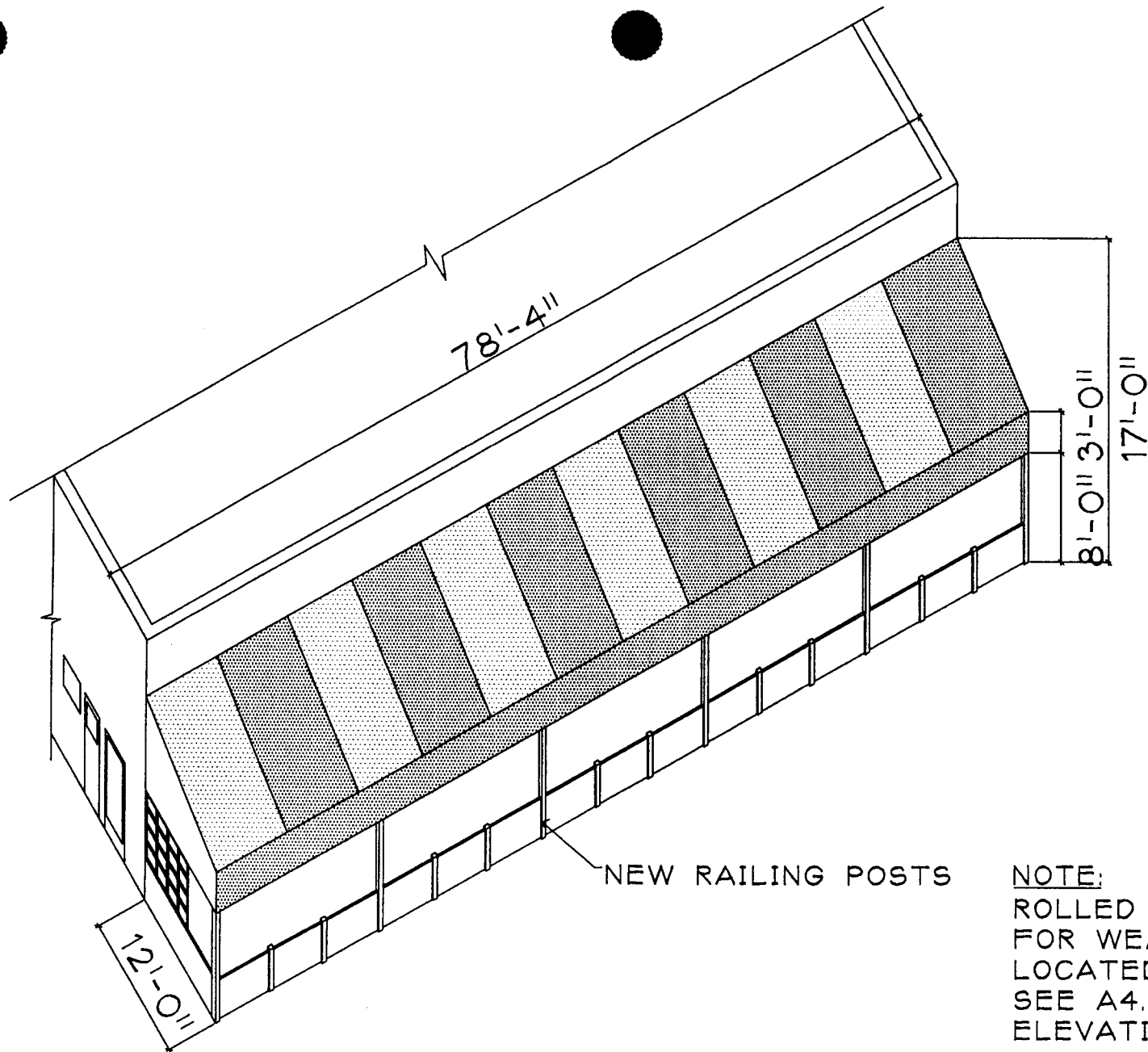


T1.0A SOUTHWEST ELEVATION -
 OCEAN FRONT WALK - EXISTING
 STUDIO OF ARCHITECTURE

9/13/01

COASTAL COMMISSION
 5-93-389-A1

EXHIBIT # 5
 PAGE 1 OF 1



NEW RAILING POSTS

NOTE:

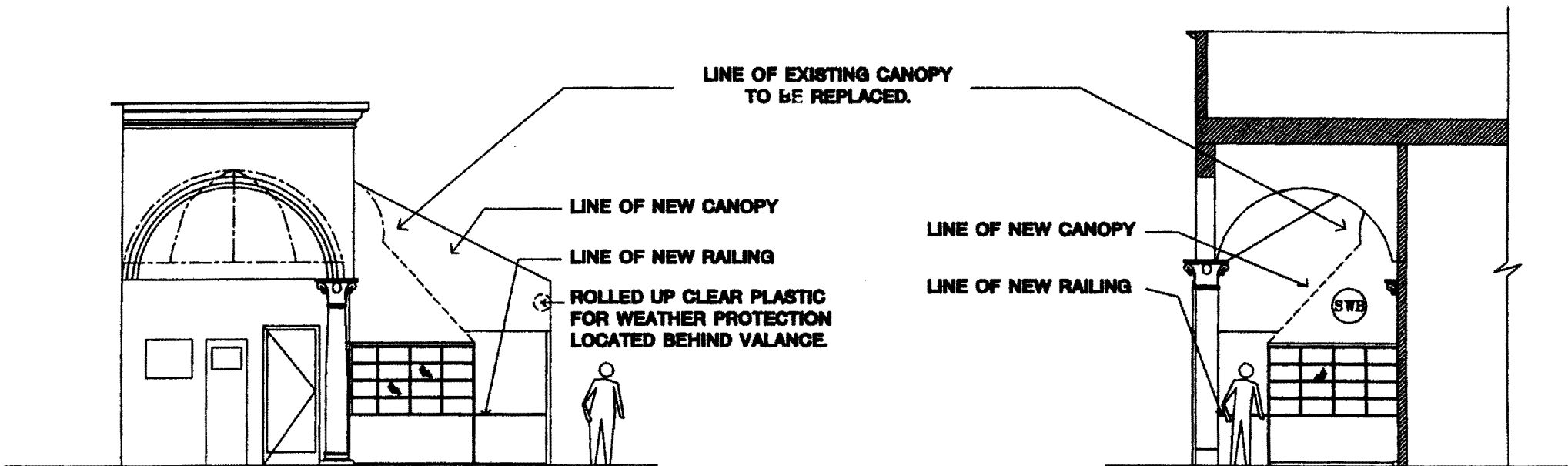
ROLLED UP CLEAR PLASTIC FOR WEATHER PROTECTION LOCATED BEHIND VALANCE. SEE A4.0B NORTHWEST ELEVATION.

Proposed
NEW CANOPY

COASTAL COMMISSION
5-93-389-A1

EXHIBIT # 6

PAGE 1 OF 1



NORTHWEST ELEVATION
Existing view from Horizon Avenue

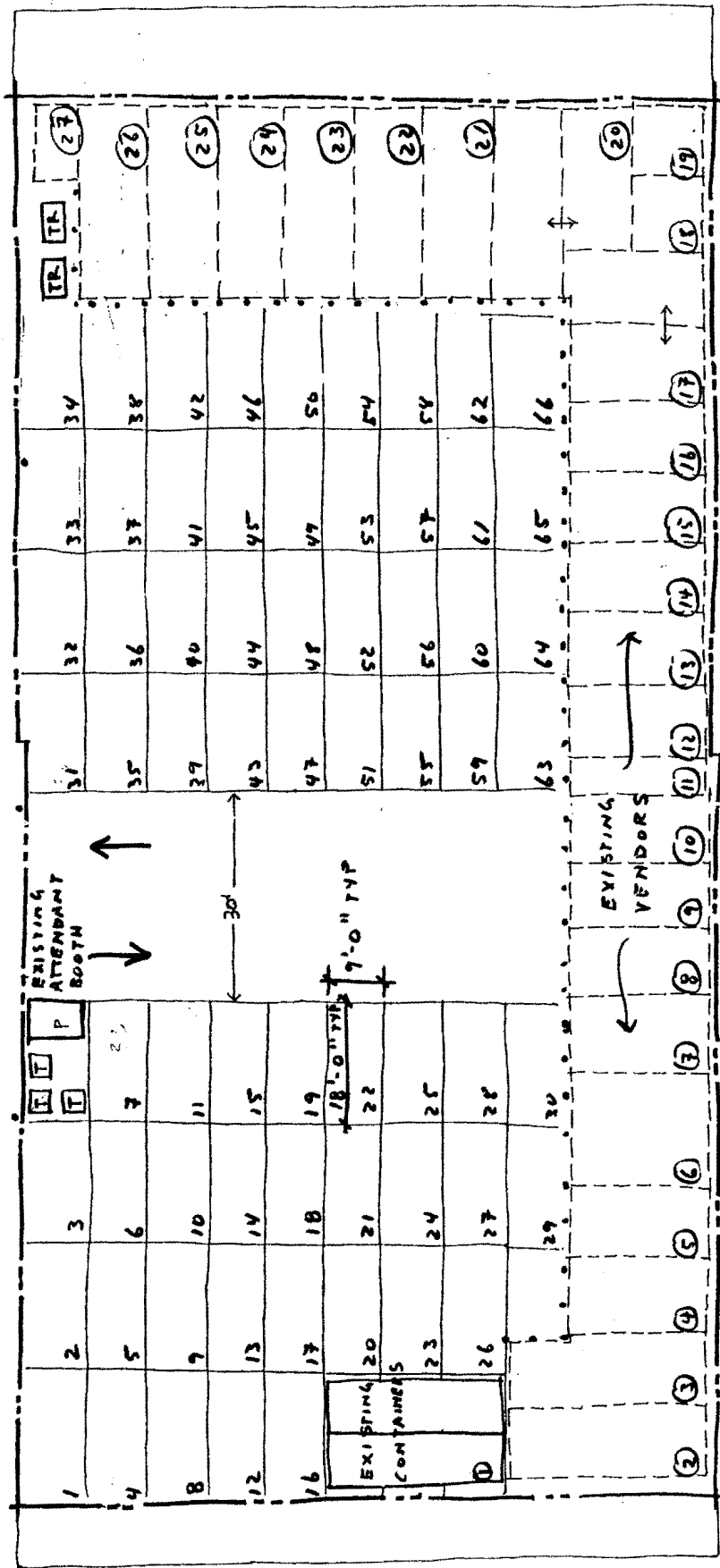
SOUTHEAST ELEVATION
Existing view from adjacent ARCADE.

A4.0B ELEVATIONS
STUDIO OF ARCHITECTURE

9/13/01
COASTAL COMMISSION
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EXHIBIT # 7
PAGE 1 OF 1

SPEEDWAY (ALLEY)



1501 OCEAN FRONT WALK

PARKING SUMMARY	
SIDEWALK CAPE & BOOKSTORE	26 SPACES
VENDORS	27 SPACES
NEW OFFICES @ 1501 OCEAN FRONT WALK	6 SPACES
TOTAL DEDICATED	59 SPACES

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EXHIBIT # 8
PAGE 1 OF 1

1501 Ocean Front Walk

MARNEY ST.

RECEIVED
South Coast Region

Ellen M. Berkowitz
Manatt, Phelps & Phillips, LLP
Direct Dial: (310) 312-4181
E-mail: eberkowitz@manatt.com

SEP 4 2001

CALIFORNIA
COASTAL COMMISSION

Client-Matter: 05326-031

August 23, 2001

RECEIVED
South Coast Region

SEP 4 2001

CALIFORNIA
COASTAL COMMISSION

Mr. Charles Posner
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

**RE: COASTAL DEVELOPMENT PERMIT APPLICATION 5-93-389-A1
THE SIDEWALK CAFÉ, 1401 OCEAN FRONT WALK, VENICE, CA**

Dear Mr. Posner:

As you know, this law firm represents Ocean Walk Properties and Robert Goodfader (collectively "Goodfader"). On April 25, 2001, Goodfader filed an application for an amendment to Coastal Development Permit 5-93-389-A1 for the renovation and extension of the existing Sidewalk Café outdoor dining patio and for approval of an accompanying overhead canopy structure located at 1401 Ocean Front Walk along the Venice Boardwalk. Since the application was filed, Goodfader has decided to eliminate the proposed canopy structure from the project. Instead, Goodfader intends to replace the existing awning with a new and slightly larger one to accommodate the increased patio dining area.

This letter: (1) provides a brief history of The Sidewalk Café and the background of this permit request; (2) outlines the current parking program for The Sidewalk Café as per your request in the May 24, 2001 status letter; and (3) explains how the proposed extension furthers Coastal Act policies by providing recreational opportunities for coastal visitors.

1. HISTORY OF THE SIDEWALK CAFÉ/BACKGROUND OF PERMIT REQUEST

Goodfader has owned properties in Venice since the mid-1970's, including the historic structure located at 1401 Ocean Front Walk. That building is one of the original Venice structures, dating back to just past the turn of the last century; it is built in the distinctive architectural style originally envisioned for the Venice area. In 1976, Goodfader obtained a Coastal Development Permit to renovate the building for the

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COASTAL COMMISSION

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Mr. Chuck Posner

August 23, 2001

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operation of The Sidewalk Café and Small World Books.¹ Since that time, the Café has been a favorite gathering spot for both locals and tourists. Visitors to the Venice Boardwalk – one of the most popular attractions in the City of Los Angeles – stroll along the Boardwalk and stop at the Café, where the patio offers a front row seat of the colorful Venice street scene. For many years, The Sidewalk Café has contributed to, and continues to contribute to, the inimitable Venice ambiance through the people it serves, the service it provides and the character of the building within which it resides.²

Recently, the City of Los Angeles Department of Recreation and Parks (“Rec & Parks”) undertook an extensive renovation of the entire Venice Boardwalk area. As you know, the City demolished certain buildings, added a number of amenities to the area, constructed special roller-blading and skating areas and resurfaced the Boardwalk itself. During this time, Rec & Parks met with Goodfader to discuss a particular strip of property located just in front of The Sidewalk Café that was creating a design problem for the Rec & Parks renovation project.

Several years ago, the owner of the property located immediately to the south of the Café constructed an addition to his building that caused his building to extend about five (5) feet further out into the Boardwalk than the Café. In other words, the Café is now set back about five (5) feet further from the Boardwalk than the building to the south. In renovating the Boardwalk, Rec & Parks intended to resurface the area immediately in front of the building to the south and continue in a straight line northerly along the Boardwalk. Because of the Café’s setback, this approach would have left a strip of property about five feet long in front of the Boardwalk that would not be resurfaced as part of the City’s project.

To rectify this situation, Rec & Parks asked Goodfader if he would resurface the area immediately in front of the Café. Goodfader agreed to do so; additionally, he asked for permission to extend the Café’s patio out an additional 4 feet, 9 inches into the Boardwalk, so that the Café’s patio and the building to the south would be

¹ For ease of reference, The Sidewalk Café and Small World Books will be collectively referred to as “The Sidewalk Café” or the “Café.”

² In 1993, Goodfader received an amendment to the Café’s permit to allow office uses in the building’s second story.

COASTAL COMMISSION

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Page 3

aligned. Rec & Parks prepared a draft encroachment permit for this purpose, which will become final upon approval by the Coastal Commission.³

As the discussion in this section demonstrates, the requested extension offers a project with multiple benefits: (1) to Rec & Parks, which will have a portion of the City's project paid for with private funds; (2) to Goodfader, which will have the ability to expand its patio dining area; and (3) to the many members of the public who visit the Venice Boardwalk, who will have additional "window seats" to view the street scene, and additional places to rest, eat and dine while on their Venice outing.

2. CURRENT PARKING PROGRAM FOR THE SIDEWALK CAFÉ

Your May 24th letter asked us to describe the parking program for The Sidewalk Café, including the location and number of parking spaces, the cost of parking, and any validation programs. Goodfader maintains a lot south of the Café at 1501 Ocean Front Walk that provides parking for patrons of The Sidewalk Café, as well as for general beach visitors. Pursuant to Coastal Development Permit number A-3-31-76-7543, twenty-six (26) parking spaces are provided exclusively for employees and patrons of The Sidewalk Café. Pursuant to Coastal Development Permit Number 5-93-389-A, Goodfader also provides six (6) parking spaces for employees working in the office space located on the second floor of the Café.

A parking attendant staffs the parking area to facilitate tandem parking. The attendant also accepts parking validations from Sidewalk Café patrons. Finally, the parking attendant collects the parking fee from members of the public and from Café patrons if they stay past the validated time. Parking rates vary depending upon day and time; all rates are clearly posted.

3. THE PROPOSED EXTENSION FURTHERS COASTAL ACT POLICIES

The proposed extension of the existing Sidewalk Café outdoor patio dining area furthers the policies of the Coastal Act. By expanding the patio area to accommodate more customers, the proposed extension will allow for more tourists, beach visitors and local residents to gain the maximum access to recreational opportunities on the Venice Boardwalk. Specifically, the extension furthers Coastal Act Section 30222 by

³ A copy of the City's draft permit is attached to this letter.

COASTAL COMMISSION

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providing visitor-serving commercial uses and enhancing public opportunities for coastal recreation. It also furthers Coastal Act Section 30210 by providing "recreational opportunities . . . for all people." Moreover, the extension will not only provide additional public services to coastal visitors, but it will also assist the City in completing an important part of its renovation of the Venice Boardwalk.

Although the proposed extension will bring additional customers to The Sidewalk Café, these customers will be beach visitors, tourists, pedestrians and community residents who come to Venice Beach to participate in the general Boardwalk experience, and who eat at the Café while they spend time in the area. Therefore, no additional parking will be necessary for these new customers because the expansion would not attract new patrons to the Boardwalk, but rather will service those already there. In this regard, The Sidewalk Café, in and of itself, is not a destination point, and currently has adequate parking to serve The Sidewalk Café's patrons and other general beach visitors. Nevertheless, Goodfader will designate two (2) additional parking spaces at 1501 Ocean Front Walk for use by Café customers.

Thank you for your consideration of our application. If you have any questions or require any additional information, please do not hesitate to contact me.

Very truly yours,

Ellen Berkowitz
Manatt, Phelps & Phillips, LLP

EMB:mjp

cc: Mr. Mike Bonin, City of Los Angeles Council District 6
Ms. Linda Barth, City of Los Angeles Department of Recreation and Parks
Mr. Robert Goodfader, The Sidewalk Café
Steve Heumann, The Sidewalk Café

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COASTAL COMMISSION

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South Coast Region

SEP 4 2001

CALIFORNIA
COASTAL COMMISSION

DRAFT

January 31, 2001

Robert W. Goodfader, President
The Sidewalk Café Inc.
1401 Ocean Front Walk
Venice, CA 90291

VENICE BEACH: RIGHT OF ENTRY PERMIT TO USE A PORTION OF OCEAN FRONT WALK FOR A PATIO DINING AREA

The City of Los Angeles (hereinafter "CITY"), Department of Recreation and Parks (hereinafter referred to as DEPARTMENT) hereby issues this temporary right-of-entry permit to Robert W. Goodfader, President, The Sidewalk Café Inc. (hereinafter referred to as PERMITTEE), to use a portion of the DEPARTMENT'S Ocean Front Walk for a patio dining area in connection with existing licensed business activities conducted at the address commonly known as 1401 Ocean Front Walk, Venice, CA 90291. The duration of this permit is six months from the date of execution as an interim permit prior to development and adoption of DEPARTMENT policies and fees by the Board of Recreation and Park Commissioners relative to Ocean Front Walk encroachment.

Approval of this right-of-entry permit is contingent upon the execution of this permit as provided in Condition No. 19, and the submission of insurance information as noted in Condition No. 5. Said permit will not become effective until properly executed and returned to DEPARTMENT as noted with all required documentation.

This right-of-entry permit is issued subject to the following conditions:

1. PERMIT AREA DEFINED

The area to be covered under this permit includes a portion of Ocean Front Walk located West of and immediately adjacent to the property address commonly known as 1401 Ocean Front Walk, Venice, CA 90291. The permitted area is further defined as the rectangular portion of Ocean Front Walk extending 12 feet 5-5/8 inches starting from the west side of the columns located at 1401 Ocean Front Walk perpendicular to the building's structure and 78 feet North to South parallel to the building's structure and within its property lines (Exhibit A).

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5-93-389-A1

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2. PERMISSION GRANTED

Permission is granted to the PERMITTEE to use the defined portion of the DEPARTMENT'S Ocean Front Walk for a patio dining area in connection with existing licensed business activities. PERMITTEE shall have the right to remodel said premises and perform renovations and other alterations and improvements as described in the Sidewalk Café Dining Patio Improvements (Exhibit B). PERMITTEE must first obtain the written consent of the GENERAL MANAGER for all such remodeling, renovations, and other alterations and improvements, as set forth in Condition No. 8.

3. TERM

This permit shall become effective upon receipt by the DEPARTMENT of an executed copy of this permit and the insurance forms required in Condition No. 12. The duration of this permit is six months from the date of execution.

4. CONSIDERATION

At this time, no fee will be assessed by the DEPARTMENT upon issuance of this temporary permit.

5. GENERAL MANAGER

The term "GENERAL MANAGER" shall mean the GENERAL MANAGER of the Department of Recreation and Parks and his/her authorized representatives.

6. DEPARTMENT AUTHORITY

PERMITTEE shall at all times abide by the rules and regulations adopted or that may hereafter be adopted by the DEPARTMENT and cooperate fully with DEPARTMENT employees in the performance of their duties.

7. DEPARTMENT COORDINATION

Jose Vara, Senior Park Maintenance Supervisor, is specifically designated as the DEPARTMENT'S representative for this project and is empowered by the DEPARTMENT to conduct inspections of the permitted area, evaluate progress, and inform the DEPARTMENT fully as to the PERMITTEE'S maintenance of the facility. Jose Vara's telephone number is (310) 836-1040.

8. ALTERATIONS AND IMPROVEMENTS

PERMITTEE shall not make, nor permit to be made, any alterations, modifications or improvements to or of the premises, nor construct any structures on the premises without first obtaining the written consent of GENERAL MANAGER, such consent to not be unreasonably withheld. PERMITTEE must submit all proposed plans to the DEPARTMENT for review and written approval prior to any work being performed at the

COASTAL COMMISSION

EXHIBIT # 9
PAGE 6 OF 9

premises. PERMITTEE at its sole cost and expense, shall procure California Coastal Commission permits and all building, fire, safety and other permits necessary for construction, renovation or other improvements.

All work done, equipment supplied and installed and furnished by PERMITTEE pursuant to this Section shall be at its sole cost and expense, free and clear of liens for labor and material and PERMITTEE shall hold CITY harmless from any liability in respect thereto.

All structural or other improvements constructed or installed by PERMITTEE in the permitted area, including the plans and specifications shall in all respects conform to and comply with the applicable statutes (including the California Environmental Quality Act), ordinances, building codes, rules and regulations of CITY and such other authorities that may have jurisdiction over the area or PERMITTEE'S operations therein. The approval by GENERAL MANAGER as provided above shall not constitute a representation or warranty as to such conformity or compliance, responsibility shall at all times remain with PERMITTEE.

Paving materials and other renovations described in the Sidewalk Café Dining Patio Improvements (Exhibit B) are consistent with the design of Ocean Front Walk. Any variation from the paving materials and other renovations as described in Exhibit B must also be consistent with the design of Ocean Front Walk. The newly constructed canopy as described in Exhibit B may extend into the whole of the defined area of the public right-of-way described in Condition No. 1, and shall not extend into the public right-of-way beyond the defined area of the public right-of-way described in Condition No. 1. No merchandising or signage shall occur on the adjoining sidewalk.

9. MAINTENANCE OF PROPERTY

PERMITTEE shall maintain the permitted area in an orderly condition free of trash and debris during the renovation or construction period. PERMITTEE shall be responsible for the ongoing maintenance and repair of damages to the permitted area during the term of this permit. PERMITTEE shall immediately repair any damages to the satisfaction of the DEPARTMENT.

10. DELIVERIES

PERMITTEE shall not allow deliveries to be made on Ocean Front Walk. Any deliveries made on Ocean Front Walk will result in immediate revocation of this permit for cause.

11. RIGHT OF INSPECTION

Authorized representatives, agents, and employees of the DEPARTMENT shall have the right to enter the area at any time in case of emergency, and upon reasonable notice for purposes of property inspection.

COASTAL COMMISSION

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12. INSURANCE

PERMITTEE shall procure and maintain at its expense and keep in force at all times during the term of this permit broad form comprehensive public liability and property damage insurance (including comprehensive general liability) written by an insurance company authorized to do business in the State of California with PERMITTEE'S normal limit of liability, but not less than **One Million (\$1,000,000) combined single limits for injury or death arising out of each accident or occurrence and Fifty Thousand Dollars (\$50,000) for property damage for each accident or occurrence.** Said limits shall be without deduction, provided that GENERAL MANAGER may permit a deductible amount in those cases where, in his judgement, such a deductible is justified by the net worth of PERMITTEE. The insurance provided shall contain a severability of interest clause. In all cases, regardless of any deductible, said insurance shall contain a defense of suits provision. **The submitted policy shall contain the endorsement forms provided by CITY or acceptable to CITY naming the CITY as additional insured (Exhibit C).**

13. INDEMNIFICATION

Except for the active negligence or willful misconduct of CITY, PERMITTEE undertakes and agrees to defend, indemnify and hold harmless CITY and any and all of CITY'S Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including PERMITTEE'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this permit on the part of PERMITTEE and/or their contractor or sub-contractor of any tier.

14. ASSIGNMENT, SUBLEASE AND BANKRUPTCY

PERMITTEE will not underlet or sublet the permitted areas or any portion thereof, nor allow the same to be used or occupied by any other person or organization or for any other use than that herein specified, nor will this permit, nor any other rights or obligations hereunder, be transferred, assigned, or in any manner conveyed without the prior written consent of CITY. Neither the permit nor the rights herein granted will be assignable or transferable by any process or proceedings of insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings.

15. SAFETY

PERMITTEE shall exercise reasonable precaution, to protect the security and safety of the PREMISES and the patrons thereof. Improvements must be installed in a safe manner (i.e. no tripping hazards) throughout the construction period.

PERMITTEE shall correct any safety deficiencies and violations of safety practices related

COASTAL COMMISSION

EXHIBIT # 9
PAGE 8 OF 9

to operations of PERMITTEE immediately upon notification by CITY.

16. PERMIT NOTIFICATIONS

Should the PERMITTEE desire modifications to this permit, time extensions of the permit, or additional work to be performed, etc., requests for said modifications, extensions and/or additions shall be submitted, in writing, to:

City of Los Angeles
Department of Recreation and Parks, Pacific Region
1670 Palos Verdes Drive North
Harbor City, CA 90710
Attention: Darlene McKinney
Telephone: (310) 548-7519 Fax: (310) 832-5373

17. RESTORATION

PERMITTEE shall restore all improvements that are damaged, moved or altered as a result of the use of the permit area to their upgraded condition, to the satisfaction of the DEPARTMENT.

18. REVOCAION OF PERMIT

The DEPARTMENT may revoke this permit if PERMITTEE does not comply with the conditions contained herein. Upon receipt of the written notice of revocation, PERMITTEE shall return the property to its upgraded condition and discontinue occupancy. The right of the GENERAL MANAGER to revoke this PERMIT is and shall remain unconditional. Neither CITY nor any board, officer or employees thereof, shall be liable in any manner to PERMITTEE because of such revocation.

19. ACCEPTANCE

To indicate acceptance of this permit, please sign the original of this letter on the signature block below, retain copy for your files, and return the original letter to the addressee listed in Condition No. 16.

Sincerely,

ELLEN OPPENHEIM
General Manager

GAT LUM
Acting Superintendent

COASTAL COMMISSION

EXHIBIT # 9
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