

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4402
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F12a

Addendum

October 31, 2011

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To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item F12a**, Coastal Commission Permit Application
#F8945-A3 (Allison-Zongker, L.P.) for the Commission Meeting of
November 4, 2011.

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 3 of the Staff Report, Special Condition #1 shall be revised as follows:
 1. Off-Site Parking. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval, a La Jolla Planned District Joint Use Parking Agreement that conforms to the La Jolla PDO requirements for joint use parking for the provision of 4 additional off-site parking spaces approved by the City of San Diego Planning Director. The subject parking agreement shall document that the cumulative number of off-site parking spaces to be provided for use of Eddie V's restaurant patrons now totals 27 spaces. Said parking agreement shall provide that the proposed off-site parking spaces are located within ¼ mile of Eddie V's restaurant, are provided exclusively for use by Eddie V's restaurant during hours of operation (applicant must demonstrate the proposed off-site parking spaces are not currently required for any other use or business), and include the recordation of deed and lease restrictions on both sites (Eddie V's site and off-site parking site) documenting the reservation of the required parking spaces.
2. On Page 4 of the Staff Report the following shall be added as new Special Condition #4:
 4. Hours of Operation: The restaurant/lounge is authorized to be open for business evenings 7 days of the week, however, shall only open for lunch on weekends and holidays.
3. The attached exhibit shall be added as Exhibit #4 to the staff report

Special Conditions of F8945-A1 and F8945-A2

1. Vertical Access.

- A. The applicant shall construct a 5-foot wide vertical accessway along the east (northeast) boundary of the property extending from Prospect Street to Coast Boulevard. The accessway shall remain open to the general public from 8:00 a.m., to sunset daily and may incorporate retractable gates. Said gates shall be composed of transparent materials to enhance public views in the visual access corridor.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above requirements.

The deed restriction shall include legal descriptions of the landowners' entire parcels. 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. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Off-Site Parking. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a La Jolla Planned District Joint Use Parking Agreement that conforms to the La Jolla PDO requirements for joint use parking for the provision of 23 off-site parking spaces approved by the City of San Diego Planning Director. Said parking agreement shall provide that the proposed off-site parking spaces are located within ¼ mile of the Chart House, are provided exclusively for use by the Chart House during hours of operation (applicant must demonstrate the proposed off-site parking spaces are not currently required for any other use or business), and include the recordation of a deed restriction on both sites (Chart House site and off-site parking site) documenting the reservation of the required parking spaces.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant and the landowners of the Chart House site and the parking garage site shall execute and record deed restrictions, in form and content acceptable to the Executive Director, documenting the reservation of parking spaces as required by the terms of this condition. The deed restrictions shall include a legal description of the entire parcels. The deed restrictions 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 restrictions. These deed restrictions shall not be removed or changed without a Commission amendment to this coastal development permit.

EXHIBIT NO. 4
APPLICATION NO. F8945-A3
Prior Special Conditions
Page 1 of 4
 California Coastal Commission

3. Conditions Imposed by Local Government. This action has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act.

4. Reduction in Height of Existing Structure. The applicant shall reduce the height of the portion of the structure identified as the “Kellogg Addition” (shown in Exhibit Nos. 6 & 7—to no more than 30 ft. in height within 90 days of the issuance of this amendment. The Executive Director may grant additional time for good cause.

5. Previous Conditions of Approval CDP #A-6-LJS-91-168-R. By acceptance of this permit, the applicant acknowledges that this permit does not change the requirements to incorporate all design elements that have been determined to be historically and/or architecturally significant and worthy of incorporation by the Executive Director in consultation with the State Historical Building Safety Board into future development in the restricted area of the site (Lots 30 and 31) pursuant to Special Condition No. 1 and 2 of CDP #A-6-LJS-91-168-R (Green Dragon Colony) which was subsequently amended pursuant to CDP #A-6-LJS-91-168-R-A2.

6. Landscaping Plan/Deed Restriction. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan. Said plan shall be in substantial conformance with the draft landscape plan submitted 1/3/02 by Mosher Drew Watson Ferguson, and shall including the following:

- a. A plan showing the type, size, extent and location of all trees on the site with special emphasis on the installation of new landscaping in a manner that does not obstruct public views toward the ocean in the west and east side yard setback areas.
- b. Drought tolerant native or non-invasive plant materials shall be utilized.
- c. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion residential construction
- d. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.
- e. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan and that public views are maintained in the sideyard setback areas as approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of the view corridors, plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved

pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, that reflects the above requirements. The restriction shall provide that landscaping shall be implemented in accordance with Special Condition #5 and consistent with those plans approved with CDP #F8945-A2. The document shall run with the land for the life of the structures approved in this permit, 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. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

7. Sign Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director a plan for signage related to the vertical accessway and to the location of the off-site parking. The accessway signage shall consist of two monument or wall signs and shall clearly indicate the availability of the public vertical accessway for use by the public. The signs shall be placed near the subject stairway along both the Prospect Street and Coast Boulevard frontages of the site in a location visible to members of the public.

Additional signage shall also be installed on the Chart House restaurant site directing the public to the location of the off-site parking. Signage shall also be installed at the parking lot where the off-site parking is proposed to be located identifying the hours and use of the lot for Chart House patrons. All the above-described signage shall consist of monument or wall signs only. No tall, free-standing pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director.

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

8. Use of Outdoor Dining Area Near Front Entrance to Restaurant. The outdoor patio at the main entrance to the restaurant on Prospect Street may not be used as dining area. Any changes to the patio area for the serving of food and beverages shall require a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Construction Staging/Storage. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans showing all locations which will be used as staging and storage areas for materials and equipment during the construction phase of this project. The staging/storage plan shall first be approved by the City of San Diego and submitted for review and written approval of the Executive Director. The plans shall also include the following provisions:

- a. Use of public walkways and public parking areas, including on-street parking for the interim storage of materials and equipment shall not be permitted.
- b. Care shall be taken during construction to assure that equipment and stored materials protect and preserve existing landscaping and structures on the site and adjacent properties.

The permittee shall undertake development in accordance with the approved staging/storage 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 an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Visual Access Corridor. Prior to occupancy of the proposed new additions to the restaurant, the applicant shall remove the gate and fencing west of the existing restaurant to provide a 7-foot wide visual access corridor across the subject site.

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F12a

Staff: M.Ahrens-SD
 Staff Report: 10/13/11
 Hearing Date: 11/2-4/11

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: F8945-A3

Applicant: Chart House Enterprises

Agent: Brian Fish/ Luce Ford

Original

Description: Expansion of existing 3,566 sq. ft. restaurant into approximately 1,233 sq. ft. area formerly occupied by retail dress shop. Total restaurant area is approximately 4,799 sq. ft.

Proposed

Amendment: Convert an existing 710 sq. ft. roof area to outdoor dining space at an existing 6,567 sq. ft. restaurant located on a .91 acre site. Also proposed is the reservation of 4 additional off-site parking spaces in an existing parking lot for the use of the restaurant.

Site: 1270 Prospect Street, La Jolla, San Diego, San Diego County.
 APN 350-050-17

Summary of Staff's Preliminary Recommendation:

The proposed project represents an amendment to a former coastal development permit for the use of an existing 710 sq. ft. roof area as an additional dining area for the existing Eddie V's restaurant. The subject restaurant was previously the site of the Chart House restaurant, which underwent significant renovation, expansion and reconstruction pursuant to F8945, F8945-A1 and F8945-A2.

Staff recommends that the Commission approve the proposed permit amendment subject to special conditions. The project raises concerns regarding views and the availability of parking for the subject restaurant since the existing restaurant does not currently include or have the ability to provide any on-site parking and is located within the downtown area of La Jolla, where parking is severely constrained. The proposed project is consistent with all previous special conditions and deed restrictions in effect on the subject site and will not expand the existing building footprint or height of the subject structure. The specific roof area proposed for use as an outdoor dining area is located on the westward side of the structure, views of which are blocked from Prospect Street by other taller

portions of the existing restaurant. As such, the addition of tables, chairs and umbrellas to this area will not be visible from Prospect Street, when looking westward, and will not encroach into or obstruct any existing public ocean views. To reconcile any parking deficiencies resulting from the proposed dining area addition, the applicant is proposing to deed restrict the use of four (4) additional parking spaces in a parking structure located across the street from the subject restaurant. Posting of appropriate signage directing customers and members of the public that such additional parking is available across the street is required in front of the existing restaurant building.

To ensure that the additional 4 parking spaces are available for restaurant parking, staff is recommending Special Condition #2, which requires that the applicant record deed and lease restrictions for the required parking as well as provide a Joint Use Parking Agreement that conforms to the La Jolla PDO requirements for joint use parking for the provision of 4 off-site parking spaces approved by the City of San Diego Planning Director. Therefore, as conditioned, the staff has determined that the proposed project is consistent with the certified LCP.

Standard of Review: Certified City of San Diego Local Coastal Program.

Substantive File Documents: Certified La Jolla Planned District Ordinance; Certified La Jolla-La Jolla Shores LCP Addendum Land Use Plan; City of San Diego CDP/SCR/LJPD #98-0755 – approved 5/2/00; City of San Diego Manager’s Report dated 3/21/00; City of San Diego Memorandum to City Council dated 4/21/00; Mitigated Negative Declaration LDR No. 98-0755 dated 11/16/99; Historical Assessment of the Chart House Restaurant/Wahnfried Building by Scott Moomjian, M.S., J.D. and Dr. Ray Brandes in consultation with Marie Burke Lia, Attorney at Law – Revised June, 1999; Stall Vacancy Counts for downtown La Jolla by Ace Parking dated July 9, 2001; CCC CDP#s F8945, F8945-A1 and A2, F99655 and #A-93-81.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. F8945 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of the certified LCP. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. **Off-Site Parking. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval, a La Jolla Planned District Joint Use Parking Agreement that conforms to the La Jolla PDO requirements for joint use parking for the provision of 4 off-site parking spaces approved by the City of San Diego Planning Director. Said parking agreement shall provide that the proposed off-site parking spaces are located within ¼ mile of Eddie V's restaurant, are provided exclusively for use by Eddie V's restaurant during hours of operation (applicant must demonstrate the proposed off-site parking spaces are not currently required for any other use or business), and include the recordation of deed and lease restrictions on both sites (Eddie V's site and off-site parking site) documenting the reservation of the required parking spaces.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant and the landowners of the Eddie V's site and the parking garage site shall execute and record deed and lease restrictions in a form and content acceptable to the Executive Director, documenting the reservation of four additional off-site parking spaces, as required by the terms of this condition. The deed and lease restrictions shall include a legal description of the entire parcels. The deed and lease restrictions 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 restrictions. These deed and lease restrictions shall not be removed or changed without a Commission amendment to this coastal development permit.

2. **Sign Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director a plan for signage related to the location of the off-site parking. Signage shall be installed on the Eddie V's restaurant site directing the public to the location of the off-site parking. Signage shall also be installed at the parking lot where

the off-site parking is proposed to be located identifying the hours and use of the lot for Eddie V's patrons. All the above-described signage shall consist of monument or wall signs only. No tall, free-standing pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director.

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

3. Prior Conditions of Approval. All prior conditions of approval of coastal development permit #F8945, F8945-A1 and F8945-A2, not specifically revised herein, shall remain in full force and effect.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Amendment Description/Permit History. The proposed amendment consists of the conversion of an existing 710 sq. ft. roof area to outdoor dining space to be utilized by the existing Eddie V's restaurant. The existing restaurant was renovated and constructed pursuant to CDP Nos. F8945, F8945-A1 and F8945-A2, which included special conditions regarding the parking requirements for the restaurant, deed restrictions, signage for parking and an adjacent public access stairway, landscaping, and construction staging and storing. Currently the subject restaurant provides 6,567sq. ft. of dining area and 23 off-site parking spaces in a nearby parking garage, in compliance with the Special Conditions of CDP Nos. F8945-A1 and A2. The proposed 710 sq. ft. addition of outdoor dining area would require 3.55 parking spaces to be found consistent with the La Jolla PDO, which stipulates that one space per each 200 sq. ft. of gross floor area must be provided for restaurant uses (including outdoor dining). As such, the applicant is proposing to provide 4 off site parking spaces that will be available to the public during the restaurant's hours of operation pursuant to a deed restriction as well as a La Jolla Planned District Joint Use Parking Agreement.

The subject restaurant is located on a sloping site that consists of three lots (Lots 30-32) which are bounded by Prospect Street to the southeast and Coast Boulevard to the northwest. The Eddie V's restaurant is within 300 feet of the coast. The restaurant is largely situated on Lot 32 with a portion of the restaurant extending towards the south onto Lot 31 of the site. The Green Dragon Colony previously existed at the far northern portions of Lots 30 and 31 of the subject site. This part of the subject site currently remains vacant and undeveloped. Coast Boulevard is the first public road in the area. Due to the configuration of the coastal bluffs and shoreline in this area, the ocean is northwest of the subject site. The site is located in the commercial core area ("village") of downtown La Jolla in the City of San Diego, which is a major visitor destination point. The site contains retail and restaurant leaseholds. The subject restaurant fronts on

Prospect Street and overlooks Ellen Scripps Browning Park, La Jolla Cove, La Jolla Caves and Goldfish Point to the west. The restaurant is a split-level structure (three levels) with its upper level fronting on Prospect Street. Additional retail shops are located at a lower level.

In 1981, the Regional Commission approved CDP application #F9655 for the replacement of a portion of the restaurant (1,233 sq. ft.) that was destroyed by a fire and a 391 sq. ft. addition. Because the proposed expansion exceeded the square footage of the destroyed portion of the restaurant by more than 10%, the replacement and addition did not qualify for an exemption from permitting requirements pursuant to Section 30610(g) of the Coastal Act. That permit was subsequently appealed by the Sierra Club and the project was approved pursuant to CDP application #A-93-81 in May, 1981. However, because the applicant did not comply with the prior to issuance conditions of the permit, the permit was not issued and subsequently expired.

Pursuant to CDP #F8945, a 1,233 sq. ft. addition was permitted to the then existing 3,566 sq. ft. two-level restaurant for a total floor area of 4,799 sq. ft. No parking was required because the expansion did not result in a significant increase in intensity of use of the site. The Commission found that the existing restaurant (prior to the expansion) contained 31 tables for dining and cocktails. After the proposed expansion, the restaurant would have 33 tables. In addition, because the Chart House was only proposing to be open in the evening hours after 5:30 PM, the Commission found that the parking supply in the area was adequate to accommodate both restaurant patrons and visitors to the coast.

CDP amendment Nos. F8945-A1 and F8945-A2 were submitted simultaneously in 2002 to address unpermitted development that had occurred as well as to provide for improvements to the available public parking supply for the subject restaurant. F8945-A1 was for after-the-fact approval of 1,768 sq. ft. additions to the three-level restaurant and a reduction in height to 30 feet (of a small area of the addition) and reservation of 9 off-site parking spaces in an existing parking lot for the use of the restaurant. F8945-A2 involved an amendment to permit 2,760 sq. ft. of additional floor area to the existing restaurant, resulting in a total square footage of 9,327 sq. ft. (including restaurant and retail space). As part of F8945-A2 the applicant submitted a deed restriction stipulating that a public vertical accessway along the east side of the site would remain open to the public and that 14 off-site parking spaces for the proposed new addition would be provided in a parking garage across the street. The proposed addition to the restaurant was at its southeastern side at the main level. F8945-A2 also allowed for construction of a 535 sq. ft. dining deck at the western portion of the main level of the restaurant and a 724 sq. ft. outdoor dining deck at the upper level of the restaurant. After the proposed rehabilitation, remodel and additions, the restaurant currently exists as a three-level structure with dining on two levels. The proposed permit amendment would convert 710 sq. ft. of roof area into outdoor dining area that was not previously authorized in F8945-A1 or F8945-A2.

The City of San Diego has a certified LCP and has been issuing coastal development permits in La Jolla since 1988. However, because the subject application is an

amendment to a Coastal Commission-issued CDP, the Commission has jurisdiction over the proposed amendment. The standard of review is the certified La Jolla-La Jolla Shores LCP Land Use Plan Addendum, the La Jolla Planned District Ordinance and the certified Land Development Code.

2. Parking. The certified La Jolla-La Jolla Shores LCP states, “a key component of adequate access is maintenance of existing facilities, including stairways, pathways, and parking areas.” The La Jolla PDO contains detailed requirements concerning the provision of parking. The Commission acknowledges that based on past Commission action on coastal development permits that were reviewed and approved by the Commission before the City’s LCP was certified, that parking shortages and traffic circulation congestion were well documented in the downtown La Jolla area. The area continues to be a highly popular tourist and visitor-destination area and parking is at a peak demand. Currently, there are no on-site off-street parking spaces provided for the restaurant nor is there any room on the subject site to provide such spaces. The structure that houses the restaurant was constructed in 1904 and the restaurant has not had any on-site off-street parking since it opened in this structure. As noted earlier, the site consists of several retail/office/restaurant structures and when the Commission approved F8945 for the 1,233 sq. ft. addition, no additional parking was required. However, with the subsequent two amendments, the Commission required that a total of 23 parking spaces be provided. Consistent with the certified LCP, because there is no ability to provide those spaces on site, the Commission allowed the applicant to satisfy this requirement by provided the spaces off-site in a nearby parking garage.

The applicant proposes 4 off-site parking spaces to accommodate the proposed 710 sq. ft. outdoor dining area addition, consistent with the requirements of the certified La Jolla PDO. The PDO provides that one space per each 200 sq. ft of gross floor area must be provided for restaurant uses. At this ratio, the 710 sq. ft. addition would require 3.55 spaces (rounded up to 4). The applicant is proposing 4 off-site parking spaces consistent with these requirements. The La Jolla PDO permits off-site joint use parking subject to a Special Use Permit provided that the multiple uses of the parking spaces do not conflict with individual parking needs, that the parking facilities are located within a quarter mile (approximately 1,300 feet) radius of the project site and that a La Jolla Planned District Joint Use Parking Agreement application is submitted to the Planning Director.

The proposed off-site parking is located in a below grade parking garage facility located at 1299 Prospect Street, across the street from the subject restaurant. (Nine spaces are provided for F8945-A1 and 14 spaces are provided under F8945-A2). The applicant has submitted calculations for the hourly usage of the off-site parking garage that indicate the availability of 4 extra parking spaces to accommodate restaurant parking during hours of operation. The proposed off-site parking will be exclusively reserved for the Eddie V’s restaurant during its hours of operation.

The supply of parking in the downtown area of La Jolla is very limited and there may never be sufficient parking to meet the demands of those who would like to park there, including coastal visitors and patrons of the retail establishments in this nearshore area.

Off-site parking is limited and often only available during the evening hours and on weekends when it does not conflict with the needs for daytime businesses and offices in the area. However, in this particular case, with the provision of 4 off-site parking spaces dedicated to serving the patrons of Eddie V's, no impacts on public access and traffic circulation in the downtown area of La Jolla are expected to occur as a result of the proposed development.

The Commission acknowledges that in this particular case, with the provision of 4 off-site parking spaces, the parking requirements for the outdoor dining area addition will be provided. To assure this occurs, the Commission is requiring through Special Condition #1, that the applicant comply with the requirements of the La Jolla Planned District Ordinance for the provision of 4 off-site parking spaces and that such parking be secured through a Planned District Joint Use Parking Agreement. In addition, this condition requires that the approved parking agreement provide that the proposed off-site parking spaces are located within ¼ mile of the subject restaurant, are provided exclusively for use by the subject restaurant building and not currently required for any other use or business and include the recordation of deed and lease restrictions on both sites documenting the reservation of the required parking spaces. Only as conditioned, can the proposed development be found consistent with the certified LCP.

3. Heritage vs. Historic Structure. The subject restaurant structure has been designated as a "Heritage Structure" as provided in the LCP. Section 103.1203(B)(17) of the La Jolla PDO defines a heritage structure as:

A heritage structure shall be defined as any building or structure which is found by the City of San Diego Historical Sites Board as worthy of preservation.

Specifically, the City of San Diego Historical Sites Board (HSB) concluded in 1996 that the Chart House (now Eddie V's restaurant) was a heritage structure, finding that as one of the structures designed by architect Robert Mosher at the Green Dragon Colony site, it is: "an integral part of a neighborhood development style; an important 'part of the scene' or urban development; and ...worthy of preservation". The certified LCP does not limit or prohibit changes to existing heritage structures. The certified LCP allows for changes to such structures provided that those portions and features of historic, architectural and cultural significance are maintained. The HSB endorsed the proposed locations and designs of all historic features, and required that a visual display of the history of the site be provided to educate the public to the site's history. The HSB also required the reconstruction of an original Wahnfried interior fireplace with mantle and several other design measures associated with its heritage structure status.

Through the previous amendments, the applicant was also required to retain and restore some of the existing historical resources within the restaurant building, such as the historical stone fireplace built with the original construction of the historic structure as well as some of the historic wooden ceiling beams. These historical building elements are located on the main floor level of the subject restaurant, some distance away from the roof area proposed for outdoor dining and are not affected by the proposed added dining

area. As such, the use of the existing 710 sq. ft. roof area for outdoor dining will not have any impact on the integrity or maintenance of the existing historical resources on site.

4. Public Views. The certified PDO requires that visual access be provided in connection with the proposed development. Specifically, Section 103.1206 F.1. of the La Jolla PDO states the following:

In Subareas 1A, 5A and 6A on the seaward side of Prospect Street, in order to provide for visual access corridors to the ocean, buildings shall be located so that the major axis of the structure will generally be at a right angle to the shoreline. An open visual access corridor of ten percent of the lot width shall be maintained open to the sky and free from all visual obstructions from the front property line to the rear property line of the project.

Refuse collection and loading areas shall not be located in any way that interferes into the visual access corridor. (see Appendix B).

Furthermore, the certified La-La Jolla Shores LCP Addendum contains the following applicable provisions, as well:

B. 1) Urban Design

In this section, several urban design guidelines have been developed for general application to the entire core of La Jolla including, commercial areas, and where applicable, the adjacent R-3 residential areas. These guidelines will be used as the basis for the development of a design overlay zone or planned district as discussed in the section on implementation.

Guidelines

(1) The Natural Environment

- Structures should be designed to incorporate views of La Jolla's natural scenic amenities—especially the ocean, shoreline, and hillsides. Developments in prime view locations which are insensitive to such opportunities, diminish visual access and compromise the natural character of the community. Large windows, observation areas, outdoor patios, decks, interior courtyards, elevated walkways, and other design features can be used to enhance visual access and increase the public's enjoyment of the coast.... [Emphasis added] (p. 120)

The subject 30 ft. high restaurant is located on the upper portion of the subject site fronting Prospect Street, and currently blocks the majority of public ocean views that could be available to the public when looking seaward from Prospect Street. The subject upper deck will be constructed along the seaward side of the restaurant and is separated

from Prospect Street by existing portions of the building. The upper deck does not extend into any identified public view sheds, nor is it visible from Prospect Street. Public ocean views are currently available on the subject site from a public stairway extending down from Prospect Street, as well as from a public viewpoint adjacent to the subject building. The bulk and height of the existing structure is already obstructing public ocean views to the extent that the use of the subject upper deck area for dining will not result in any obstruction or impediment to the availability of public ocean views in this area of La Jolla. Thus, the Commission finds that the proposed development will not result in any adverse impacts to visual resources or public views, consistent with the visual resource policies of the certified LCP.

5. Public Access. The certified LCP protects physical access to the beach and ocean. The subject site is not between the first public road and the sea; however, it is located within 300 feet of the coastal bluffs. The La Jolla-La Jolla Shores LCP Addendum contains the following policies addressing protection of public access:

“La Jolla’s relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved.” (p. 9)

New development should not prevent or unduly restrict access to beaches or other recreational areas” (p. 10)

The maximum use and enjoyment of La Jolla’s shoreline is dependent upon adequate public access. Major recreational areas include La Jolla Shores Beach, Ellen Scripps Park, Coast Boulevard Park,(p. 11)

The Commission finds that it is important to retain whatever vertical access presently exists in this location as the policies of the certified LCP call for the protection and improvement of existing physical access. There is a walkway/existing stairway on the subject site that leads from Prospect Street to Coast Boulevard along the east side of the existing restaurant which has been used for several years. As part of CDP Amendment Nos. F8945-A1 and A-2, the applicant was required to deed restrict the aforementioned stairway as a 5-foot wide vertical accessway and make it available for public use from 8 A.M. to sunset daily. The stairway is parallel to another stairway on the property immediately to the east known as Coast Walk. The Commission finds that retention of the stairway on the subject site for vertical access is important because the certified LCP calls for enhancing public access opportunities. The proposed dining deck addition on the roof will have no impact on the continued provision of access for the public on this stairway. As such, the proposed project is consistent with the certified LCP.

6. No Waiver of Violation. Special Condition #6 of CDP amendment #F8945-A2 required the applicant to install signage on the subject restaurant site directing the public to the location of off-site parking. Signage was also required to be installed at the parking garage where the restaurant’s off-site parking is provided identifying the hours and use of the lot for the restaurant’s patrons. Currently there are no parking signs or any

identifiable notification that parking is available off-site at either the restaurant site or at the parking garage designated for use of off-site restaurant parking.

Although Special Condition #6 of F8945-A2 pertaining to signage has not been satisfied prior to the submission of this amendment request, consideration of the request by the Commission has been based solely upon the certified City of San Diego LCP. Commission action on the permit amendment does not constitute a waiver of any legal action with regard to the alleged violation of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

7. Local Coastal Planning. The subject site is located within the community of La Jolla within a segment of the City of San Diego's certified LCP. The subject site is located within the City of San Diego's permit jurisdiction which is within the Commission's area of appeal jurisdiction. However, the applicant is amending a previously-approved permit issued by the Commission prior to certification of the City's LCP. Therefore, the Commission retains permit jurisdiction over the amendment and the standard of review is the certified LCP.

The site is currently zoned "1A", a subarea of Zone 1, which includes the primary retail and visitor-oriented commercial area in the core of La Jolla. The area is characterized by high levels of pedestrian activity, as identified in the La Jolla PDO. Subarea 1A is comprised of the area on the seaward and north side of Prospect Street. This subarea has been created due to its unique orientation to the ocean. As such, the La Jolla PDO addresses development standards for the protection and enhancement of public ocean views in this area. The proposed project is consistent with the certified La Jolla PDO. Therefore, the Commission finds that approval of the amendment, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its fully-certified LCP for the La Jolla area.

8. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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.

As discussed above and incorporated herein by reference, the proposed project has been conditioned in order to be found consistent with the public access policies of the certified LCP. The provision of 4 off-site parking spaces will minimize all adverse impacts to coastal access. As conditioned, there are no feasible alternatives or 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 project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

(G:\San Diego\Reports\Amendments\1980s\F8945-A3 Eddie V's Restaurant stf rpt.doc)

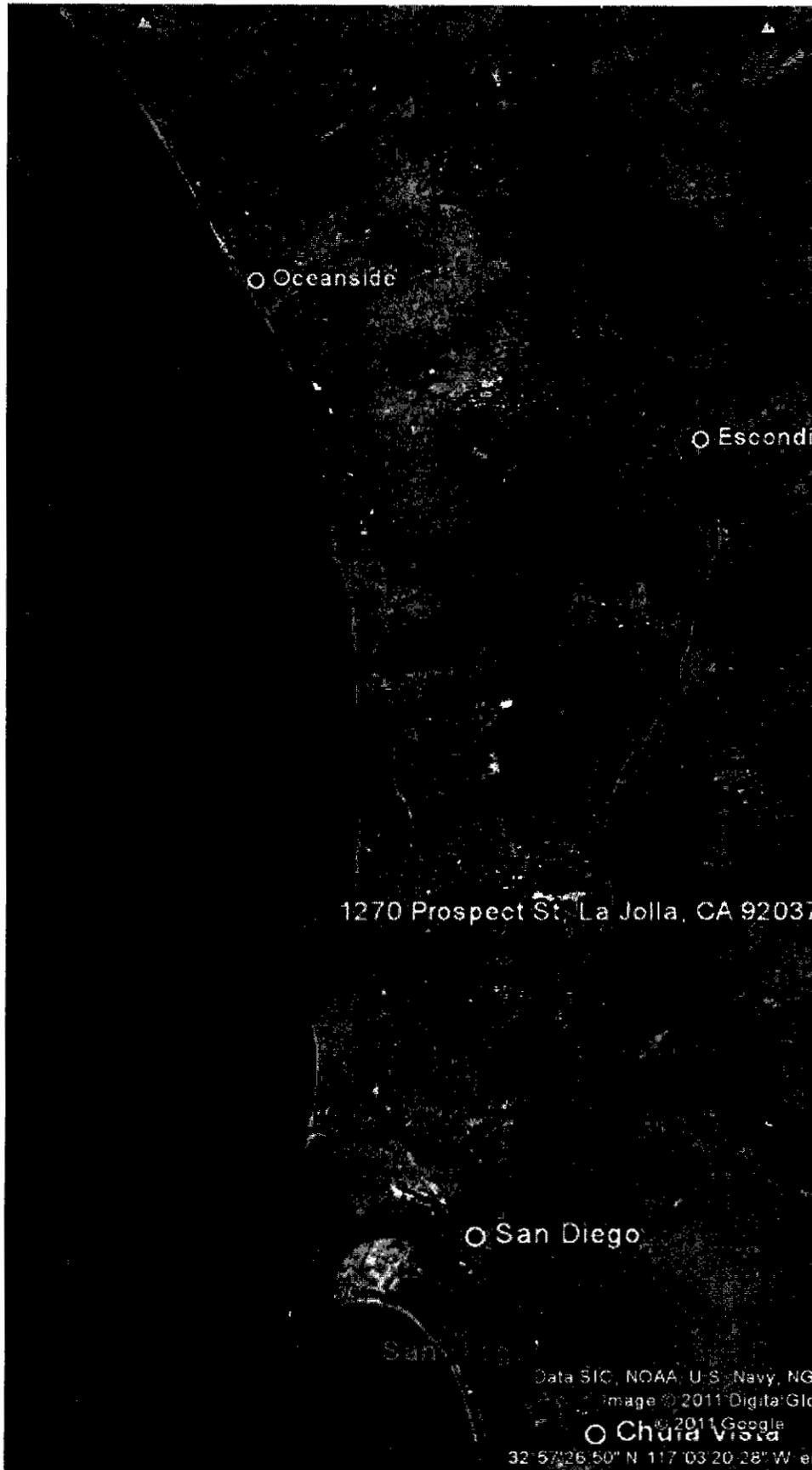
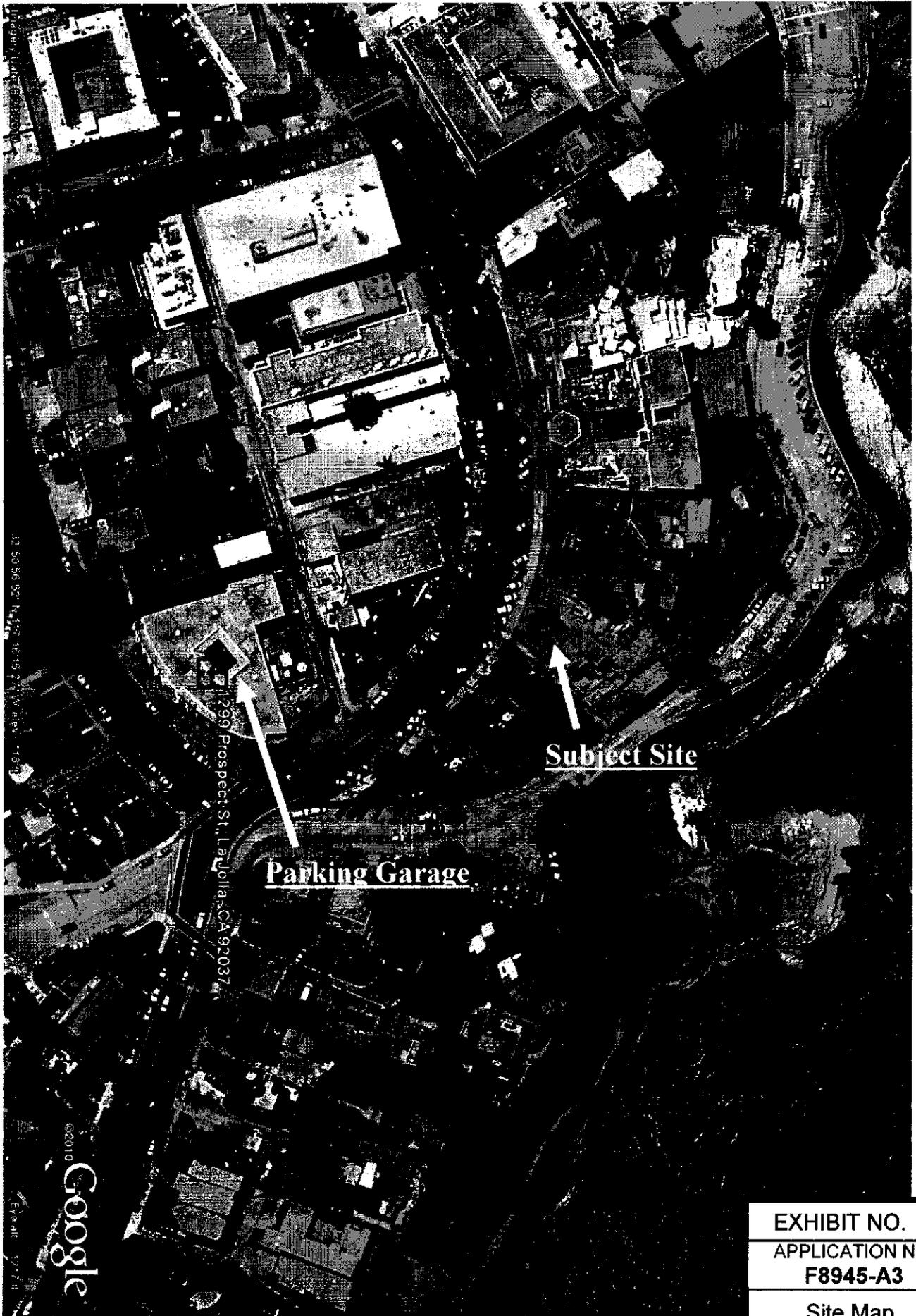


EXHIBIT NO. 1
APPLICATION NO. F8945-A3
Location Map
 California Coastal Commission



©2010 Google
Earth 12/7/11
37.505682° N, 122.461616° W, Elev. 1133'

Subject Site

Parking Garage

299 Prospect St., La Jolla, CA 92037

EXHIBIT NO. 2
APPLICATION NO. F8945-A3
Site Map
 California Coastal Commission

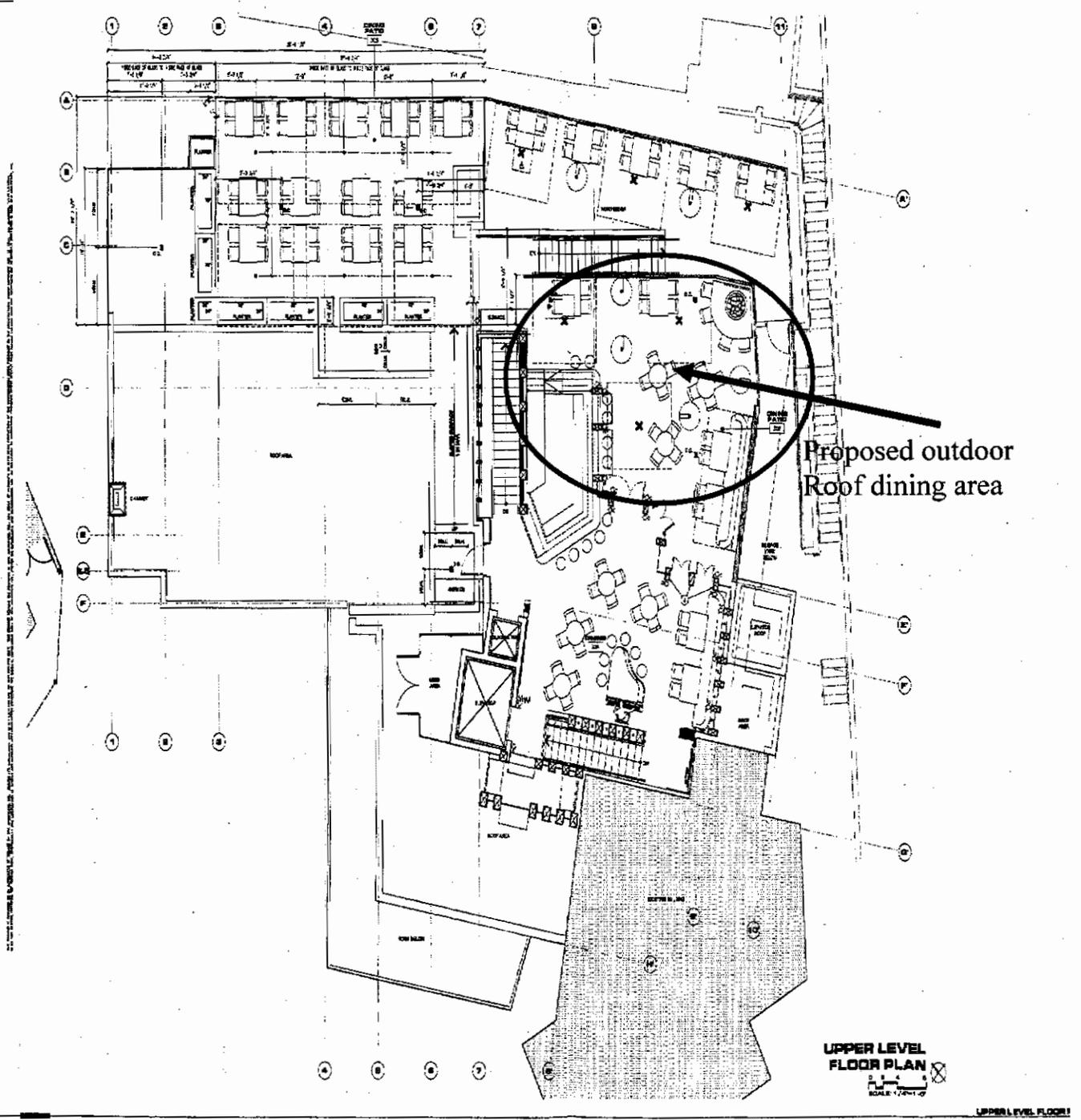


EXHIBIT NO. 3
APPLICATION NO. F8945-A3
Site Plan
 California Coastal Commission