

- a. The proposed revetment has been engineered such that the encroachment onto the beach is the minimum necessary to protect the structure, and that all riprap that has migrated beyond the toe of the revetment has been removed or incorporated into the revetment. In no case shall the repaired revetment encroach further seaward than the existing revetment, as shown on Exhibit #4.
- b. The access path shall be permeable so as to permit runoff to filter through the path.
- c. The access path shall contain a level surface so as to facilitate public access.
- d. The elevation of the access path shall be revised to be at or above the grade of the adjacent outdoor dining patio (approximately 11.5 ft. above Mean Sea Level (MSL)) so as to maximize views of the ocean by users of the path.

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

2. Shoreline Protection/Access Path Monitoring Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a monitoring plan, prepared by a licensed geologist, or civil or geotechnical engineer for the review and written approval of the Executive Director. The plan shall be sufficient to assess the performance of the existing revetment and shall include at a minimum:

1. A description of the approved shoreline protection device;
2. A discussion of the goals and objectives of the plan, which shall include maintenance of the revetment and access path constructed on top of it to assure its optimum designed performance without adversely affecting surrounding development, public access along the coast, or public views, or requiring fill of tidelands.
3. Provisions for taking measurements of the reconfigured revetment documenting the location of the toe, sides and elevation of the revetment and the alignment of the 8 ft.-wide public access path constructed on top of the revetment. The plan shall identify exactly where such measurements will be taken, e.g. by reference to benchmarks, survey positions, or points shown on an exhibit, and the frequency with which such measurements will be taken;
4. Provisions for submission of "as-built" plans for the repaired revetment and public access path, showing the permitted structures in relation to the existing

3. Lateral Access Condition

A. The applicant shall establish an eight (8) foot wide accessway that is open to the public for pedestrian access along the shoreline. The accessway shall be located along the top elevation of the reorganized revetment and shall extend from the south property line to the north property line in a diagonal fashion so as to connect to the existing public access paths located seaward of the restaurants at 2526 and 2588 South Coast Highway as depicted on an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit. The applicant shall keep the entire access way clear of all obstructions, including tables, and chairs. The applicant shall allow a public agency or private association approved by the Executive Director to construct improvements on the public accessway for the purpose of facilitating public access. The public accessway established pursuant to this condition shall replace and supercede the access way created pursuant to Coastal Development Permit #F2857 (County of San Diego File/Page No. 76-39306, recorded on November 23, 1976).

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #4 attached to this staff report.

4. Staging Area for Construction. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final construction staging and access plans to the Executive Director for review and written approval. The final plans shall specifically indicate in written notes that:

- a. No overnight storage of equipment or materials shall occur on sandy beach. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to perform repairs to the revetment and construct the public access path. Construction equipment shall not be washed on the beach.
- b. Construction access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach during the summer between Memorial Day weekend and Labor Day of any year.
- d. The staging site shall be removed and/or restored immediately following completion of the development.

9. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave run-up and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

10. Parking. The applicant shall provide at least 96 valet parking spaces on the site during operating hours. No fee shall be charged for the use of valet parking on the site.

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

12. Condition Compliance. WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP 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. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

13. Construction of Public Access Improvements. WITHIN ONE (1) YEAR OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the applicant shall repair and reorganize the rip rap so as to create the 8 ft.-wide public access path, consistent with Special Condition #1, and the public access way required by Special Condition #3 and install signage consistent with Special Condition #15. Failure to

walkable 8 ft.-wide surface across the top of the revetment which will connect to existing public access paths to the north and south of the subject site.

The applicant also requests after-the-fact authorization for several additions and changes which have been made to the restaurant without a coastal development permit, including the enclosure of a 750 sq. ft. "garden room" dining area, the construction of a 1,172 sq.ft. outdoor patio dining area, and construction of a 420 sq. ft. upper deck used for dining.

The proposed development is located within the City of Encinitas which has a certified LCP; however, it is located on filled public trust lands within the Commission's area of original jurisdiction and as such, the standard of review is Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

2. Site History. The site has been the subject of a number of coastal development permit (CDP) applications. In October 1976, the Commission approved a permit for removal of an existing structure, construction of the Triton Restaurant (now the Beach House), provision of 58 parking spaces, installation of a monument sign and the reconstruction of an existing riprap revetment (CDP #F2857). Conditions of approval on that permit required the recordation of an eight-foot wide public access easement running parallel to the riprap between the riprap and the restaurant. The exact wording of the condition is as follows:

That the applicant agrees to record in favor of the public an 8 foot wide easement parallel to the existing alignment of the rubble seawall delineating the western limit of raised portions of the applicant's parcel. The purpose of such easement is to insure some public agency the opportunity to construct, at some future date, a public walkway which would provide "dry land" access parallel to the beach during periods of high tide or storm conditions and a route of travel for those not wishing to walk on sandy beach areas because of handicaps or personal preferences. Evidence of the required recordation of the easement and a map delineating such easement must be filed with the Commission prior to the commencement of construction.

In compliance with this condition, the applicant actually recorded a deed restriction (not simply an easement) for an 8-foot wide public walkway with the condition that it remain:

"open to the public for access to the Pacific Ocean and its shoreline for walking and agrees that Dedicator shall not construct any improvements on or in said public access area...Said public access privilege shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective..."

The applicant argues that the 1976 permit required that an access dedication be recorded and that pursuant to Section 30212 of the Coastal Act, that accessway was not required to be open to the public "until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway." However, the 1976 permit was issued pursuant to Proposition 20 (The California Coastal Zone Act of 1972), not the

outdoor dining, then such outdoor dining must also be included in the proposed project. The items required to complete the file were never received; thus, the application was never filed or processed.

In November 1997, the Commission issued an emergency permit authorizing the addition of twenty 4 to 5-ton stones to the existing revetment and also authorized the retrieval by mechanized equipment of stones which had migrated seaward from the existing revetment onto the sandy beach (CDP #6-97-144-G). A letter received in Commission office on August 28, 1998, indicated there was no way to get equipment onto the beach to reposition migrated stones, and the migrated stones were not visible in any event. Thus, that portion of the authorized emergency repairs did not occur. Also, a smaller amount of stone was ultimately imported than had been approved in the emergency action, such that a total of only forty tons of new stone was actually placed on the revetment.

In June 1998, the applicant submitted a follow-up permit to the emergency permit (#6-97-144). However, the permit was withdrawn on March 5, 1999, prior to Commission action, and thus, the emergency work has not yet been authorized.

3. Public Access/Parking. Numerous policies of the Coastal Act require that new development protect or enhance public access to and along the shoreline. These policies include:

Section 30210

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

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

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby....

A. The number of off-street parking spaces required for automobiles shall be no less than that set forth in the following table:

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
Restaurants	1 space for each 100 sq. ft. of gross floor area. In an area with an adopted Specific Plan, the regulations of the Specific Plan shall apply. (Ord. 94-11)

Public Access and Recreation

The subject application includes a request for after-the-fact approval of the installation of approximately 40 tons of rock, enclosure of a 750 sq. ft. "garden room" dining area, the construction of a 1,172 sq.ft. outdoor patio dining area, and a 420 sq. ft. upper deck used for dining.

The subject site is the middle of three contiguous properties all improved with restaurants (known locally as "restaurant row"). The three sites are located on the oceanfront in the Cardiff area of the City of Encinitas. The properties are located between two state beaches, the North Cardiff State Beach and South Cardiff State Beach. Adequate vertical access to the beach is currently available at the adjacent North Cardiff State Park facility, which provides approximately 105 parking spaces. However, Cardiff reef, one of the most popular surfing spots in San Diego County is located seaward of the State Parks facility. Therefore, it is critical that public access at this location not be adversely affected by new development. In addition to ocean access, public access along the shoreline is a high priority of the Coastal Act. This is an area where very little sandy beach currently exists, and there is no lateral public access available except at the lowest tides.

The Commission, through past permit actions, required public access easements on all three of the restaurant row properties (ref. CDPs #6-83-165/Saxten, #F2857/Triton, #6-85-4/Chart House). These were to be located on the dry upland area between the existing restaurants and the revetments located seaward of the restaurants, in order to provide dry access during all tidal regimes and storm conditions. (The accessways, however, were required at different times and, thus, do not quite form a contiguous path). Exhibit #6 identifies the locations of the public access easements fronting these three restaurants.

The subject property is currently developed with a two-story restaurant, a paved parking lot, landscaped areas and a riprap revetment. The original Commission action on the subject site approved construction of the restaurant in a location that would allow an 8 ft.-wide public accessway to be provided between the restaurant and the revetment. However, although the restaurant appears to be sited in its approved location, the current plans and on-site conditions show that the existing riprap revetment, proposed herein for after-the-fact maintenance and augmentation, and a portion of the dining patio, which is also proposed for after-the-fact approval, are located within the dedicated public

public agency. The applicants argue that the 1976 permit required that an access dedication be recorded and that pursuant to Section 30212 of the Coastal Act, that accessway was not required to be open to the public "until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway." However, the 1976 permit was issued pursuant to Proposition 20 (The California Coastal Zone Act of 1972), not the Coastal Act (which did not become effective until January 1, 1977). Proposition 20 had different requirements than the Coastal Act regarding public access. Specifically, for Public Resources Code Section 27403 stated, in part:

27403. All permits shall be subject to reasonable terms and conditions in order to ensure:

(a) Access to publicly owned or used beaches, recreational areas, and natural reserves is increased to the maximum extent possible by appropriate dedication.

[...]

Under Proposition 20, there was no requirement that a required public accessway not be opened until responsibility for maintenance and liability was assumed by a public agency. As noted previously, the permit approved by the Commission in 1976 required an easement for public access across the property. However, the instrument recorded (and accepted by Commission staff as complying with permit conditions) is not an easement, but it allows the public access across the property. The applicants argue that this recorded document is actually an "Offer to Dedicate" a public access easement and as such, the applicant is not required to allow the public access until a public agency takes over liability and maintenance responsibilities. However, as explained above, the recorded instrument established a deed restriction that protects the public's current right to cross the property for access to the shoreline. Thus the Commission is requiring that the realigned access be constructed and be open to the public within one (1) year of release of the permit. During this year the applicant and Commission staff have agreed to work together to find a third party to assume permanent operation and maintenance of the relocated accessway. The third party operator can be either a governmental or non-governmental entity. After one year from the issuance of this permit, if the applicant and Commission staff fail to find such a third party, the applicant has agreed to assume permanent operation and maintenance of the relocated accessway. In this way, the Commission is assured that public access will be provided, albeit in a slightly different alignment, consistent with the requirements of the original permit approved in 1976.

The Commission's engineer has reviewed the proposed walkway design and has identified safety and visual concerns with the proposed elevation of the walkway. As proposed, the walkway is approximately 1 ½ ft. lower than the neighboring restaurant patio with, in some places, a large approximately 4 ft.-high rip rap stone on its seaward side. The safety concern is that the large stone may become dislodged onto the path and the visual concern is that small children may not be able to see over the stone. Special

Parking

Although the subject site is within the original permit jurisdiction of the Commission, the City of Encinitas' certified LCP contains policies regarding parking and public access that the Commission has found consistent with the Coastal Act for this area, and thus, contains useful guidance for the review of the subject project.

The subject permit application includes the after-the-fact addition of a 750 sq. ft. garden room and two outdoor patio dining areas, a 1,172 sq.ft. lower patio and a 420 sq. ft. upper deck for a total addition of 2,342 sq.ft. In total, the restaurant will have approximately 9,629 sq. ft. of floor area.

As noted above, the Encinitas certified LCP requires 1 parking space for every 100 sq. ft. of gross floor area for restaurants. (The applicants have suggested that the City's parking requirement applies only to "public area" and not gross square footage. However, the Commission approved the City's LCP with the language quoted above, and City Encinitas staff have confirmed the requirement applies to the entire square footage of the structure, including outdoor dining areas (Bill Weedman, City Planner, pers. comm., 3/7/03)). Thus, as proposed, the project would require 96 parking spaces.

The on-site restaurant parking lot has approximately 58 striped parking spaces. However, the applicant has submitted a parking plan that demonstrates that by using valet parking, which currently operates during all business hours, the applicant can accommodate up to 121 cars on the site. Therefore, all of the required parking for the proposed structure can be accommodated on the subject site as long as valet service is provided.

However, the applicant has been charging for valet parking, which is inconsistent with the City's certified LCP, and could have an adverse impact on public access and recreation. There is free street parking on Highway 101 within walking distance of the Beach House, which is normally used by beach goers. If the Beach House were to continue charging for parking, it is likely that some restaurant patrons would use the free parking rather than paying for valet parking, thereby displacing the beach-going public. However, the applicant can only provide the required parking through the use of valet parking. Therefore, Special Condition #10 requires that the applicant continue to provide valet parking for at least 96 vehicles during working hours, and that no fee shall be charged for the valet service.

In addition to valet parking, the applicant has been utilizing two separate overflow parking lots. The first overflow lot is the Plastino Building, a commercial structure with a 54 space parking garage located across Highway 101 from the Beach House at 2533 South Coast Highway 101. The owner and/or operator of this lot have entered into a lease with the applicant to make available, on a non-exclusive basis, 52 spaces Monday through Friday from 5 pm to close, and all day Saturdays and Sundays.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As discussed above, the subject application includes a follow-up request to authorize the repair and maintenance of the existing riprap revetment located seaward of the restaurant, consisting of the addition of approximately forty tons of new stone to the existing revetment. Section 30235 of the Coastal Act requires that shoreline devices only be permitted if they are required to protect existing development and are designed to eliminate or mitigate adverse effects to sand supply.

The Commission has acknowledged in numerous permit actions that the three restaurants along restaurant row, as well as Highway 101 and the various public beach facilities in the area, are subject to wave action and erosion, that shoreline protection is required to protect the existing restaurants, and that no other feasible alternative is available to provide that protection (CDP 6-83-165/Saxten; 6-85-4/Chart House; 6-94-81/Chart House; 6-94-163/Chart House; 6-96-147/CA State Parks; 6-02-8/Charlie's; 6-02-022/CA State Parks; 6-02-023/CA State Parks; 6-02-66/Encinitas Revetment). Riprap revetment is the historical type of shoreline protection used along this approximately 1 mile long stretch of beach. All three of the restaurants and portions of South and North Cardiff State Beach facilities contain similar seaward riprap structures, as well as various stretches of Highway 101.

Even with a properly designed and maintained rock revetment, overtopping of the revetment is expected to occur in the future during periods of storm waves such as occur during an El Nino winter, subjecting the existing improvements to threat. There is little sand at all in front of the restaurant except at the lowest tides. In addition, because the revetment is founded entirely on sand, the rock is subject to settling or sinking and must be maintained regularly. However, a higher revetment or vertical wall would eliminate public views from the restaurant, thereby diminishing the attractiveness of the use as an oceanfront restaurant.

In addition to the approval for the placement of 40 tons of rock on the existing revetment, the applicant is also requesting after-the-fact approval for enclosure of a 750 sq. ft. garden room dining area, the construction of a 1,172 sq.ft. patio dining area, and a 420 sq. ft. upper deck used for dining. Section 30253 of the Act requires that new development minimize risk to life and property, not lead to erosion or instability to surrounding sites or require the construction of shoreline protective devices.

The Commission is not required to approve new development in hazardous areas, and the proposed additions are located on the seaward side of the existing restaurant or parking area. Nevertheless, as noted above, the proposed revetment is not intended to protect the subject site from all hazard, but only to reduce the threat. The hazard associated with the location of the new additions is not expected to be substantially greater than what previously existed. However, the revetment does need to be tightened and engineered,

the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

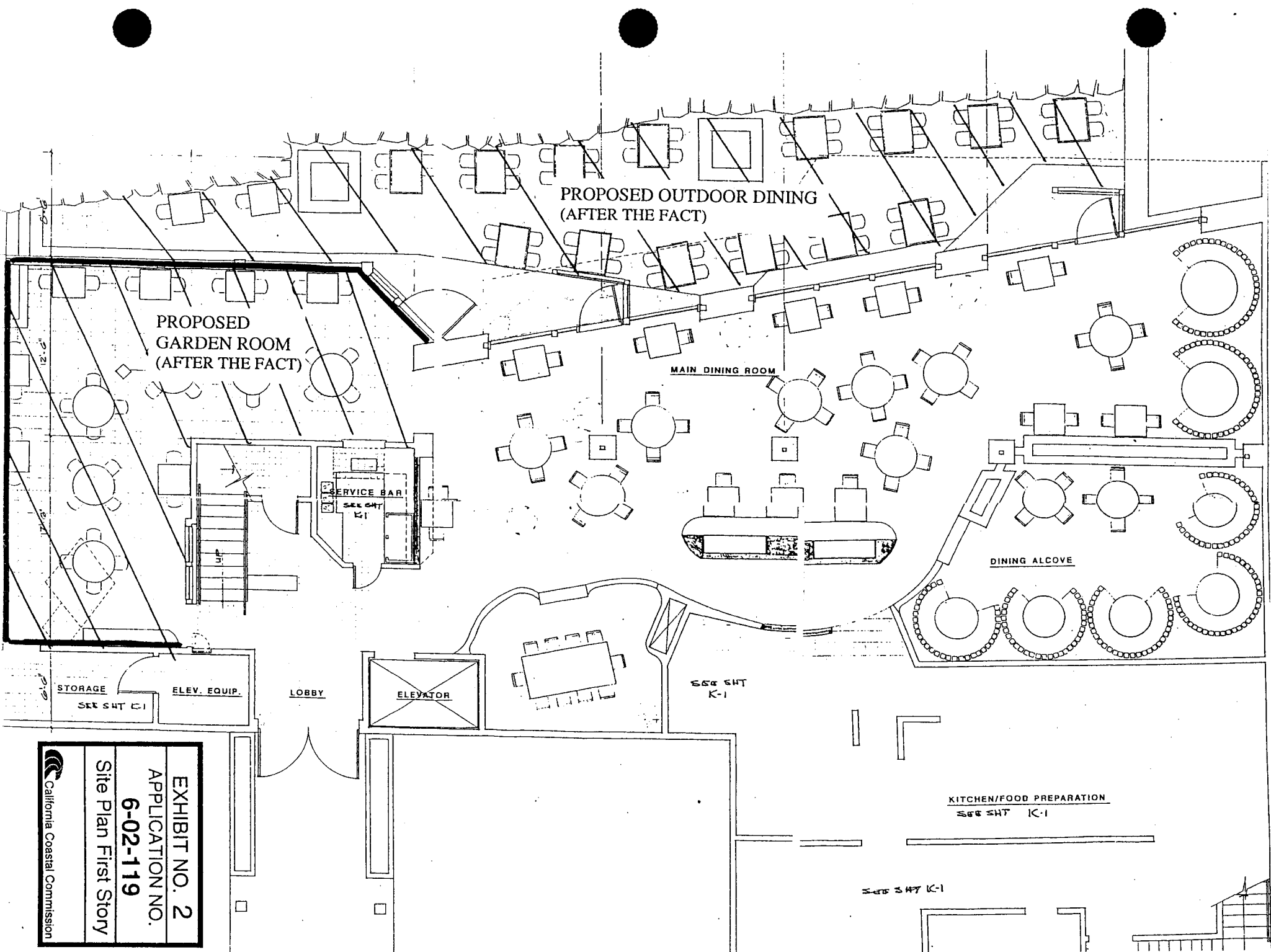
The proposed development will be sited adjacent to the public beach on the west side of Highway 101 in the Cardiff community of Encinitas. This section of Highway 101 is designated in the City's certified LCP as a scenic highway with expansive views of the ocean to the west and San Elijo Lagoon to the east. Therefore any new development along Highway 101 has the potential to adversely affect public views of coastal resources. In this case, however, the proposed development will not result in any adverse visual impacts over what currently exists. Currently the subject two-story restaurant obstructs views of the ocean as motorists pass along Highway 101 such that any new development on the seaward side of the restaurant such as new restaurant construction, the addition of outdoor dining and altering the revetment would not be visible by motorists. In addition, as conditioned, the pre-existing approximately rock revetment may not extend onto the beach further than existing conditions. Views from the beach or ocean will not be obscured or adversely affected by any of the proposed developments over what currently exists. Therefore, as conditioned, the proposed development is consistent with Section 30251 of the Coastal Act.

6. Unpermitted Development. The proposed development will occur on a site where several developments have occurred without the benefit of a coastal development permit. These include the enclosure of a 750 sq. ft. "garden room" dining area, the construction of a 1,172 sq.ft. outdoor patio dining area, and a 420 sq. ft. upper deck used for dining. The permit also authorizes the placement of approximately 40 tons of rock onto the existing revetment as a follow-up to an emergency permit granted in November 1997. To assure that the unpermitted development component of this application is resolved in a timely manner, Special Condition #12 has been attached which requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 90 days of Commission action. In addition, to ensure that the previously required public access path is installed in a timely manner, Special Condition #13 requires the applicant to complete construction of the accessway required herein, consistent with Special Condition #1, within one (1) year of the issuance of this permit unless additional time is granted by the Executive Director for good cause. During this year the applicant and Commission staff have agreed to work together to find a third party to assume permanent operation and maintenance of the relocated accessway. The third party operator can be either a governmental or non-governmental entity. After one year from the issuance of this permit, whether or not a third party is identified, the applicant has agreed to construct the accessway on top of the reconfigured riprap revetment and assume permanent operation and maintenance of the relocated accessway.

In addition, the applicant has been utilizing an off-site parking lot at 2533 South Coast Highway 101 to valet park cars of restaurant patrons. Private use of this site after business hours is prohibited by the terms of coastal development permit #6-83-21. This apparent violation of the Coastal Act will be pursued as a separate enforcement matter with the owner of the off-site lot. The Commission's enforcement division will evaluate further actions to address this matter.

STANDARD CONDITIONS:

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



PROPOSED OUTDOOR DINING
(AFTER THE FACT)

PROPOSED
GARDEN ROOM
(AFTER THE FACT)

MAIN DINING ROOM

DINING ALCOVE

SERVICE BAR
SEE SHT K-1

STORAGE
SEE SHT K-1

ELEV. EQUIP.


LOBBY

ELEVATOR

SEE SHT
K-1

KITCHEN/FOOD PREPARATION
SEE SHT K-1

SEE SHT K-1

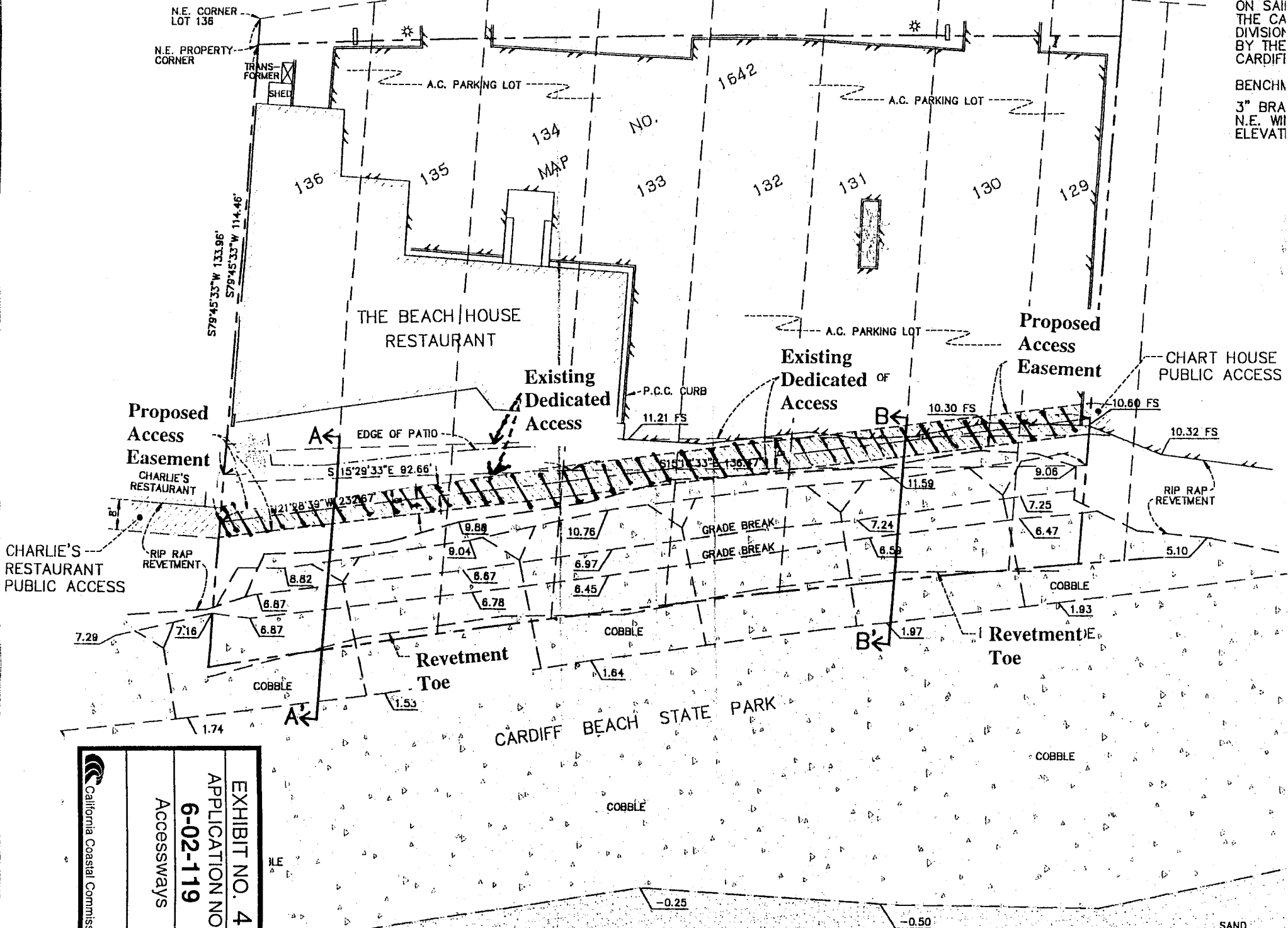

 EXHIBIT NO. 2
 APPLICATION NO.
 6-02-119
 Site Plan First Story


California Coastal Commission

SO COAST HIGHWAY

DIEGO
DEDICA
CLEMEN
ON SAN
THE CA
DIVISION
BY THE
CARDIFF

BENCH
3" BRA
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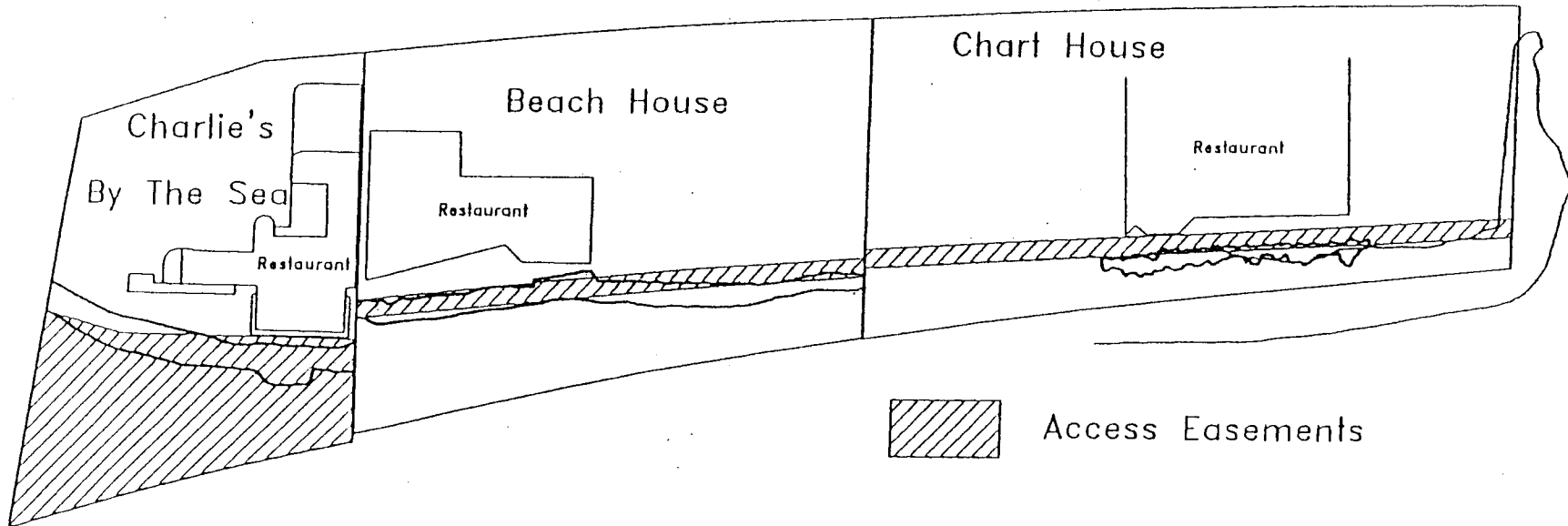



 California Coastal Commission
EXHIBIT NO. 4
APPLICATION NO.
6-02-119
Accessways

SAND

Access Easement Comparison
Charlie's By The Sea, Beach House, Chart House Restaurants
Cardiff by the Sea, San Diego County

2/2/99



Scale: 1 inch equals approximately 50 feet

Note: Locations approximate.
For illustrative purposes only.

Source: Permit file materials and plans

JVC, KJB, 1/99



California Coastal Commission

EXHIBIT NO. 6
APPLICATION NO.
6-02-119
Existing Easements
on Restaurant Row

Commission
Division



EAST REGIONAL COMMISSION
 LARGE ROAD, SUITE 220
 CALIFORNIA 92120-TEL. (714) 280-6992

MALCOLM A. LOVE
 Chairman

ROBERT C. FRAZEE
 Vice Chairman

JEFFERY D. FRAUTSCHY
 Representative to the
 California Coastal Zone
 Conservation Commission

THOMAS A. CRANDALL
 Executive Director

DEVELOPMENT PERMIT

DATE: October 9, 1976 **CONTROL NO:** F2857
APPLICANT: Triton Adventures, Inc.
 6011 El Cajon Bldg.
 San Diego, CA. 92115

AGENT: Jay Martin

PROJECT ADDRESS: 2530 So. Highway, Cardiff

You are hereby granted a development permit. This permit is issued after a hearing before the Commission and after the Regional Commission found that the proposed development will not have any substantial adverse environmental or ecological effect and is consistent with the findings and declarations set forth in Section 27001 and objections set forth in Public Resource Code Section 27302.

This permit is limited to development described below and set forth in material on file with the Commission, and subject to the terms, conditions, and provisions, hereinafter stated:

A. DEVELOPMENT:

Construction of a 2-story restaurant of approximately 6,000 sq. ft. in area which involves the removal of an existing wood frame structure of approximately 1,000 sq. ft. Total lot area is approximately 36,000 sq. ft. Approximate lot coverages: [Bldg. - 3,000 sq. ft. (8%), paving - 20,517 sq. ft. (57%), Sand - 10,000 sq. ft. (28%), Landscaping - 2,483 sq. ft. (7%)]. On-site parking is proposed for 33 autos. Reconstruction of an existing riprap wall will be involved, as will the erection of a 10 ft. high monument sign.

B. TERMS AND CONDITIONS:

1. That the applicant agrees to adhere strictly to the current plans for the project as approved by the Commission.
2. That the applicant agrees to notify the Commission of any substantial changes in the project.
3. That the applicant will meet all the local code requirements and ordinances, and obtain all necessary permits from State and Federal Agencies.
4. That the applicant agrees to conform to the permit rules and regulations of the California Coastal Zone Conservation Commission.
5. That the applicant agrees that the Commission staff may make inspections of the project during construction and upon completion.
6. That construction on the project will start within one year of the Commission's approval of the project by the San Diego Coast Regional Commission.

EXHIBIT NO. 8
APPLICATION NO.
6-02-119
Original Permit &
Dedication (pg. 1 of 9)
California Coastal Commission

Terms and Conditions are to run with the land. These terms and conditions shall be perpetual and it is the intention of the parties to bind all future owners and possessors of the subject property.

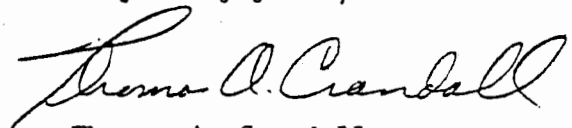
1/75

C. STANDARD PROVISIONS

- (1) STRICT COMPLIANCE: Permittee is under obligation to conform strictly to permit under penalties established by California Coastal Zone Conservation Act of 1972.
- (2) TIMELY DEVELOPMENT AND COMPLETION: Permittee shall commence development within one year following final approval of the project by the San Diego Coast Regional Commission. Completion of development shall occur no later than two years following Coast Commission approval of this permit.
- (3) ASSIGNABILITY OF PERMIT: This permit is not assignable unless the Permittee's obligations under the permit are assumed by assignee in writing within one year, and a copy of the required assumption agreement delivered to the Regional Commission.
- (4) APPEAL: Unless appealed to the State Commission within ten (10) working days following final action by the San Diego Coast Regional Commission, all terms and conditions shall be final.
- (5) DISCLAIMER: The permit is in no way intended to effect the rights and obligations heretofore existing under private agreements nor to effect the existing regulations of other public bodies.
- (6) PERMITTEE TO RETURN COPY: This permit shall not be valid unless within ten (10) days Permittee returns a signed copy acknowledging contents to San Diego Coast Regional Commission.

If you have any question on this permit, please contact the staff of the Regional Commission.

Very truly yours,



Thomas A. Crandall
Executive Director

Directions to Permittee: Permittee is to execute below and return one copy of this permit to the San Diego Coast Regional Commission.

I have read and understand the terms, conditions, limitations, and provisions of this permit and agree to abide by them.

Control No. F2857

Signature of Permittee

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described portions of said real property, but no other portion thereof, open to the public for access to the Pacific Ocean and its shoreline for walking and agrees that Dedicator shall not construct any improvements on or in said public access area. The area subject to said public access is the following portion of the real property described in said application, to wit;

That certain real property in the County of San Diego, State of California, described in Exhibit "A" attached and made a part hereof.

Said public access privilege shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development covered by said permit, or any modification of said development, remains in existence in or upon any part of the real property described in said application.

Nothing shall become payable to Dedicator, nor the heirs or assigns of Dedicator, for the public privilege herein set forth and Dedicator consents to said privilege being administered by any duly constituted public agency.

Executed the day above written.

By Leo Wayne Mullane
Leo Wayne Mullane

By Dolores Jeanne Mullane
Dolores Jeanne Mullane

R. J. & R. R. TOAL, INC.

CIVIL ENGINEERS, LAND PLANNERS AND LAND SURVEYORS

139 AVENIDA NAVARRO • SAN CLEMENTE, CALIFORNIA 92672

PHONE (714) 492-8586

RICHARD J. TOAL, RCE 14505
RAYMOND R. TOAL, RCE 16889

November 17, 1976

Job No. 3483

ENGINEER'S DESCRIPTION

An easement for public access over a portion of Lots 129, 130, 131, 132, 133, 134, 135 and 136 of Block H, Map No. 1642, in the County of San Diego, State of California filed in the office of the County Recorder of said San Diego County, said easement being 8.00 feet wide, lying 8.00 feet Easterly of the following described line;

Beginning at a point in the Northerly line of said Lot 136, said point being 114.46 feet Westerly from the Northeast corner of said Lot 136; thence South $15^{\circ}22'00''$ East, 92.66 feet; thence South $15^{\circ}10'00''$ East, 136.33 feet to a point in the Southerly line of the Northerly 20.00 feet of said Lot 129.

EXHIBIT "A"

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