

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



[Click here to go to
the original staff report](#)

Th 5.1 & 5.3

ADDENDUM

March 7, 2017

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: **ADDENDUM TO ITEM NOS. TH 5.1 & 5.3 – CONSENT CEASE AND DESIST ORDER NO. CCC-17-CD-01 AND CONSENT ADMINISTRATIVE PENALTY NO. CCC-17-AP-01 (LA COSTANERA) FOR THE COMMISSION MEETING OF March 9, 2017**

I. Documents Received:

Documents included in this addendum are the following letters in support of the staff recommendation for the Consent Cease and Desist Order and Consent Administrative Penalty:

1. *Letter of Support from San Mateo County Planning, dated March 2, 2017*
2. *Letter of Support from Chris Spohrer, California State Parks, dated March 2, 2017*
3. *Letter of Support from Lennie Roberts, Committee for Green Foothills, dated March 3, 2017*
4. *Letter of Support from Lisa Ketcham, Midcoast Community Council, dated March 3, 2017*
5. *Letter of Support from Mary Larenas, dated March 3, 2017*
6. *Letter of Support from Kris Lannin and Michael Liang, dated March 3, 2017*
7. *Letter of Support from Edmundo Larenas, Surfrider, dated March 3, 2017*
8. *Letter of Support from Suzanne Hawley and Russell Rosenberg, dated March 4, 2017*
9. *Letter of Support from Deborah Lardie, dated March 5, 2017*

II. Commission Staff Response to letter of support from Ms. Lisa Ketcham, and letter of support from Ms. Suzanne Hawley and Mr. Russel Rosenberg:

The letter from Ms. Ketcham and the letter from Ms. Hawley and Mr. Rosenberg address stormwater runoff on the property. Enforcement staff has confirmed with San Mateo County that Respondents, as part of an application pending with the County, are in the process of working with the Montara Water and Sanitary District and the County to ensure that all runoff from the restaurant's maintenance area is directed appropriately and will not affect adjacent areas.

III. Changes to staff report

Commission staff hereby revises its March 1, 2017 staff report and, thereby, its recommended findings in support of the Consent Cease and Desist Order & Restoration Order. Language to be added is shown in *italic and underlined*, as shown below:

1. Page 11, paragraph 2 should read as follows:

On February 17, 1984, the County approved, with four special conditions, CDP 83-676, providing authorization to construct a 460 linear-foot rock revetment across the coastal bluff, reconstruct two parking lots, and install a storm drainage system in the parking lots of the existing restaurant (Exhibit 6). Condition No. 2 of the County's CDP required the construction of "an access ramp from the top of bluff to the beach...", which resulted in the construction of the cement public access stairway immediately seaward of the restaurant that is still in existence today. Condition No. 3 of the CDP required the property owner to maintain public access on a walkway between the north and south parking lots that serve the restaurant. At the same hearing, the County also approved an amendment to the County's Use Permit that included six conditions, including a condition requiring that free public access to the beach be maintained; and a condition requiring that the restaurant open only after 5:00 P.M. (Exhibit 6) Thus, the revetment itself is permitted. However, in a March 7, 2016 conversation with San Mateo County Planning Staff, the County staff indicated that there may have been additional work done to the revetment without County or Coastal Act authorization sometime prior to 2006. This is within the County's permitting jurisdiction, and at this point the County is taking the lead in addressing this separate matter through the CDP that authorized the revetment, or through future use permits for the restaurant. County staff have indicated that they will continue to coordinate with Commission staff regarding this separate matter.

Del Arroz, John@Coastal

From: Camille Leung <cleung@smcgov.org>
Sent: Thursday, March 02, 2017 3:30 PM
To: Del Arroz, John@Coastal
Cc: Monowitz, Steve@San Mateo County
Subject: County's Comments on the Consent Cease and Desist Order for 8150 Cabrillo Highway

Hi John,

Steve Monowitz, Community Development Director, and I would like to express the County's support of the recommendations of the Consent Cease and Desist Order for 8150 Cabrillo Highway. The recommendations would help to resolve significant use and construction violations that have been identified by the County and for which resolution has been sought for a number of years. Additionally, the recommendations will provide for necessary beach access improvements. We thank you for your efforts towards a resolution with the property owner and look forward to working the property owner to implement the recommendations at the County-level in a timely manner.

Thank you

Camille Leung, Senior Planner
Planning & Building Department
455 County Center, 2nd Floor
Redwood City, CA 94063
Phone - 650-363-1826
Fax – 650-363-4849



DEPARTMENT OF PARKS AND RECREATION
SANTA CRUZ DISTRICT
303 BIG TREES PARK RD.
FELTON, CA 95018

Lisa Ann L. Mangat, Director

March 2, 2017

John Del Arroz
Statewide Enforcement Analyst
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Resolution for Violation No: V-2-11-008

Dear Mr. Del Arroz:

I am writing on behalf of the Santa Cruz District of California State Parks to express support for the pending resolution of public access violations and non-compliance with CDP P-77-579 at the La Costanera Restaurant in San Mateo County. Conditions of the resolution including reducing impacts to adjacent public parking, installation of interpretive signs, pedestrian improvements and a monetary penalty to be used for public access improvements will clearly benefit visitors to Montara State Beach.

Thank you for keeping me apprised throughout the process and for seeking remedies to benefit public access and public enjoyment at Montara State Beach.

Sincerely,

Chris Spohrer
District Superintendent
Santa Cruz District



March 3, 2017

Dayna Bochco, Chair and Members,
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Items Th5.1 and Th5.3: Cease and Desist Order No. CCC-17-CD-01 and Consent Administrative Civil Penalty CCC-17-AP-01 (La Costanera Restaurant)

Dear Chair Bochco and Commissioners,

On behalf of Committee for Green Foothills, (CGF), I write in strong support of the Staff Recommendation that your Commission issue the above-referenced Cease and Desist Order and Consent Administrative Civil Penalty Action which include the following: (1) cease and desist from conducting any further unpermitted development on the Property, (2) cease use of the restaurant prior to 5:00 pm, (3) remove the “upper” patio and restore the impacted area, (4) request after-the-fact approval of the “lower” patio, and (5) resolve civil liabilities by paying a total of \$500,000 and completing public access projects including signage, installing a public viewing area, and pedestrian improvements on and near the property to create a portion of the Coastal Trail.

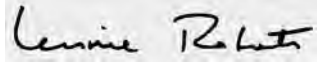
CGF has a long standing interest in this property, dating back to the original Coastal Development Permit issued by the Commission in 1977.

La Costanera is located on the bluffs overlooking Montara State Beach. This popular beach has a high level of visitation on sunny days, particularly on weekends. There is very limited beach access parking, and visitors often park along both sides of Highway One and risk crossing the busy highway. The limitations on hours of restaurant and allowable number of seats in the restaurant/bar that were crafted as part of your CDP (P-77-579) were a reasonable balance between the private, commercial use of this site and its potential adverse impact on public access to the adjacent public beach. As Montara State Beach has become more and more popular as a coastal destination for beach users, particularly since the opening of the Devil’s Slide Tunnel, the demand for parking has increased. During unpermitted large events and other weekend use of the restaurant, restaurant parking has taken up all of the adjacent state park parking lot, and has also spilled into the neighboring community of Montara.

La Costanera has repeatedly violated the CDP’s limitations on hours of operation, and maximum number of seating, as documented by your enforcement staff. The San Mateo County Planning Commission has denied La Costanera’s applications to expand the hours of operation to allow brunch and lunch service on Fridays and weekends, and to authorize after-the-fact construction and use of the two unpermitted patios.

CGF commends the staff for the enormous amount of work devoted to these Violations. We urge your approval of the Staff Recommendation and thank you in advance for ensuring that the maximum amount of public access is provided at this popular destination.

Sincerely

A handwritten signature in black ink that reads "Lennie Roberts". The signature is written in a cursive style and is placed on a light gray rectangular background.

Lennie Roberts, Legislative Advocate

Midcoast Community Council

*An elected Advisory Council to the San Mateo County Board of Supervisors
representing Montara, Moss Beach, El Granada, Princeton, and Miramar*
P.O. Box 248, Moss Beach, CA 94038-0248 - www.MidcoastCommunityCouncil.org

Lisa Ketcham Dave Olson Claire Toutant Laura Stein Dan Haggerty Chris Johnson Brandon Kwan
Chair Vice-Chair Secretary Treasurer

**Th5.1 & Th5.3
Hearing Date 3/9/2017**

March 3, 2017

Dayna Bochco, Chair and Members
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

**Subject: La Costanera Restaurant, 8150 Cabrillo Highway, Montara,
Cease and Desist Order CCC-17-CD-01 and
Administrative Civil Penalty Action CCC-17-AP-01**

Dear Chair Bochco and Commissioners:

On behalf of the Midcoast Community Council (MCC), I write to **support the staff recommendation** to approve the Consent Agreement reached between Respondents and Commission Enforcement staff to resolve the long-standing issues of operating outside permitted hours, expansion of restaurant capacity without permits, repeated placement of customer-only parking signs at shared beach parking lot, and otherwise interfering with public access to Montara State Beach.

Since 2011 the MCC has appealed repeatedly to San Mateo County Planning and CCC staff for code and permit compliance at La Costanera restaurant (attached). The local community has been witness to the many long-standing violations. A citizen Change.org petition in 2013 was at least successful in getting the beach floodlights removed:

<https://www.change.org/p/la-costanera-restaurant-coastal-act-violations>

In 2016 the County Planning Commission denied a Use Permit amendment to legalize the patios and the Board of Supervisors delayed their decision on an appeal due to the many long-standing code violations at the restaurant.

The Consent Agreement is what is needed to finally bring the restaurant into compliance with their permit and to protect public access at this popular beach.

Thank you,

Lisa Ketcham, Chair
MIDCOAST COMMUNITY COUNCIL

Midcoast Community Council

An elected Municipal Advisory Council to the San Mateo County Board of Supervisors

Serving 12,000 coastal residents

Post Office Box 248, Moss Beach, CA 94038-0064

<http://mcc.sanmateo.org>

Len Erickson
Chair

Bill Kehoe
Vice-Chair

Neil Merrilees
Secretary

David Vespremi
Treasurer

Bob Kline

Deborah Lardie

Leonard Woren

April 8, 2011

Mike Crivello
Camille Leung
San Mateo County Planning Department
455 County Center,
Redwood City, CA 94063

Jo Ginsberg
California Coastal Commission
45 Fremont St., Ste. 2000
San Francisco, CA 94105-2219

Re: Code Enforcement – La Costanera Restaurant - 8150 Cabrillo Highway

The Midcoast Community Council is writing to request that the Department of Planning enforce the zoning and other laws regarding outdoor lighting, signage and other issues at La Costanera restaurant. The responsibility for code enforcement involves both the San Mateo County Planning Department and the California Coastal Commission. We address this letter to the staff of both agencies and ask you to insure collaboration and coverage of these issues. The restaurant is adjacent to Montara State Beach. It is within the designated County Scenic Corridor and must therefore comply with LCP Visual Resource Policies as well as Section 30252 of the Coastal Act.

The lighting and signage are not compliant with current coastal regulations or the operating permit:

1. LCP Policy 8.18 (a) Development Design requires that “Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.”

Contrary to this requirement, the floodlights on the South and East side of the building are not shielded to confine direct rays to the parcel. Rather they illuminate a much larger area, including a significant stretch of Highway One. Drivers on Highway One experience glare, which can create a safety hazard.

The floodlights on the West side of the building are also are not confined to the parcel, rather they are directed at the beach and ocean beyond. Lighting of the beach and ocean can be a hazard for avian species, particularly migrating birds.

2. Coastal Act Sections 30210, 30211, and 30212 require that development between the first public road and the sea provide maximum public access to the shore. Condition 2 of the Coastal Development Permit (P-77-579) issued in 1977 by the Regional Coastal Commission, requires the following “in order to assure adequate parking accommodations for both the restaurant, and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time”. The Coastal Development permit does not allow exclusive use of the parking lot during that time.

The current, unapproved, parking signs warn the public that if they park after 5:00 they will be towed. There is no attempt to distinguish when the restaurant is open or closed-when the lot could be used by the public. They do not say the public is allowed to park there prior to 5:00 or when the restaurant is not open. The signage is against the spirit of shared parking intended by the operating permit: “As conditioned to the hours of operation and reciprocal use”.

The same no-parking signage on the north parking lot discourages the public from parking on an adjoining lot that is public property.

Condition 4 of the Coastal Development permit (P-77-579) issued by the Coastal Commission requires “Applicant shall submit, for staff review and approval, final plans for all signs and lights to be erected on the site”. The current signs and lights and signs have not been reviewed and approved by either the Commission or County Planning.

The MCC supports business on the Coast. We believe all businesses should be subject to the same enforcement of use regulations. All of these restrictions pre-existed the current lease. Other restaurants on the coast are required to be compliant with the use permits, zoning laws and the LCP. While we believe other restaurants may also be in violation of their CDP in respect to parking signs and lights we will address that in a separate letter. At this time we ask that this one be required to do the same.

Thank you for your assistance

Sincerely,

[SIGNED]

Len Erickson
Chair, Midcoast Community Council

cc:

Don Horsley, San Mateo County District 3 Supervisor
Jim Eggemeyer, Director, San Mateo County Planning Department
Eric Canupp, Events Director, La Costanera
Ruby Pap, California Coastal Commission
Midcoast Community Council

Midcoast Community Council

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Lisa Ketcham **Dave Olson** **Chris Johnson** **Laura Stein** **Erin Deinzer** **Dan Haggerty** **Joel Janoe**
Chair Vice-Chair Secretary Treasurer

September 22, 2014

San Mateo County Planning Commission
via email : planning-commission@smcgov.org

Subject: **La Costanera Restaurant, 8150 Cabrillo Highway, Montara (PLN2006-00494)**

Planning Commissioners:

The Midcoast Community Council (MCC) recommends **against** certification of the Initial Study and Negative Declaration and **against** approval of the Use Permit Amendment to extend restaurant hours to daytime on Fridays and weekends.

Parking calculations are inaccurate. As viewed on historical aerial photos, the informal State Parks lot has for many decades provided 20 or more beach parking spaces, yet calculations credit only 10 existing spaces to this lot. This understates lost weekend parking spaces by 10 and overstates spaces gained on weekdays by the same amount. Gaining weekday parking does not mitigate for loss of weekend parking. Improving the dirt lot is nice, but does not create new parking, nor mitigate for loss of beach parking.

South Lot C cannot accommodate 11 new parking spaces. The proposed restriping and valet parking plan (incorrectly labeled as "existing parking configuration" in Attachment E) lacks accurate measurements. The only parking space measurements shown on the plan are correct for existing spaces, but not for the proposed restriping as depicted, which would give the following:

- 3 additional ocean-front spaces: 11 spaces at 6.5 feet wide
- 1 additional highway-fronting space: 5 spaces at 7.3 feet wide
- 1 additional restaurant-fronting space: 5 spaces at 7.6 feet wide (plus ADA space)

Even compact spaces are generally required to be at least 8 feet wide. Parked vehicles block access to sidewalks in front and back of the restaurant (particularly ADA access). The two proposed valet parking spaces closest to the lot entrance appear physically impossible to maneuver and they block the lot entrance. Valet parking in lot access areas would block existing required pedestrian and bicycle beach access through the lot.

Parking plans are unrealistic and unenforceable. Loss of beach parking will most likely be greater than 19 spaces because the exclusive restaurant valet parking plan is unrealistic in its layout, planned implementation and enforcement. Restaurant operators have continuously demonstrated their disregard for regulations across the board and by going so far as to post restaurant-only tow-away signage at all three lots repeatedly, including the State Parks lot. No matter how much sign clutter is

added to the lots, license plate numbers collected, or citizen enforcers recruited, beach parking in Lots A&B will be impacted during daytime restaurant hours. Where will these 19 displaced beach goers park? Along the highway? On Montara residential streets? Or will they just give up on visiting the beach?

Traffic analysis is inadequate. Traffic counts on a rainy winter weekend, before the tunnel opened, do not adequately evaluate traffic and parking impacts. At the entrance to the restaurant south Lot C there is no shoulder space for southbound right turn, nor center northbound left turn lane into the lot, so any queuing will block Highway 1 traffic flow. Potential future recreational parking, as suggested conceptually in the Highway 1 Safety & Mobility Studies, is a premature assumption. There are no specific projects planned in the vicinity.

Existing restaurant parking is inadequate. The County permitted the “dinner house” in 1977 by allowing evening parking use in the First Street right-of-way, plus granting a 10-car reduction in the off-street parking requirement. If the County did actually abandon First Street, we would like to know what conditions the Board Resolution contained. Where were the 10 cars of the parking exception expected to park along a stretch of highway without shoulders, and no nearby parking except across the highway in a residential neighborhood? The Coastal Commission denied a 1981 application for daytime Sunday operating hours because the amount of available parking had not changed. Nor has it changed in this proposal.

MCC **recommends** requiring the applicant to comply with the existing Use Permit, the Local Coastal Program, and current Planning and Building Regulations. The community has waited a long time since 2006 to see some code compliance, as unpermitted site construction and modifications have continued unabated, daytime beach parking has been impacted by illegal daytime restaurant use and tow-away signage, and the whole area has been lit up like a football field in the evenings. The only real success in all these years has been as a result of direct citizen efforts, particularly the Change.org petition requesting removal of the roof-mounted beach and parking lot floodlights.

The Scenic Corridor’s coastal viewshed, from mountain ridge to ocean, from Devil’s Slide to Montara Gateway, has been preserved as natural open-space parkland. The restaurant site is highly visible from highway and beach and is the only commercial use in the entire viewshed. Rather than minimizing visual impacts, the applicant makes every effort to call attention to the commercial use with added bright colors, multiple flags and advertising banner, proliferation of unpermitted advertising signage and glaring lighting.

MCC is concerned at the prospect of continued delay in addressing unpermitted work until the end of this long multi-jurisdictional permitting process, whenever that may be. Some specific issues are:

- Sections of neglected or illegally maintained riprap appear unstable and hazardous to beach goers.
- Unpermitted 4-foot-high retaining wall construction and fill to create the upper patio (which used to be a steep slope) is not mentioned anywhere. How was this missed?
- Bright white exterior accent paint recently added to gutters, ventilation and lighting fixtures, and deck panels, on the purposefully subdued building exterior should be

returned to brown color. There is confusion in the staff report requiring painting the monument signs brown instead (Condition 15).

- Exterior Lighting (Condition 12) “placed, designed, shielded and downward directed so as to confine direct rays to the parcel where the lighting is located”. This wording should override any conflicting wording in other conditions (#34-36). The privately owned street light fixtures on the two utility poles north and south of the restaurant should be replaced with shielded downward-directed type.
- Landscape Plan (Condition 13): On west side of parking lots, only low-growing landscaping should be planted so as not to obstruct ocean viewing from parked cars. Utility box screening planting should be replenished in the south parking lot. Invasive *Pittosporum* should be removed from existing landscaping and from where it is colonizing the riprap and coastal bluff.
- Bicycle rack and walk/bike paths through Lots A&C (Condition 16 & 33): Keep these conditions regardless of restaurant hours.
- Trash/storage area cover, berm, and drainage to sewer (Condition 18) and Environmental Health Conditions 56-58: These need to be addressed ASAP. The area currently drains to the beach and trash is piled so high it can be seen over the screening wall from the highway.
- Closing time: MCC supports staff recommended clarification of 10:00 PM.

In conclusion, the MCC respectfully requests that the Planning Commission **not** certify the Negative Declaration and **deny** the Use Permit Amendment to allow daytime hours on Fridays and weekends. No new parking will be created to mitigate for loss of beach parking and the proposed parking conditions are unenforceable and do not comply with the public access and recreation policies of the Local Coastal Program and Coastal Act.

Sincerely,

MIDCOAST COMMUNITY COUNCIL
s/Lisa Ketcham, Chair

cc. Camille Leung, Project Planner
Paul Keel, Sector Superintendent, CA State Parks
Supervisor Don Horsley
CCC Staff Nancy Cave, Renée Ananda, Jo Ginsberg

Attachments:

- Photo PDF
- Web quotes re lack of compliance on hours, seating capacity; shortage of parking

Midcoast Community Council

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Dave Olson **Chris Johnson** **Lisa Ketcham** **Dan Haggerty** **Erin Deinzer** **Laura Stein**
Chair Vice-Chair Secretary Treasurer

Date: August 26, 2015
To: SMC Planning Dept: Erica Adams, Camille Leung
Cc: Coastal Commission staff Renée Ananda, Nancy Cave, Jo Ginsberg
From: Midcoast Community Council/ Dave Olson, Chair

Subject: **PLN2015-00297 – La Costanera restaurant, 8150 Cabrillo Highway, Montara**
Project Description: *After-the-fact Use Permit Amendment (UP20-77) & Design Review Permit for the following changes to La Costanera restaurant: Use of two outdoor patios while maintaining the same number of seats (189) at the restaurant. In order for the Use Permit amendment to go into effect, a Coastal Development Permit is required under the permit authority of the CA Coastal Commission.*

Code Violations: Prior to allowing use of the outdoor patios, the applicant must fully address the long-standing, repeated code violations most recently described in correspondence from the County on July 10 and Coastal Commission on July 13. Undeterred, applicant's July 22 letter schedules future violations of their Use Permit and public access provisions of the Coastal Act on four weekends this fall. The same letter promised that trim paint (PLN2015-00179) would be restored to approved earth-tone color by August 10, but as of this date, roof vents, gutters, and downspouts, remain bright white. Stored items in the trash enclosure area should not extend above the screening wall, where a bright green tarp has been added that is visible from the scenic highway. Wet paving and puddles observed in the afternoon of August 20 indicate that washdown water at the trash enclosure area continues to be directed to the stormwater drain.

Upper patio construction included a wood retaining wall and fill to level the slope, which does not appear to have a building permit. How was drainage addressed? After-the-fact construction detail shows concrete pavers laid over a sand base. The pavers are individually sinking and tilted in places, particularly near the retaining wall, creating trip hazards and indication of further failure to come. The glass windbreak supports are attached to the retaining wall and at least one is visibly out of plumb. It is not clear whether it was constructed that way or the wall has started to lean. Before opening the upper deck to the public, these issues should be assessed and addressed with appropriate geotechnical review to ensure stability.

Appropriate outdoor lighting will be key for these patios overlooking the beach. Lighting must be downward directed and well shielded so as not to shine any direct rays off the patios. The lighting plan included in the planning referral includes roof-mounted floodlights for the parking lots which would shine outward across the parking lot and off the property, blinding pedestrians in the lot and motorists on the highway and adding light pollution to the surrounding area. There remain several floodlights in the landscaping around the building directed up at the sky or the building. It should be noted that the adjacent streetlight fixtures on PG&E poles (2 at north lot, 1 at south lot) are private fixtures billed directly to the property owner, and should be included in the lighting plan. These should be shielded downward-directed fixtures also. A good example of well-shielded and dispersed parking lot lighting is found at Sam's Chowderhouse on Highway 1 in El Granada.

Thank you for the opportunity to submit these initial comments on the application.

Midcoast Community Council

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representing Montara, Moss Beach, El Granada, Princeton, and Miramar*
P.O. Box 248, Moss Beach, CA 94038-0248 - www.MidcoastCommunityCouncil.org

Chris Johnson **Lisa Ketcham** **Dan Haggerty** **Erin Deinzer** **Dave Olson** **Laura Stein** **Claire Toutant**
Chair Vice-Chair Secretary Treasurer

April 13, 2016

President Warren Slocum and Members
San Mateo County Board of Supervisors
400 County Center
Redwood City, CA 94063
(via email)

Subject: **PLN2015-00297** – La Costanera restaurant, Montara Beach
Use Permit Amendment to legalize unpermitted construction and use of two patios
Appeal of Planning Commission Decision to Deny

Dear President Slocum and Members of the Board:

The Midcoast Community Council **supports the Planning Commission decision to deny** the Use Permit amendment to legalize unpermitted construction and use of two outdoor patios.

Given the many long-standing and repeated code violations at the restaurant, there is no assurance that the owner will comply with conditions of approval or the original 189-seat capacity. The patio seating is an intensification of use that has significant impact on public beach access and nearby residential neighborhoods. We recommend you deny the appeal.

Sincerely,

MIDCOAST COMMUNITY COUNCIL

s/ Chris Johnson, Chair

Del Arroz, John@Coastal

From: Mary Larenas <mdlarenas@gmail.com>
Sent: Friday, March 03, 2017 12:05 PM
To: Del Arroz, John@Coastal
Subject: RE: Items Th5.1 and Th5.3: Cease and Desist order No. CCC-17-CD-01 and Consent Administrative Civil penalty CCC-17-AP-01 (La Costanera Restaurant)

March 3, 2017

Chair Dayna Bochco

Coastal Commissioners

RE: Items Th5.1 and Th5.3: Cease and Desist order No. CCC-17-CD-01 and Consent Administrative Civil penalty CCC-17-AP-01 (La Costanera Restaurant)

Dear Chair Bochco and Commissioners,

I am writing to you regarding La Costanera Restaurant and in support of the letter written by Midcoast Community Council which states “a Consent Agreement signed by the property owners, A&G LLC, will hopefully resolve long-standing Coastal Act violations at La Costanera restaurant, located at Montara State Beach.”

I have lived on the Coast for over 30 years and my husband and I are frequent visitors to Montara State Beach, one of the most popular and visited beaches on the San Mateo Coast. La Costanera is located on the bluffs overlooking Montara State Beach. Public parking at this beach is limited. Often the public must park along Highway 1 and residential streets in Montara. They then need to brave the truly dangerous crossing of Highway 1. Crossing is hazardous enough for the able-bodied but the danger increases if you are elderly, disabled or a family with small children. To help alleviate the parking problem and provide more safe parking spaces and public access the Coastal Commission issued CDP (P-77-579) which placed a limitation on the hours that the Restaurant may operate and restrict seating. La Costanera has repeatedly and flagrantly violated the CDP and warnings from the County. The Restaurant has even engaged in Weddings and parties after hours. A friend told me she once saw wedding party attendees who parked across Highway 1 along the Montara Streets trying to run across Highway 1 in high heels and long taffeta gowns. It would be funny if it wasn't so dangerous. All of this has been well-documented. In addition the San Mateo County Planning Commission has denied La Costanera's application to expand its hours of operation to allow for brunch/lunch service on Fridays and weekends, and to authorize after-the-fact construction and use of two unpermitted patios.

In conclusion I support the following : Through the Consent Agreement, the owners agree not only to address the impacts of the unpermitted development, but also to provide improvements to public access, including enhanced public trails, a public viewing area, and interpretive and directional signage (including at entrances to parking lots which state “Public Beach and Restaurant Parking”). They will also pay a \$500,000 penalty in three installments over two years, to resolve their civil liabilities under the Coastal Act. The funds will be deposited in the State Coastal Conservancy Violation Remediation Account to be used for projects such as improving public coastal access, protecting natural lands and open space, restoring coastal wetlands, completing regional trails, and preparing for climate change.

The owners agree to remove the unpermitted 850 sq. ft. upper patio, retaining wall, and restore the natural slope. They will apply for a CDP Amendment for the 1267 sq. ft. lower patio, glass windscreens and fire pits. Any patio use by restaurant patrons prior to the issuance of the CDP Amendment and satisfaction of all imposed conditions shall constitute a violation of the Consent Agreement and result in penalties of \$500 per day per violation. Future violations of authorized restaurant hours (after 5PM) or use in excess of authorized capacity (189) shall result in additional penalties of \$10,000 per day per violation.

Thank you for your consideration and help in resolving this restriction to safe, public access to Montara State Beach.

Sincerely,

Mary Larenas

301 Nevada Ave.

Moss Beach, CA

94038

Kris Lannin
Michael Liang
200 California Avenue
Moss Beach, CA 94038

March 3, 2017

Dayna Bochco, Chair and Members
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105

Re: Items Th5.1 and Th5.3: Cease and Desist Order No. CCC-17-CD-01 and Consent
Administrative Civil Penalty CCC-17-AP-01 (La Costanera Restaurant)

Dear Chair Bochco and Commissioners:

We write in strong support of staff's recommendation for the Commission to issue
the above-referenced cease and desist order and consent administrative civil
penalty action.

We thank staff for their time and attention to these violations and urge you to
approve their recommendations to reinstate adequate public access to this beloved
state beach.

With best regards,



Kris Lannin



Michael Liang



San Mateo County Chapter

March 3, 2017
Dayna Bochco, Chair and Members,
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Items Th5.1 and Th5.3: Cease and Desist Order No. CCC-17-CD-01 and Consent Administrative Civil Penalty CCC-17-AP-01 (La Costanera Restaurant)

Dear Chair Bochco and Commissioners,

I am writing on behalf of the San Mateo County Chapter of the Surfrider Foundation to express, in the strongest terms possible, our support of the Staff recommendation that your Commission issue the Cease and Desist Order and Consent Administrative Civil Penalty referenced above which include but not limited to:

1. cease and desist from conducting any further unpermitted development on the Property.
2. cease use of the restaurant prior to 5:00 pm
3. remove the "upper" patio and restore the impacted area
4. request an after-the-fact approval of the "lower" patio
5. resolve civil liabilities by paying a total of \$500,000
6. complete public access projects including signage, installing a public viewing area, and pedestrian improvements on and near the property to create a portion of the Coastal Trail.

Montara State Beach has seen continued growth of visitors especially over the last several years. La Costanera is located on the bluffs overlooking this beach and the limited beach access parking forces visitors to park along the east side of the coast which makes for a dangerous crossing to the beach. It also negatively impacts traffic flow along the coast highways as vehicles and pedestrians negotiate passage.

La Costanera has repeatedly violated the terms of the original CDP which places limitations on hours of operation, and on the maximum number of seats. La Costanera has a history of un-permitted development to further increase its seating and limit public access. They have consistently shown a high level of disregard for the terms of the CDP.

We applaud your staff for hard work to arrive at its recommendations which we believe are consistent with protecting the public's access to one of the peninsula's beautiful and accessible beaches and urge you to approve the staff recommendations.

Sincerely,

Edmundo Larenas

Chair

Suzanne Hawley
Russell Rosenberg
286 3rd Street
Mail to: PO Box 371617
Montara, CA 94037

March 4, 2017

Dayna Bochco, Chair and Members
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105

Re: Items Th5.1 and Th5.3: Cease and Desist Order No. CCC-17-CD-01 and Consent Administrative Civil Penalty CCC-17-AP-01 (La Costanera Restaurant)

Dear Chair Bochco and Commissioners:

I am writing to you regarding La Costanera Restaurant and in support of the letter written by Midcoast Community Council which states "a Consent Agreement signed by the property owners, A&G LLC, will hopefully resolve long-standing Coastal Act violations at La Costanera restaurant, located at Montara State Beach."

We live just a few blocks away from La Costanera. One of our main concerns has been the private parties being held during restricted hours. We have witnessed flagrant violations of off hours use including restricting public parking in parking lots during off hours (before 5:00 pm) when they set up valet parking in the public parking lot. I came home one Saturday afternoon to find them conducting valet parking in my neighborhood, with valets parking and running back down our streets taking up our ability to park in our neighborhoods.

Also of great concern, they still wash their greasy floor mats outside into the storm drain that flows to the beach below. Please make sure they set up a cleaning area that flows to sewage in the back of the property.

After repeated violations and complaints we are very pleased to see that corrective action is being taken and so we write in strong support of staff's recommendation for the Commission to issue the above-referenced cease and desist order and consent administrative civil penalty action.

With best regards,

Suzanne Hawley

Russell Rosenberg

Deborah Lardie
PO Box 370926
Montara, Ca 94037

March 5, 201

Dayna Bocho, Chair and Members
California Coastal Commission
45 Fremont St, Ste 2000
San Francisco, Ca 94105

Re: La Costanera Restaurant, Cease and Desist Order CCC-17-CD-01

Dear Commissioners:

I am writing as a community member to **support the Staff Recommendation** of approving the Consent Agreement.

The community and visitors have been deprived of parking at the site for years now while the restaurant has operated in violation of the operating permit. The numerous and ongoing violations have consumed hours of County and other local resources. The proposed fine and agreed upon changes are long overdue.

Thank you for upholding the law and protecting access to our beautiful beach in Montara and the California coast.

Sincerely,
Deborah Lardie

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE (415) 904-5200
 FAX (415) 904-5400
 TDD (415) 597-5885



Th5.1 & Th5.3

Staff: J. Del Arroz-SF
Staff Report: 3/1/2017
Hearing Date: 3/9/2017

STAFF REPORT: Recommendations and Findings for Consent Cease and Desist Order No. CCC-17-CD-01 and Consent Administrative Civil Penalty CCC-17-AP-01

Consent Cease and Desist Order: CCC-17-CD-01

Consent Administrative Penalty: CCC-17-AP-01

Related Violation File: V-2-11-008

Property Owner: A&G LLC

Property Location: 8150 Cabrillo Highway, Montara, San Mateo County (Assessor's Parcel Numbers 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998¹)

Violation Description: Non-compliance with conditions of CDP P-77-579 that were designed to protect public access to and use of Montara State Beach by limiting the commercial use of the site, which non-compliance includes conducting various unpermitted activities that increase the capacity and use of the restaurant, such as: operating the restaurant during restricted, peak beach-use times (prior to 5:00 PM) and construction of an unpermitted 1,276 sq. ft. and a 850 sq. ft. patio addition to the restaurant. Additional violations include the unpermitted construction of a retaining wall, three raised masonry firepits, and glass windscreens

¹ This final APN refers to a roughly 0.03-acre property, located immediately to the north of part of APN 036-046-400, and immediately to the west of part of APN 036-046-380, which is not assessed and therefore does not have a formal APN. It is denoted here by a placeholder APN assigned by the County Assessor's Office for convenience purposes, only, and use of such APN in this document is not an acknowledgment of any legal status of this property.

surrounding and on the unpermitted patios; and placement of fill.

Substantive File Documents:

1. Public documents in Cease and Desist Order file CCC-17-CD-01 and Administrative Civil Penalty Action file No. CCC-17-AP-01
2. Coastal Development Permit No. P-77-579 and County CDP No. 83-67
3. Exhibit Nos 1 through 22 and Appendix A of this staff report

CEQA Status:

Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308, and 15321)

SUMMARY OF STAFF RECOMMENDATION AND FINDINGS

This matter involves public access violations related to a restaurant in the Montara area of unincorporated San Mateo County. The La Costanera Restaurant is located at 8150 Cabrillo Highway (“the Property”) (Exhibit 1), and owned by A&G, LLC (“Respondents”). The restaurant is located immediately adjacent to Montara State Beach, a very popular sandy beach that is most easily accessed via a stairway seaward of the restaurant that descends down the bluff seaward of the Property. Parking is very limited in this area, and the unpermitted development, described below, is inconsistent with multiple conditions of a coastal development permit (“CDP”) issued by the Commission requiring shared parking and imposing limits on hours and on restaurant capacity. The unpermitted development has increased the number of restaurant patrons and parking demands, reduced available parking for the public beach, and impacted public access, inconsistent with the Coastal Act. However, Respondents have cooperated with Commission Enforcement staff to amicably reach a proposed resolution to this important Coastal Act violation that will, if approved, provide significant public benefits, and improve access amenities in the area. Through the Consent Agreement (Appendix A), Respondents agree not only to address the impacts of the Unpermitted Development, but also to pay a monetary penalty to resolve their civil liabilities under the Coastal Act, and to provide significant new improvements to improve public access, including enhanced public trails, a public viewing area, and interpretive and directional signage.

Unpermitted Development

In this case, Respondents have continued to violate CDP P-77-579 (the “CDP”) and the Coastal Act, including the Public Access policies of the Coastal Act, over a period of years, including after they had been reminded of the conditions of their permit that were specifically designed to protect public access and parking in this area, as early in 2004 when they bought the property, and then again in response to an application to San Mateo County for a Use Permit in 2010 (Exhibits 10 and 11). Moreover, after becoming aware of the violations in 2011, the Commission staff contacted Respondents numerous times, including writing ten more letters

since that time also reminding them of the permit conditions and seeking resolution of the violations.

The unpermitted activities², which have the effect of increasing the capacity of and intensifying the use of the restaurant, and which, in turn, has an adverse impact on public access, include: 1) the unpermitted construction of two patios, which expand the restaurant by over 2,100 square feet of new restaurant capacity, through a 1,276 sq. ft. “lower” patio and a 850 sq. ft. “upper patio”, and placement of associated windscreens, firepits, retaining walls, and fill material, and using those patios for restaurant and bar service (Exhibit 2); 2) operation of the restaurant prior to 5:00 P.M. inconsistent with Special Condition No. 2 of the CDP, which was, as discussed further herein, specifically designed to protect public access to the beach during the daytime ; and 3) exceeding the 189 person capacity of the restaurant by serving in excess of 300 persons at a time³ (Exhibit 3) (“Unpermitted Development”). Collectively, the Unpermitted Development increases the parking demands of the restaurant, reduces the parking available for public beach parking, and impacts public access to Montara State Beach, inconsistent with the CDP and in violation of the Coastal Act.

The public parking supply is a critically important resource for ensuring the availability of public access in this area. Unlike other, more developed regions of the coast, only limited public transit service is available in this area, and most members of the public access the coast via private automobile. Whenever parking demand for access to the beach exceeds the available parking supply, such as during peak beach use periods, public access is very limited or not available at this stretch of coastline.

By expanding the demand for restaurant parking, Respondents have impacted public access to Montara State Beach, located adjacent to the Property, each day that the restaurant operates with the unpermitted, enlarged capacity. Although the restaurant is authorized by the CDP to operate only after 5 pm, this time occurs before sunset for most of the year, and three and a half hours prior to sunset in the summer. Thus, even during regular operation of the restaurant, the expansion of the restaurant and the corresponding increase to parking demands have had significant impacts to public access, and the ability of members of the public to use the beach or park and watch a sunset. Furthermore, the Unpermitted Development also includes the operation of the restaurant with its expanded capacity prior to 5:00 P.M., inconsistent with the CDP, extending these impacts to the time when public use of the beach is at its highest. Therefore, the Unpermitted Development has resulted in significant impacts to public access.

As described further in Section D (2) (b), below, public access impacts are also an environmental justice issue. Along the coastline in general, and in this region in particular, there are few access points that provide public access to the beach and shoreline, especially when compared to the numbers of residents and visitors in California. Those few access points that are open are critical

² Other violations have occurred on the property over the years; however, this action addresses specifically those pertaining to the unpermitted expansion of the restaurant and unauthorized hours of the operation and the concomitant impacts to public parking and public access.

³ Respondents have advertised on their website that the capacity of the restaurant is “up to 300 seated guests”, and other websites have reported that the capacity of the restaurant is between 280 seated guests to 320 seated guests (Exhibit 3)

for providing a unique recreational opportunity for people that don't have the means to live along the coast or secure an alternative means of reaching it. Curtailing such access therefore has a disproportionate impact on those of lesser means, who also tend to be disproportionately people of color. Access in this area is incredibly limited and the Unpermitted Development had the unfortunate effect of further limiting public access, thus preventing the public, including people living in inland communities, from reaching the beach. Securing open public access for all citizens provides low-cost, outdoor recreation that can improve the overall quality of life of all the public, including lower income and minority communities.

Coastal Development Permit History

In 1977, the Commission approved the CDP, for an extensive remodel of an existing 260 seat restaurant and 18 unit motel that reduced the size and mass of the building to protect coastal views by reducing the size of the restaurant and bar to 189 seats, eliminating the motel units, and providing parking lot improvements, native landscaping, and improvements to an existing beach access path.

Based upon the configuration of the restaurant proposed at that time, the Commission found that the parking provided by the restaurant was inadequate, in that 75 parking spaces would be needed for the 189 seat restaurant, but only 53 were provided in the proposed application. Therefore, it was feared that the restaurant patrons would displace public access parking. Therefore, the Commission, in its approval, required several conditions to offset and mitigate the impacts to public access, among other things, caused by the proposed restaurant and to maintain public access to the adjacent Montara State Beach. The CDP prohibited the applicant from opening the restaurant for anything other than dinner service, after 5 P.M., to avoid impacts to the parking supply at the adjacent Montara State Park parking lot, especially during peak daytime hours. Through a separate agreement between the applicant, State Parks, and San Mateo County, the restaurant owner agreed that beach users could park in the restaurant parking lot during the day when the restaurant was closed, and restaurant users could park in the beach parking lot in the evenings. The Commission's findings state: "As conditioned to hours of operation and reciprocal use, the project is consistent with Section 30252 of the Coastal Act which requires adequate parking." and "As conditioned, the proposed development is consistent with those portions of the Coastal Act relevant to public access and commercial recreation (Sections 30210, 30211 and 30213)" (Exhibit 4).

In 1981, a few years after the restaurant was approved, the Commission considered an amendment request seeking permission for increased hours of operation of the restaurant, during the day on Sundays (Exhibit 5). The Commission reviewed the impacts of expanding hours of operation of the restaurant, and rejected the amendment because it found that: "Day use of the restaurant would reduce the parking available to the public for beach access and directly conflicts with the original parking agreement with the County. Therefore, the amendment is inconsistent with Section 30252 of the Coastal Act ... and Section 30210 which requires that development not interfere with the public's right of access to the sea." (Exhibit 5). Thus the Commission considered the potential impacts of a use that would expand the parking demands of the restaurant, and it specifically found that such expansion was inconsistent with the Coastal Act.

Enforcement History

Commission enforcement staff learned of the Coastal Act violations impacting public access, and informed Respondents that they were in violation of the Coastal Act, in April 2011 (Exhibit 12). Over the next few years, through numerous phone calls, letters, and site visits, Enforcement Staff requested that Respondents cease performing unpermitted development and comply with their CDP. Respondents did not remove the unpermitted patios that expanded the restaurant capacity and use and increased parking demands, and also continued to operate the restaurant during times inconsistent with the CDP, including operating the restaurant on numerous occasions for special events that had the effect of limiting public parking at Montara State Beach. On January 28, 2015, Commission enforcement staff sent Respondents a letter informing them of the applicability of administrative civil penalties pursuant to Coastal Act Section 30821 for the public access violations on the Property. However, the violations continued even after notification of the accrual of 30821 penalties in that letter and in subsequent communications. Since Respondent chose not to resolve the matter at the district enforcement level, in late 2015, in order to again try and resolve the violations, the case was elevated to the statewide enforcement unit for formal enforcement action.

Throughout 2016 and early 2017, Commission enforcement staff worked closely with Respondents to reach an amicable resolution of these matters to resolve the Coastal Act violations described herein. Through the execution of this Consent Agreement, Respondents have agreed to, among other things: 1) cease and desist from conducting any further unpermitted development on the Property; 2) cease use of the restaurant prior to 5:00 p.m.; 3) remove the “upper” 850 sq. ft. patio and associated development and return the impacted area to original grade and install native landscaping in this location; 4) request after-the-fact approval of the lower, 1,276 sq. ft. patio, glass windscreen and masonry firepits on the patio, and remove that development if said approval is denied by the Commission; and 5) resolve their civil liabilities pursuant to the Coastal Act by paying a total of \$500,000 and by completing public access improvement projects, including installing public access signage, installing a public viewing area, and constructing pedestrian improvements on and near the property to create a portion of the California Coastal Trail.

Therefore, staff recommends that the Commission issue this Consent Cease and Desist Order and Consent Administrative Civil Penalty Action, which would establish a process for Respondents to resolve this matter. Motions and resolutions are found on page 8 of this staff report.

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APPENDIX

Appendix A Proposed Consent Cease and Desist and Consent Administrative Penalty Action

EXHIBITS

Exhibit 1	Vicinity map
Exhibit 2	Photographs depicting unpermitted development
Exhibit 3	Excerpts of websites showing hour and capacity violations
Exhibit 4	Staff Report for CDP P-77-579
Exhibit 5	Staff Report for Denial of CDP Amendment P-77-579-A
Exhibit 6	County CDP 83-67
Exhibit 7	October 14, 2015 Letter from Rahim Amidi to San Mateo County Planning Dept.
Exhibit 8	Public Access In Area
Exhibit 9	April 25, 2016 Letter from John Del Arroz to San Mateo County Planning Dept.
Exhibit 10	December 23, 2004 Letter from Jo Ginsberg to A&G, LLC
Exhibit 11	April 14, 2010 Letter from Jo Ginsberg to A&G, LLC
Exhibit 12	April 25, 2011 Notice of Violation letter from Jo Ginsberg to A&G, LLC
Exhibit 13	November 30, 2011 letter from Jo Ginsberg to A&G, LLC
Exhibit 14	March 23, 2012 letter from Jo Ginsberg to A&G, LLC

- Exhibit 15 December 5, 2012 letter from Jo Ginsberg to A&G, LLC
- Exhibit 16 June 24, 2013 letter from Jo Ginsberg to A&G, LLC and Michael McCracken
- Exhibit 17 April 25, 2014 letter from Jo Ginsberg to A&G, LLC and Michael McCracken
- Exhibit 18 January 28, 2015 letter from Jo Ginsberg to A&G, LLC and Michael McCracken
- Exhibit 19 March 12, 2015 letter from Jo Ginsberg to A&G, LLC, Michael McCracken, and Farhad Mortazavi
- Exhibit 20 July 13, 2015 letter from Jo Ginsberg to Rahim Amidi, Dave Holland, and Michael McCracken
- Exhibit 21 April 25, 2016 NOI letter from Acting Executive Director John Ainsworth to A&G, LLC and Dave Holland
- Exhibit 22 Aerial Photograph of Area

I. MOTION AND RESOLUTION

Motion 1: Consent Cease and Desist Order

*I move that the Commission **issue** Consent Cease and Desist Order No. CCC-17-CD-01 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in adoption of the resolution immediately below and issuance of the Consent Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Cease and Desist Order:

The Commission hereby issues Consent Cease and Desist Order No. CCC-17-CD-01, as set forth below, and adopts the findings set forth below on grounds that development has occurred without the requisite coastal development permit, and in violation of CDP No. P-77-579, in violation of the Coastal Act, and that the requirements of the Order are necessary to ensure compliance with the Coastal Act.

Motion 2: Consent Administrative Civil Penalty Action

I move that the Commission issue Consent Administrative Civil Penalty Order No. CCC-17-AP-01 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in issuance of the Consent Administrative Civil Penalty Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution to Issue Consent Administrative Civil Penalty Order:

The Commission hereby issues Consent Administrative Penalty Order No. CCC-17-AP-01, as set forth below, and adopts the findings set forth below on the grounds that activities have occurred on property owned and operated by A&G LLC without a coastal development permit and/or in violation of CDP No. P-77-579 and the Coastal Act, and these activities have limited or precluded public access and violated the public access policies of the Coastal Act.

II. HEARING PROCEDURES

The procedures for a hearing in which the Commission issues a Cease and Desist Order under Section 30810 are described in Section 13185 of Title 14 of the California Code of Regulations (“14 CCR”). Additionally, Section 30821(b) states that the imposition of administrative civil penalties by the Commission shall take place at a duly noticed public hearing in compliance with the requirements of Section 30810, 30811, or 30812. Therefore, the procedures employed for a hearing to impose administrative penalties may be the same as that for a Cease and Desist Order.

For a Cease and Desist Order and an Administrative Civil Penalty Action, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record. The Chair shall then have staff indicate what matters are parts of the record already, and the Chair shall announce the rules of the proceeding, including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s), or their representative(s), may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which time staff typically responds to the testimony and any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in 14 CCR Sections 13186, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions of any speaker at any time during the hearing or deliberations, including, if any Commissioner so chooses, any questions proposed by any speaker in the manner noted above. The Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and impose an Administrative Penalty, either in the form recommended by staff, or as amended by the Commission. Passage of the motions above, per the staff recommendation, or as amended by the Commission, will result in issuance of the Cease and Desist Order and imposition of an Administrative Penalty.

III. FINDINGS FOR CONSENT CEASE AND DESIST ORDER NO. CCC-17-CD-01 AND CONSENT ADMINISTRATIVE PENALTY NO. CCC-17-AP-01⁴

A. PROJECT LOCATION AND VICINITY

The Property is located in the Montara area of unincorporated San Mateo County (Exhibit 1), and consists of 6 parcels, identified by the San Mateo County Assessor's Office as APN's 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998¹. Totalling an aggregate of about 0.74 blufftop acres between Highway 1 (also known as Cabrillo Highway) and Montara State Beach, these parcels are occupied by the La Costanera restaurant and bar and adjacent restaurant parking lots, which were constructed pursuant to Commission CDP P-77-579.

Residential development and open space is located to the east, across Highway 1, and about 0.15 miles downcoast of the Property. Immediately to the north, south, and west of the Property are

⁴These findings also hereby incorporate by reference the section "Summary of Staff Recommendation and Findings" at the beginning of this March 1, 2017 staff report ("STAFF REPORT: Recommendations and Findings for Consent Cease and Desist and Consent Administrative Civil Penalty") in which these findings appear.

public lands owned by the state of California; a dirt lot used for public parking is located to the north⁵, a paved public parking lot is located to the south, and the public beach is located to the west of the Property. The two lots on State Parks property currently provide parking for Montara State Beach and provide extra parking in the evenings for the La Costanera restaurant.

Montara State Beach, located seaward of the property, consists of about 0.8 miles of vegetated bluffs and sandy beach that is used by the public for surfing, fishing, sunbathing, strolling, nature study, and picnicking. A public stairway crosses the bluff on the Property, just seaward of the La Costanera restaurant. This stairway, (Letter C on Exhibit 8) which was required to be constructed and maintained pursuant to County CDP 83-67 and Use Permit 20-77, provides the most direct access to Montara State Beach, requiring just a short walk from the adjacent parking lots. Public access to Montara State Beach is also available via a State Parks public parking lot located about 0.5 miles north of the Property (Letter A on Exhibit 8), which requires walking along about 300 feet of trail, descending a stairway, and crossing a stream to get to the beach, and via informal parking areas located along the shoulder of Highway 1 (Letter B on Exhibit 8), which requires walking along about 500 feet of unofficial, pioneered trails and climbing down the bluff edge.

B. PERMIT HISTORY

CDP No. P-77-579

On July 11, 1977, the Commission approved, with five special conditions, a CDP for the remodel of an existing 260 seat restaurant and 18 unit motel to create a 189 seat restaurant/bar, parking lot improvements, and landscaping (CDP P-77-579). The Commission's findings with respect to visual resources were that the design of the structure (as reviewed at that time) had less impact on scenic views than the previous development (motel/restaurant), and that the new restaurant was more compatible with the physical setting and less obtrusive along this stretch of the coast. In its approval, the Commission found that the proposed 53-space parking area was not sufficient to serve the approved seating capacity of the restaurant/bar, and specifically considered the issue of impacts that the restaurant would have on public access to the adjacent public beach. The Commission's approval of the CDP relied upon an agreement between the applicant, San Mateo County, and State Parks to allow restaurant patrons to park on State Parks property in the evenings when the dinner restaurant would be open, and for beach users to park on the restaurant's property during the daytime, when the restaurant would be closed. The applicant proposed, and the Commission required, limited restaurant hours through Special Condition No. 2 of the CDP, which states: "In order to assure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time." The CDP also required that public access to the beach through the property be maintained and improved. The Commission found

⁵ The dirt lot located to the north of the Property is currently used for beach and restaurant parking. Based on the available information, it is unclear whether use of the lot for parking has been fully authorized under the Coastal Act.

that only as conditioned to ensure that public access was not impacted by the proposed restaurant could the proposed restaurant be found consistent with the Coastal Act.

CDP AMENDMENT P-77-579-A

On May 11, 1981, the Commission denied the request of the property owner at that time to amend the CDP to allow the restaurant to open at 10 A.M. on Sundays. In the adopted findings to support the denial, the Commission found that daytime use of the restaurant would reduce the available public parking beach access, would directly conflict with the original parking agreement with the County and State Parks, and would therefore be inconsistent with Sections 30210 and 30252 of the Coastal Act.

COUNTY CDP 83-67 AND USE PERMIT 20-77

On February 17, 1984, the County approved, with four special conditions, CDP 83-67⁶ to construct a 460 linear-foot rock revetment across the coastal bluff, reconstruct two parking lots, and install a storm drainage system in the parking lots of the existing restaurant (Exhibit 6). Condition No. 2 of the County's CDP required the construction of "an access ramp from the top of bluff to the beach...", which resulted in the construction of the cement public access stairway immediately seaward of the restaurant that is still in existence today. Condition No. 3 of the CDP required the property owner to maintain public access on a walkway between the north and south parking lots that serve the restaurant. At the same hearing, the County also approved an amendment to the County's Use Permit that included six conditions, including a condition requiring that free public access to the beach be maintained; and a condition requiring that the restaurant open only after 5:00 P.M. (Exhibit 6)

CDP AMENDMENT P-77-579-A1⁷

On December 29, 2011, in response to a letter from Commission Enforcement staff, Respondents submitted a CDP Amendment application requesting authorization to install parking signs and requesting authorization for: installation of new outdoor lighting and to authorize, after-the-fact, and the construction of two outdoor patios. Since this time, the permit application has never been deemed "complete" by Commission permit staff since certain, specific items have not been submitted to staff by Respondent⁸, and therefore, the permit application remains unfiled. As described in Section D(2)(c), below, pursuant to this Consent Agreement, Respondents have agreed to modify their proposed project and submit all requested information to "complete" their CDP application, including the payment of fees for an after-the-fact permit application, within 60 days of issuance of the Consent Agreement.

⁶ The County's LCP was certified on November 5, 1980, and the County issued new Coastal Development Permits after that date. Coastal Development Permit 83-67 was issued by the county in this case as it was determined that the proposed development did not affect the Commission's CDP.

⁷ Although this is the second amendment request, this amendment request was incorrectly numbered as P-77-579-A1 when it was received. To avoid confusion, it will be referred to by this number in this report, and the application number will be renumbered at a later date by Commission Permit staff.

⁸ The items include, but are not limited to, the lack of the appropriate application fee, lack of information regarding proposed signage, and the lack of local approvals by San Mateo County

B. DESCRIPTION OF UNPERMITTED DEVELOPMENT

As described in further detail below, the Unpermitted Development includes, but may not necessarily be limited to: Non-compliance with conditions of CDP P-77-579 that were designed to protect public access to and use of Montara State Beach by limiting the commercial use of the site, which non-compliance includes conducting various unpermitted activities that increase the capacity and use of the restaurant, such as: operating the restaurant during restricted, peak beach-use times (prior to 5:00 PM) and construction of an unpermitted 1,276 sq. ft. and a 850 sq. ft. patio addition to the restaurant. Additional violations include the unpermitted construction of a retaining wall, three raised masonry firepits, and glass windscreens surrounding and on the unpermitted patios; and placement of fill.

CONSTRUCTION AND USE OF PATIOS

Prior to the Unpermitted Development, the areas where the lower and upper patios are now located were occupied by architectural features of the building and landscaping. Without a CDP as required, between 2008 and 2009 Respondents removed the architectural features and landscaping, and constructed 1) a 1,276 sq. ft. lower patio, and 2) an 850 sq. ft. upper patio and 3) placed glass windscreens, masonry firepits, and tables and chairs on and surrounding the patios, and placed a retaining wall, and fill material at the site of the 850 sq. ft. upper patio. The upper and lower patios, which lack Coastal Act authorization, have been used to serve restaurant patrons for regular restaurant and bar service. While outdoor patios are typical of restaurants and do provide patrons of the restaurant an enjoyable atmosphere, in this particular case, because of the limitations on parking supply and the proximity of the restaurant to the popular Montara State Beach, the patios in their current state have impacted and continue to impact public access by increasing capacity of the restaurant and thereby increasing parking demand for the limited spaces in this location of the coast. See Exhibit 2 for images depicting the unpermitted development.

HOURS OF OPERATION

As described in Section B, above, Special Condition No. 2 of CDP P-77-579, and the condition of the County's Use Permit, require that the restaurant open only after 5:00 P.M., as was provided in the original permit, specifically to protect public access to Montara State Beach. In this case, Respondents have repeatedly violated the CDP by opening the restaurant prior to 5:00 P.M, including multiple occasions for private events during peak summer time beach use. For instance, on May 24, 2015, Respondents hosted an event at their restaurant at which signage regarding valet parking, a kiosk, and parking staff were present at 10:30 A.M. on a Sunday, thus occupying parking intended for public beach access and also precluding public parking at the site.

The violations have occurred multiple times per year, since at least May 2010 (Exhibits 2, 3), based on evidence from Respondents, San Mateo County, members of the public, Commission staff site visits, and through information posted on websites regarding events, hours of operations, and use of the patios. For example, Respondents have advertised opening earlier than 5:00 P.M. on its public restaurant website and social media pages (Exhibit 3). Despite

repeated requests by Commission staff requesting that Respondents cease such activity, as described in Section C, below, Respondents continued to open the restaurant outside of the authorized hours, in violation of their permit, in the years since this time. Use of the restaurant outside of the authorized hours creates a parking demand for the restaurant that would not otherwise exist at that time, and thereby impacts the availability of parking for public access to the coast at a location where public beach parking is already a limited resource, and in direct contravention of permit conditions designed to protect public access.

INTENSIFICATION OF USE OF THE RESTAURANT

The Unpermitted Development that consists of physical improvements has also intensified the use of the Property without the required Coastal Development Permit. The addition of the patios, including over 2,100 square feet of new restaurant capacity, provides significant, new, additional area for restaurant and bar service and for patrons waiting to be served, expanding the capacity of the restaurant. The expansion of the restaurant increases the number of patrons that can be hosted and/or served at one time thus increasing the demands on parking in the area and reducing the amount of parking available for public access, each day that the restaurant operates. As noted above, even if the restaurant is in compliance with the hourly restrictions, it is still regularly open at times when there is a demand for public beach use, such as in the early evenings. Thus, this increased restaurant parking demand has an impact on public access even if the restaurant is in compliance with its hourly restrictions.

Additionally, construction of the patios increases the available restaurant space that can be used for private events, which occur regularly at the restaurant⁹. Advertisements on Respondent's website, as well as other websites regarding the restaurant, have stated that the restaurant hosts events of up to 300 seated guests (Exhibit 3). The advertised capacity of 300 guests far exceeds the 189 seat capacity of the restaurant established by the Commission's CDP, thus violating the permit, and greatly exceeds the parking supply that could be met by the 53 parking spaces that are provided on-site, thus displacing the parking for public beach access in the area for the private use of the restaurant patrons. Therefore, Respondents have additionally impacted public access by expanding the capacity of the restaurant, without a permit.

C. ENFORCEMENT HISTORY

In December 2004, as a courtesy, Commission staff sent a letter to Respondents just after they purchased the property to inform them of the requirements of CDP P-77-579 and to inform them that a CDP amendment was required for any changes to the permit or the hours of operation (Exhibit 10). In April 2010, after Respondents applied to San Mateo County to amend their local use permit, Commission enforcement staff sent a second letter as a courtesy, reiterating the requirements of CDP P-77-579 and again informing Respondents that an amendment to CDP P-

⁹ On a website containing a description of a small business conference in San Francisco on May 12-14, 2014, the event manager of La Costanera is described as scheduling 70 weddings in 2013 at the La Costanera Restaurant. (<https://www.eventbrite.com/e/tales-from-the-trenches-the-truth-about-running-a-small-business-tickets-11325295263?aff=eorg>, accessed on November 19, 2015)

77-579 would be required for any changes to restaurant hours (Exhibit 11), and that any activities inconsistent with the permit would be a violation of the permit and Coastal Act.

In April 2011, Commission staff became aware of multiple violations on the Property, and sent a letter notifying Respondents that they were in violation of the Coastal Act and the CDP (Exhibit 12). Since that time, Commission staff has attempted on numerous occasions to work with Respondents to resolve the violations of the Coastal Act on the Property, including by sending additional letters in November 2011, March 2012, December 2012, June 2013, April 2014, January 2015, March 2015, July 2015, and April, 2016 (Exhibits 13-21). Within these letters, and in the many phone calls, meetings, and other correspondence over the past five years, Commission staff has repeatedly informed Respondents that the Unpermitted Development was occurring without the required CDP, in violation of the Coastal Act, and inconsistent with CDP P-77-579, and requested that Respondents remove the physical items of Unpermitted Development, cease operating the restaurant during prohibited hours, and cease performing additional unpermitted development.

After being notified of the Unpermitted Development in April 2011, and after many phone calls and letters from Commission Enforcement staff, between May 2013 and March 2015, Respondents removed some of the unpermitted items, consisting of spotlights, signs that discouraged public parking and other restaurant signs, and other violations. This portion of the violations was resolved and has therefore been excluded from this matter.

However, other actions that are addressed in this proceeding and inconsistent with the CDP continued. In response to numerous requests from Commission staff to comply with the authorized hours for the restaurant, on February 12, 2015, Respondent's counsel informed Commission enforcement staff that they would "cease all future activity prior to 5 pm." However, despite this assertion, on July 22, 2015, Respondents sent a letter to San Mateo County affirmatively stating that they would perform additional violations by opening the restaurant prior to 5 P.M. on four specific dates in the following three months: September 7, September 12, October 3, and October 10, 2015 (Exhibit 7). That letter also asserted that no other violations besides those dates would occur. However, despite the assurances made to Commission and County staff, Commission staff subsequently obtained evidence indicating that the restaurant continued to open prior to 5:00 P.M., for not just the dates they stated they were planning to be open despite the prohibition, but also on additional dates, including but not necessarily limited to August 29, 2015, September 26, 2015, March 13, 2016, and March 26, 2016¹⁰.

In addition, the two unpermitted patios remain on the Property and use of the unpermitted patios continued to occur, with the effect of increasing the number of patrons and a concomitant increase in parking demands and constraint on public use of the beach parking lots. In June, 2016, San Mateo County planning staff directed Respondents to cease usage of the unpermitted patios. The patios remain in usage during events held at the restaurant, some of which occurred in July, October, and November, 2016.

¹⁰ These violations were reported by members of the public or confirmed via a site visit by Commission Enforcement Staff. They are not an exhaustive list of dates, but merely reflect the dates that were reported to or observed by the Commission staff.

Recent Discussions

The violation was elevated to the Statewide Enforcement unit in late 2015, and discussions with Respondents regarding a potential resolution began shortly thereafter. In February 2017, Respondents hired new counsel and discussions regarding the terms of a potential Consent Agreement intensified. On February 28, 2017, Respondents, after working closely with Enforcement staff, agreed to resolve this matter amicably and without the need for litigation, and signed the proposed Consent Agreement (see Attachment A).

D. BASIS FOR ISSUANCE OF CEASE AND DESIST ORDER

1) STATUTORY PROVISION

The statutory authority for issuance of this Consent Cease and Desist Order is provided in Section 30810 of the Coastal Act, which states, in relevant part:

(a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist...

(b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...

2) FACTUAL SUPPORT FOR STATUTORY ELEMENTS

The following pages set forth the basis for the issuance of this Consent Cease and Desist Order by providing substantial evidence that the Unpermitted Development meets all of the required grounds listed in Coastal Act Sections 30810 for the Commission to issue a Cease and Desist Order.

(a) Development has occurred without a Coastal Development Permit that would have been needed from the Commission, and in violation of CDP P-77-579, which the Commission previously issued

The Property is located within unincorporated San Mateo County, within the Coastal Zone. Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the Coastal Zone must obtain a coastal development permit. "Development" is broadly defined by Section 30106 of the Coastal Act, as well in the San Mateo County LCP in relevant part as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure...; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act

(commencing with Section 66410 of the Government Code), and any other division of land, including lot splits...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...

Unpermitted Development, as described in Section B above, has occurred on the Property without a CDP, and inconsistent with a previously issued CDP. The actions performed by Respondents included physical development as well as changes in the intensity of use of land and changes in the intensity of use of water and access thereto. Thus, they clearly constituted “development” within the meaning of the above-quoted definition and therefore those actions are subject to the permit requirements of Section 30600(a) of the Coastal Act, and required a CDP from the Commission. The development occurred within 50 feet of a coastal bluff and within an area designated as highly scenic in the certified San Mateo County Land Use Plan, and therefore, pursuant to Section 13253(b)(1) of the Commission’s Regulations, there is no applicable exemption to the permit requirements for the physical improvements, nor is there any other basis for an exemption.

The Commission has enforcement jurisdiction over the violations at issue herein. The violations addressed in this action pertain directly to CDP No. P-77-579, which was issued by the Commission prior to certification of the San Mateo County Local Coastal Program; the Commission has jurisdiction to enforce its own permits. In addition, any change to the operations governed by that permit would have required a permit amendment, which would have had to come from the Commission as well. Thus, the changes also constituted development that required a permit from the Commission and that occurred without securing such a permit.

The San Mateo County Land Use Plan and Local Implementation Plan (which together form the LCP) were certified by the Commission on November 5, 1980, after CDP No. P-77-579 was issued by the Commission; the County now issues permits for development and ensures compliance with the LCP within its geographic limit. Commission staff has coordinated with San Mateo County regarding enforcement of the Commission’s 1977 permit. For example, in a letter dated April 25, 2016, Commission staff memorialized a phone conversation with San Mateo County planning staff in which County Planning Staff agreed that the Commission had enforcement jurisdiction regarding its CDP and asked Commission staff to take the lead on enforcement of the Coastal Act violations on the Property (Exhibit 9). Commission staff has continued to communicate with San Mateo County Planning staff to keep the County apprised of the potential parameters of the pending resolution.

As discussed above, the Unpermitted Development is inconsistent with a CDP issued by the Commission. The Commission found, through its approval of CDP P-77-579 and its denial of the amendment to CDP P-77-579, that the limited restaurant hours required by Special Condition 2 of CDP P-77-579 were necessary to ensure that the restaurant did not impact public access. However, despite the requirements of the permit, the restaurant has repeatedly opened for business prior to the authorized hours, in violation of Special Condition 2 of CDP P-77-579, and inconsistent with the public access policies of the Coastal Act. No amendment or new permit was approved by the Commission (or the County) for the development subject to this Consent Cease and Desist Order. Therefore, the criterion for issuance of the Consent Cease and Desist Order has been met. As it is only necessary to find that development has been undertaken

without a required permit or in violation of a previously issued permit in order for the Commission to issue a Cease and Desist Order, the following Section b is for background purposes only.

(b) The Unpermitted Development at Issue is not Consistent with the Coastal Act's Access Provisions and Principles of Environmental Justice

Coastal Act Section 30210 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.

Coastal Act Section 30211 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.

Coastal Act Section 30252 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....

That all of the public should enjoy access to coastal areas for recreational purposes is an important concept for environmental justice precepts in California. Just last year, the Legislature passed a bill¹¹ to add explicit environmental justice provisions to the Coastal Act, including adding section 30013, which states that no one in the state may be “unlawfully denied full and equal access to the benefits of . . . any program or activity that is conducted, operated, or administered pursuant to [the Coastal Act]” on the basis of a protected class status. Public access and opportunities for coastal recreation continue to be threatened by private development, illegal encroachments, and other restrictions on beach or coastal access. These burdens of restricted access are disproportionately borne by low-income and minority communities, while coastal property owners benefit from the privatization of the public spaces of beaches, coastal areas, and public easements. Securing open public access for all citizens provides low-cost, outdoor recreation that can improve the overall quality of life of all the public, including low income and minority communities.

Although no single access point will solve all environmental justice problems, ensuring that free public access to the coast is maintained and that no new impacts occur, especially by ensuring those accessways already acquired by the State for public recreation remain available, will cumulatively ensure that public access is protected and reduce environmental injustice concerns.

a. ¹¹ AB 2616 (Burke), Chap. 578, Stats. 2016.

Public recreation and the ability for the public to access the beach are a major cornerstone of the Coastal Act. The expansion in capacity of the restaurant and expansion of hours of operation collectively have the effect of dissuading the public from accessing the public State beach. As discussed in Section A, above, insufficient parking was proposed as part of CDP P-77-579, and the Commission required measures to prevent impacts to public access. Those measures include an agreement to allow parking for the State Beach to occur on the restaurant parking lot, a requirement that the restaurant only be open after 5 P.M. to avoid peak beach use, and a requirement for improvement and maintenance of public access to the beach. Only as conditioned did the Commission find that the construction of the restaurant was consistent with the public access policies of the Coastal Act. In this case, those conditions were violated. Instead, Respondents expanded the hours of their restaurant on multiple occasions and expanded the restaurant capacity, increasing parking demand for the restaurant, and impacting public access to the adjacent public beach, in violation of Special Condition 2 of the CDP and the public access provisions of the Coastal Act. The unpermitted actions taken at the Property have the potential to not only have a negative impact on public access to this portion of Montara State Beach, but can also have the effect of dissuading the public from accessing other portions of Montara State Beach due to the consistent lack of availability of public parking in the area.

E. BASIS FOR ISSUANCE OF ADMINISTRATIVE PENALTY

1) STATUTORY PROVISIONS

The statutory authority for imposition of administrative penalties is provided in Section 30821 of the Coastal Act, which states, in relevant part:

(a) In addition to any other penalties imposed pursuant to this division, a person, including a landowner, who is in violation of the public access provisions of this division is subject to an administrative civil penalty that may be imposed by the commission in an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation. The administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.

Through the proposed settlement, Respondents have agreed to resolve their financial liabilities under Section 30821 of the Coastal Act.

2) FACTUAL SUPPORT FOR STATUTORY ELEMENTS

This case, as discussed above, includes violations of the public access provisions of the Coastal Act. These provisions include, but are not necessarily limited to, Section 30210, which states in part that “maximum access ... and recreational opportunities shall be provided for all the people”, Coastal Act Section 30211, which states in part, “Development shall not interfere with the public’s right of access to the sea . . .” and Coastal Act Section 30252, which states “The location and amount of new development should maintain and enhance public access to the coast by... providing adequate parking facilities....”

The Commission found, through the approval of CDP P-77-579 and the denial of the first proposed amendment to CDP P-77-579, that the limitation on restaurant hours, which was required by Special Condition 2 of CDP P-77-579, was necessary to ensure that the restaurant did not impact public access, by limiting the hours the restaurant patrons would occupy parking that would otherwise be available for public access use, and thus, that compliance with these limitations was necessary to achieve consistency with the public access provisions of the Coastal Act. However, the restaurant has repeatedly opened for business prior to the authorized hours, in violation of Special Condition 2, and inconsistent with the public access policies of the Coastal Act. This includes the opening of the restaurant at unauthorized hours on multiple dates.

Additionally, the restaurant was expanded through the unpermitted construction of two new patios, increasing the total square footage of the restaurant by a total of 2,126 sq. ft. This unpermitted expansion has increased the capacity of the restaurant by increasing the area available for restaurant and bar use, and the area available for use as a waiting and lounge area, increasing the number of persons using the restaurant, and, correspondingly, increasing the parking demand with corresponding impacts to public access. The Unpermitted Development has increased the parking demand for the restaurant without providing any additional parking facilities to meet the additional demand. Patrons of the restaurant share available parking spaces with members of the public using Montara State Beach, and an increase in restaurant parking directly displaces parking for public access. Access to the beach is very limited at this location and the impact from the Unpermitted Development has significantly impacted the public's ability to access the beach. Thus, the violations of the Coastal Act are negatively impacting public access and are inconsistent with Coastal Act provisions that protect public access, including Sections 30210, 30211, 30212, 30213 and 30252. Section 30821 of the Coastal Act is therefore applicable.

(a) 30821 (h) Notice

Under 30821(h) of the Coastal Act, under certain specified circumstances, imposition of administrative penalties may be avoided when a violation is corrected within 30 days of written notification from the Commission regarding the violation. However, this Section is inapplicable to the matter at hand. There are three requirements for 30821(h) to apply: 1) the violation must be remedied within 30 days of notice, 2) the violation must not be a violation of permit conditions, and 3) the violation must be able to be resolved without requiring additional development that would require Coastal Act authorization. None of the requirements are met here; therefore Section 30821(h) does not apply. Respondents were notified of violations in 2011 and were even specifically notified of the potential applicability of Section 30821 on January 28, 2015, and any 30 day period since that date has long since run. Further, this action is to enforce the terms and conditions of CDP P-77-579, and a 30821(h) cure is not available for permit violations. Finally, removal of some of the physical structures would require a permit, so the violation cannot be fully resolved without authorization.

Additionally, Section 30821(f) of the Coastal Act states:

(f) In enacting this section, it is the intent of the Legislature to ensure that unintentional, minor violations of this division that only cause de minimis harm

will not lead to the imposition of administrative penalties if the violator has acted expeditiously to correct the violation.

Section 30821(f) is inapplicable in this case. As discussed above, the expansion of the restaurant and change in hours of operation is significant because the requirements regarding parking in CDP P-77-579 were designed to protect public access and Respondents violated those requirements and impacted public access, and because loss of access is very significant under the Coastal Act. Therefore, the violation cannot be considered to have resulted in “de minimis” harm to the public.

(b) Penalty Amount

Pursuant to Section 30821(a) of the Coastal Act, the Commission may impose penalties in “an amount not to exceed 75 percent of the amount of the maximum penalty authorized pursuant to subdivision (b) of Section 30820 for each violation.” 30820 (b) authorizes civil penalties that “shall not be less than one thousand dollars (\$1,000), not more than fifteen thousand dollars (\$15,000), per day for each day in which the violation persists.” Therefore, the Commission may authorize penalties in a range up to \$11,250 per day for each violation.

Section 30821(a) sets forth the time for which the penalty may be collected by specifying that the “*administrative civil penalty may be assessed for each day the violation persists, but for no more than five years.*” In this case, the violation has persisted since 2009. Commission staff is recommending that the time period in this case be calculated from July 1, 2014 – the effective date of Section 30821 - to the date that the County directed the property owner to cease all usage of the patios, April 26, 2016, and including 14 days where the restaurant operated at unauthorized hours for private events. The recommended period is therefore currently 679 days. The Commission could thus impose penalties as high as \$11,250 per day for 679 days for a total penalty of \$7,638,750.

As discussed immediately below, Commission staff has considered the various factors set forth in section 30820(c) of the Coastal Act in negotiating a settlement proposal for the Commission’s approval. Given the context that Respondents have agreed to provide some key additional public access amenities to improve public access on the Property and its surroundings, including enhanced public trails, a public viewing area, and interpretive and directional signage to support additional public access at this section of the coast, the proposed penalty amount in the proposed settlement is a total of \$500,000, which is comprised of payment to the Violation Remediation Account of the California Coastal Conservancy.

For background, we also provide an analysis of the factors referenced in Section 30821(c) as they would apply to an access violation here. Under Section 30821(c), in determining the amount of administrative penalty to impose, “the commission shall take into account the factors set forth in subdivision (c) of Section 30820.”

Section 30820(c) of the Coastal Act states:

In determining the amount of civil liability, the following factors shall be considered:

(1) The nature, circumstance, extent, and gravity of the violation.

- (2) Whether the violation is susceptible to restoration or other remedial measures.*
- (3) The sensitivity of the resource affected by the violation.*
- (4) The cost to the state of bringing the action.*
- (5) With respect to the violator, any voluntary restoration or remedial measures undertaken, any prior history of violations, the degree of culpability, economic profits, if any, resulting from, or expected to result as a consequence of, the violation, and such other matters as justice may require.*

Applying the factors of Section 30820(c)(1) and (3), the violation at hand should warrant the imposition of substantial civil liability; the property has been in violation of its underlying CDP for over 7 years, and the violation has meant that the public has been at many times unable to access the public beach at this location. Moreover, the resource affected by the violation, access, is a scarce and important resource across the State, and in this coastal region in particular. The stairway adjacent to the Property is one of only about 7 points of access to the sandy beach within a 7 mile stretch between the City of Pacifica and the Pillar Point Marina.

Also factored into the consideration of the penalty calculation is Section 30820(c)(2), which cuts both ways here; the violation is susceptible to restoration, and moving forward compliance with the permit will ensure that adequate public parking is available and public access is maintained at this location. On the other hand, there are years of public access losses that can never be recovered, and many public users have been denied public access to the coast that they cannot now regain.

With regard to Section 30820(c)(4), there have been significant costs to the state involved in bringing this violation to resolution. The State has had to expend its limited resources in order to provide access where it should have already existed had the CDP been complied with. Commission staff has spent numerous hours, over a number of years, on phone calls, letters, and site visits to persuade Respondents to cease performing unpermitted development, comply with their permit, and resolve the violation of their permit and the Coastal Act.

With regard to 30820(c)(5), Respondents are responsible for performing the Unpermitted Development, which directly resulted in increased economic profits for Respondents, and for continuing to do so despite repeated warnings. A substantial civil liability is therefore warranted to deter Respondents and potential future violators from undertaking future violations of the Coastal Act. A restaurant is a commercial visitor serving use, and increased use of such use might provide some benefit to public access. However, such benefit is limited to those persons with the ability to pay, and also reduces free public access to the beach, a no-cost recreational activity that is protected by Coastal Act Section 30213.

However, Respondents have agreed to voluntarily resolve the violation and the associated civil liabilities, and to cease and desist from performing future violations of their permit and the Coastal Act in the future, thus obviating the need for significant additional costs associated with litigation. In sum, while the violation is significant, some consideration should be given to the voluntary resolution of this violation by Respondents. Therefore, staff has recommended a penalty amount of \$500,000, to be directed towards the Violation Remediation Account of the State Coastal Conservancy, and requiring Respondents to finance, construct, and maintain

enhanced public trails, a public viewing area, and interpretive and directional signage on and near the Property.

F. CONSENT AGREEMENT IS CONSISTENT WITH CHAPTER 3 OF THE COASTAL ACT

The Consent Agreement, attached to this staff report as Appendix A, is consistent with the resource protection policies found in Chapter 3 of the Coastal Act and the corresponding policies of the San Mateo County LCP. This Consent Agreement requires and authorizes Respondents to, among other things, cease and desist from conducting any further unpermitted development on the Property, and perform public access improvements including enhanced public trails, a public viewing area, and interpretive and directional signage and remove the upper 850 sq. ft. patio, retaining wall, and fill, and tables and chairs. This Consent Agreement also allows for Respondents to apply for approval after-the-fact of the lower, 1,276 sq. ft. patio, glass windscreen and masonry firepits on the patio, and require the removal of that development if said approval is denied. Therefore, this Consent Agreement is consistent with the Chapter 3 policies of the Coastal Act, and their issuance is consistent with Coastal Act Section 30810(b).

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Commission finds that issuance of this Consent Agreement, to compel the removal of the Unpermitted Development, among other things, and implementation of this Consent Agreement is exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 *et seq.*, for the following reasons. First, the CEQA statute (section 21084) provides for the identification of “classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from [CEQA].” The CEQA Guidelines (which, like the Commission’s regulations, are codified in 14 CCR) provide the list of such projects, which are known as “categorical exemptions,” in Article 19 (14 CCR §§ 15300 *et seq.*). Because this is an enforcement action designed to protect, restore, and enhance natural resources and the environment, and because the Commission’s process, as demonstrated above, involves ensuring that the environment is protected throughout the process, three of those exemptions apply here: (1) the one covering actions to assure the restoration or enhancement of natural resources where the regulatory process involves procedures for protection of the environment (14 CCR § 15307); (2) the one covering actions to assure the restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment (14 CCR § 15308); and (3) the one covering enforcement actions by regulatory agencies (14 CCR § 15321).

Secondly, although the CEQA Guidelines provide for exceptions to the application of these categorical exemptions (14 CCR § 15300.2), the Commission finds that none of those exceptions applies here. Section 15300.2(c), in particular, states that:

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

CEQA defines the phrase “significant effect on the environment” (in Section 21068) to mean “a substantial, or potentially substantial, adverse change in the environment.” This Consent Agreement is designed to protect and enhance the environment, and they contain provisions to ensure, and to allow the Executive Director to ensure, that they are implemented in a manner that will protect the environment. Thus, this action will not have any significant effect on the environment, within the meaning of CEQA, and the exception to the categorical exemptions listed in 14 CCR section 15300.2(c) does not apply. An independent but equally sufficient reason why that exception in section 15300.2(c) does not apply is that this case does not involve any “unusual circumstances” within the meaning of that section, in that it has no significant feature that would distinguish it from other activities in the exempt classes listed above. This case is a typical Commission enforcement action to protect and restore the environment and natural resources.

In sum, given the nature of this matter as an enforcement action to protect and restore natural resources and the environment, and since there is no reasonable possibility that it will result in any significant adverse change in the environment, it is categorically exempt from CEQA.

H. SUMMARY OF FINDINGS OF FACT

1. A&G, LLC is the owner of the property identified by the San Mateo County Assessor’s office as APNs 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998. The above-listed properties are located within the Coastal Zone.
2. In its approval of CDP P-77-579, the Commission found the project consistent with the Coastal Act and approved the CDP relying on the fact that, as proposed, the capacity was limited to a set number of patrons, and the CDP included conditions to protect public access, including the requirement that the restaurant hours be limited, and because a parking agreement with the County, State Parks, and the property owner provided that public beach users could park at the restaurant parking lots during the day, and restaurant users could park at the beach parking lots in the evenings.
3. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order when the Commission determines that any person has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the Commission without securing a permit or (2) is inconsistent with any permit previously issued by the Commission.
4. Unpermitted development and development inconsistent with the CDP has occurred on the Property. Therefore, the jurisdictional requirement for the issuance of a cease and desist order has been met.
5. The work to be performed under this Consent Agreement, if completed in compliance with the Consent Agreement and the plan(s) required therein, will be consistent with Chapter 3 of the Coastal Act.

6. The statutory authority for imposition of administrative penalties is provided in Section 30821 of the Coastal Act. Sections 30820 and 30822 of the Coastal create potential civil liability for violations of the Coastal Act more generally.
7. As stated in #4, above, unpermitted development and development inconsistent with a CDP has occurred on the Property, which is owned by Respondents. These actions are also inconsistent with the public access provisions of the Coastal Act and therefore subject Respondents to penalties under Section 30821 of the Coastal Act. Through the Consent Agreement, Respondents have agreed to resolve their financial liabilities under all of these sections of the Coastal Act.

APPENDIX A
(PROPOSED CONSENT AGREEMENT)

CONSENT CEASE AND DESIST ORDER CCC-17-CD-01 AND CONSENT ADMINISTRATIVE PENALTY ORDER CCC-17-AP-01

1.0 CONSENT CEASE AND DESIST ORDER CCC-17-CD-01

Pursuant to its authority under California Public Resource Code (“PRC”) Section 30810, the California Coastal Commission (“the Commission”) hereby orders and authorizes A&G LLC and any of its current or future members, including, but not necessarily limited to, Rahim Amidi, Hamid Rafiei, and their successors in interest, lessees, heirs, assigns, employees, agents, contractors, any persons acting in concert with any of the foregoing, including any future owners of the property located at 8150 Cabrillo Highway, Montara, San Mateo County (hereinafter referred to as the “Property”), more specifically designated as San Mateo County Assessor’s Parcel Numbers (“APNs”) 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998¹ (hereinafter collectively referred to as “Respondents”), to take all actions required by Consent Cease and Desist Order No. CCC-17-CD-01 including, but not limited to, those requirements in Sections 4 through 5, below, and the following:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, on the Property, unless authorized pursuant to the Coastal Act (PRC Sections 30000 to 30900), which includes pursuant to this Consent Agreement, as that phrase is defined in Section 3.3, below, or for which Commission Staff has confirmed in writing that it is exempt.
- 1.2 Remove, pursuant to and consistent with the terms of Section 4.0, below, and pursuant to the conditions set forth herein, all the physical structures and materials that were placed and remain on the Property, as a result of the Unpermitted Development, as that phrase is defined in Section 3.2, below.
- 1.3 Refrain from undertaking any activity in violation of the Coastal Act or in violation of Coastal Development Permit (“CDP”) P-77-579 (hereinafter “the CDP”), including any operation of the restaurant on the Property or allowing its use by patrons of the restaurant prior to 5:00 PM, expanding the capacity of the restaurant beyond what was approved pursuant to the CDP, or interfering with the public’s ability to park on the Property or adjacent publicly owned property.

¹This final APN refers to a roughly 0.03-acre property, located immediately to the north of part of APN 036-046-400, and immediately to the west of part of APN 036-046-380, which is not assessed and therefore does not have a formal APN. It is denoted here by a placeholder APN assigned by the County Assessor’s Office for convenience purposes, only, and use of such APN in this document is not an acknowledgment of any legal status of this property.

- 1.4 Respondents shall comply with Special Condition 3 of the CDP, Special Condition 3 of County CDP 83-67, and Condition 5 of Use Permit 20-77, requiring ongoing maintenance of safe public access through the Property and to the beach, by continuing to maintain the public walkway and public access stairs. Within 30 days of issuance of this Consent Cease and Desist Order, Respondents shall submit a Public Access Stairs Plan for the review and approval of the Executive Director, that provides an assessment of the measures necessary to maintain safe access on the existing stairway and a plan for implementing those measures. Measures may include painting existing hand railing, installing a new hand railing at the top of the stairway, and texturizing steps to ensure safety of pedestrians. Respondents shall commence implementation of the approved plan within 30 days of written approval by the Executive Director and complete implementation of any initial work within 30 days of commencing implementation. Respondents shall submit photographic evidence of completion of the plan within 10 days of completion.
- 1.5 Refrain from any attempts to limit or interfere with public use of state park property or access to Montara State Beach.

2.0 CONSENT ADMINISTRATIVE PENALTY ORDER CCC-17-AP-01

Pursuant to its authority under PRC Section 30821 and its authority to authorize development, the Commission hereby orders and authorizes Respondents to pay an administrative civil penalty and orders and authorizes Respondents to take other actions *in lieu* of paying a larger penalty, by complying with the terms and conditions listed herein, including taking all actions described in Section 6, and Respondents have agreed to the same.

3.0 DEFINITIONS COMMON TO BOTH ORDERS

3.1 “Property”

The properties that are subject to this Consent Agreement are as follows: 8150 Cabrillo Highway, Montara, San Mateo County, APNs 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998¹.

3.2 “Unpermitted Development”

All “development” as that term is defined in the Coastal Act (PRC Section 30106) that occurred on the Property without the authorization required under the Coastal Act and/or that did not comply with the terms and conditions of Coastal Development Permit No. P-77-579, including, but not limited to, use of the restaurant prior to 5:00 PM inconsistent with

Special Condition 2 of CDP P-77-579; construction of a 1,276 sq. ft. and a 850 sq. ft. patio addition to the restaurant; construction of a retaining wall, three raised masonry firepits, and glass windscreens surrounding and on the patios; placement of fill; and change in the intensity of use of adjacent State Parks' property due to increased private restaurant parking; all of which has the effect of increasing the capacity of the restaurant beyond that which was authorized by the CDP.

3.3 "Consent Agreement"

Consent Cease and Desist Order No. CCC-17-CD-01 and Consent Administrative Penalty Order CCC-17-AP-01 is collectively referred to as this Consent Agreement.

4.0 REMOVAL OF UNPERMITTED DEVELOPMENT

- 4.1 Within 30 days of issuance of this Consent Agreement, Respondents shall submit a Removal Plan for the review and written approval of the Executive Director to govern the removal of all physical items placed or allowed to come to rest on the Property as a result of the Unpermitted Development that are required to be removed pursuant to this Consent Agreement, including the 850 sq. ft. patio and the associated retaining wall, fill material, glass windscreens, and tables and chairs.
- A. The Removal Plan shall indicate that Respondents shall commence removal of the physical items resulting from the Unpermitted Development by commencing implementation of the Removal Plan within (30) days of approval of the Removal Plan, and complete all removal activities within 30 days of commencement.
 - B. The Removal Plan shall include a site plan showing: 1) the location and identity of all physical items placed or allowed to come to rest on the Property as a result of the Unpermitted Development; 2) the location of designated areas for staging of construction equipment and materials, including receptacles and temporary stockpiles of materials; 3) the location of temporary erosion control measures that will be installed to ensure protection of water quality and avoid erosion; and 4) the location of photo points where photographs shall be taken pursuant to Section 4.3, below. Staging areas and stockpiles shall not be located on publicly owned property.
 - C. The Removal Plan shall include a narrative report describing all temporary run-off and erosion control measures to be used during removal activities. The Removal Plan shall provide that all stock piles and construction materials shall be covered, enclosed on all

sides, located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wind or runoff erosion and dispersion.

D. The Removal Plan shall describe in detail all equipment to be used. All tools utilized shall be hand tools unless Respondents demonstrate to the satisfaction of the Executive Director that mechanized equipment is needed and will not impact resources protected under the Coastal Act, including but not limited to: geological stability, integrity of landforms, freedom from erosion, and existing native vegetation. If mechanized equipment is proposed, the Removal Plan shall provide for:

1. Limitations on the hours of operations for all equipment and a contingency plan that addresses at a minimum: 1) impacts from equipment use, including disturbance of areas where revegetation and/or mitigation will occur, and the responses thereto; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and the responses thereto; and 3) any potential water quality impacts.

2. Designated and confined areas for maintaining and washing machinery and equipment specifically designed to control runoff. Thinners or solvents shall not be discharged anywhere on the Property, including into sanitary or storm sewer systems. The discharge of hazardous materials into any receiving waters is prohibited.

E. The Removal Plan shall identify the location of the site(s) for the off-site disposal of all materials removed from the Property and all waste generated during removal activities pursuant to this Consent Agreement. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill, a CDP is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility.

F. The Removal Plan shall include a plan for the revegetation of the areas from which unpermitted development will be removed pursuant to this Consent Agreement and the approved Removal Plan. Only plant species native to this portion of coastal San Mateo County shall be included in the plan. Respondents are responsible for ensuring the ongoing survival of the plantings, shall undertake measures necessary to ensure the success of such plantings, and

shall replace any dead or dying plants with native plants approved through this Removal Plan. Two years from the issuance of this Consent Agreement, Respondents shall submit a report, for the review and approval of the Executive Director documenting the success of the plantings. If the report shows that any of the plantings have failed, in whole or in part, Respondents shall submit a request to amend the Removal Plan to perform additional revegetation of the slope consistent with this Section.

- G. The Removal Plan shall demonstrate that areas where unpermitted development will be removed pursuant to this Consent Agreement and the approved Removal Plan will be returned to grades that existed prior to the Unpermitted Development. The Removal Plan shall include topographic maps and photographic documentation.
- H. If Respondents demonstrate to the satisfaction of the Executive Director that revegetation or regrading required under Section 4 of this Consent Agreement would be inconsistent with the provision of public access improvements specified in Section 6.2, below, alternative revegetation or grading may be proposed.

- 4.2 Respondents shall commence removal activities, complete all removal activities listed in the Removal Plan, and perform all removal activities consistent with the Removal Plan and consistent with the timeline established by Section 4.1(A), above.
- 4.3 Within 10 days of completion of removal activities, Respondents shall submit photographic evidence taken from the pre-designated locations identified on the map submitted pursuant to Section 4.1, above, of the completed removal to the Executive Director for his review and written approval. After review of the evidence, if the Executive Director determines that the removal did not, in whole or in part, comply with the Removal Plan, this Consent Agreement, or the Coastal Act, the Executive Director shall specify any measures necessary to ensure that the removal complies with the approved Removal Plan, this Consent Agreement, and the Coastal Act. Respondents shall implement any specified measures, within the timeframe specified by the Executive Director.

5.0 AFTER THE FACT CDP AMENDMENT APPLICATION

- 5.1 Within 60 days of the effective date of this Consent Agreement, Respondents shall modify their application for Coastal Development Permit Amendment P-77-579-A1 that is currently pending with the Commission's North Central District Office to request the retention of only the "lower" 1,267 sq. ft. patio and glass windscreens and firepits, and

remove the request to retain the “upper” 850 sq. ft. patio and glass windscreens and firepits from the application. Respondents shall, within 60 days of the effective date of this Consent Agreement, submit all information, materials, and payments necessary to complete the application. Respondents shall not withdraw or impede final action in any way on, the complete coastal development permit amendment application that has been submitted to the Commission.

- 5.2 Respondents shall comply with the terms and conditions of any permit amendment issued pursuant to the application submitted under Section 5.1, above, within two (2) years of final Commission action on the permit, unless such terms and conditions require compliance sooner.
- 5.3 Within 60 days of the effective date of this Consent Agreement, Respondents shall submit, for the review and approval of the Commission’s Executive Director, a Removal Plan for removal of any development listed in Section 5.1 that Respondents do not apply to retain in the permit amendment application required by Section. This removal plan shall be consistent with the provisions set forth in Section 4.0, above, including the timing for implementing and completing such removal efforts, and the revegetation and grading elements contained therein.
- 5.4 Respondents shall also submit, for the review and approval of the Commission’s Executive Director, a Removal Plan for the removal of any development listed in Section 5.1 for which they do seek authorization but such authorization is denied. This removal plan shall be submitted within 30 days of final action on said denial, and shall be consistent with the provisions set forth in Section 4.0, above, including the timing for implementing and completing such restoration efforts, and the revegetation and grading elements contained therein.
- 5.5 Any use by restaurant patrons of the development described in Section 5.1 that occurs prior to the issuance of the CDP Amendment and satisfaction of all imposed conditions shall constitute a violation of this Consent Agreement and result in stipulated penalties, as provided for in Section 6.3, below.

6.0 PAYMENT OF CONSENT ADMINISTRATIVE CIVIL PENALTY

- 6.1 Respondents shall pay, a monetary penalty in the amount of \$500,000. Respondents shall pay the monetary penalty in 3 payments, with the first payment of \$100,000 made by November 1, 2017, the second payment of \$100,000 made by July 1, 2018, and the third payment of \$300,000 made by April 1, 2019. The monetary penalty shall be deposited in the Violation Remediation Account of the California State Coastal Conservancy Fund (see Public Resources Code Section 30823) or into such other public

account as authorized by applicable California law at the time of the payment, and as designated by the Executive Director. Respondents shall submit the payment amount in accordance with the deadlines set above to the attention of John Del Arroz of the Commission, at the address provided in Section 18.0, below, and payable to the account designated under the Coastal Act. The payment shall include a reference to this Consent Agreement by number.

- 6.2 Respondents shall finance, construct and maintain the following improvements pursuant to the final approved plans, as described further below:
- A. **Coastal Trail Plan.** Respondents shall prepare a plan pursuant to the requirements of this section (the “Trail Plan”), for the purposes of improving a section of the California Coastal Trail.
1. The proposed Trail Plan shall be submitted within 60 days of approval of this Consent Agreement for the review and approval of the Executive Director.
 2. The Trail Plan shall provide proof of approval by, or proof that no approval is required by, CalTrans for any development that is located adjacent to Highway 1. The Trail Plan shall provide proof of approval by, or proof that no approval is required by, the California Department of Parks and Recreation (“Parks”) for those improvements located on property owned by Parks. Respondents shall comply with the requirements of San Mateo County, CalTrans and/or Parks, consistent with this Consent Agreement.
 3. The Coastal Trail shall extend from the north-eastern boundary of the Parks parking lot located directly south of the Property, across or adjacent to the south parking lot on the Property, proceed along the existing walkway located seaward of the restaurant, and terminate at the northwestern boundary of the Property.
 4. The Trail Plan shall demonstrate that the following improvements will be provided: Adequate separation from Highway 1 to ensure public safety; striping, demarcations, and other measures to provide safe pedestrian access in areas where the trail crosses paved areas such as parking lots; one or more public water fountains; two or more public benches; railings, where appropriate, that are designed to minimize impacts to coastal views; bike racks located as close as possible to the public stairs to the beach; and locations of public access signage as further described in the Public Signage Plan section, below.

5. Respondents shall commence implementation of the Trail Plan within 90 days of written approval of the Trail Plan by the Executive Director. Within 30 days of commencing implementation of activities under the Trail Plan, Respondents shall complete implementation of the Trail Plan. Within 10 days of completion of the Trail Plan, Respondents shall submit a report, with photographs, documenting completion of the Trail Plan.

B. **Public Viewing Area Plan.** Respondents shall submit, within 120 days of issuance of this Consent Agreement, a Public Viewing Area Plan for the purposes of creating an area for public viewing of the coast and ocean, such as an area with decomposed granite or a wood deck, for the review and approval of the Executive Director.

1. The Public Viewing Area Plan shall include plans depicting the location of the viewing area. If the Viewing Area has structural components, the Public Viewing Area Plan shall include structural plans depicting how the proposed viewing area will be constructed that are prepared and stamped by a licensed engineer.

2. The Public Viewing Area shall be located on the Property; however if Parks agrees within 90 days of issuance of this Consent Agreement the viewing area may instead be located on property owned by Parks that is near the Property. If the Public Viewing Area is located on Parks property, Respondents shall comply with all requirements of State Parks including the payment of any funds required.

3. The public viewing area shall not be located on the bluff edge or face. The Public Viewing Area Plan shall demonstrate that the public viewing area will be consistent with policies of the Coastal Act and the San Mateo County LCP, and demonstrate compliance with requirements of San Mateo County.

4. Respondents shall commence implementation of the Public Viewing Area Plan within 90 days of written approval of the Trail Plan by the Executive Director. Within 30 days of commencing implementation of activities under the Public Viewing Area Plan, Respondents shall complete implementation of the Public Viewing Area Plan. Within 10 days of completion of the Public Viewing Area Plan, Respondents shall submit a report, with photographs, documenting completion of the Public Viewing Area Plan.

C. Public Access Signage Plan. Within 60 days of issuance of the Consent Agreement, Respondents shall submit a Public Access Signage Plan for the review and approval of the Executive Director.

1. The Public Access Signage Plan shall include, at a minimum, the construction of: a sign at the entrance of the north parking lot on the Property and a sign at the entrance of the south parking lot on the Property that are visible from Highway 1, which state “Public Beach and Restaurant Parking.” The signs shall include the Commission’s traditional footprint public access logo, and shall not place restaurant or other private advertisement on the sign. In addition the Public Access Signage Plan shall include the placement of three signs indicating the location of the California Coastal Trail, and including the California Coastal Trail logo, and the placement of at least two signs identifying the location of the public viewing area and stating that the viewing area is open for public use.

2. The Public Access Signage Plan shall also include the placement of three public interpretive signs located adjacent to the Coastal Trail or on or adjacent to the Viewing Area, in locations that minimize impacts to public views. The interpretive signs shall provide educational information regarding the area through photographs, diagrams, and text. One interpretive sign shall describe the flora and fauna of habitats in and around Montara State Beach, the second interpretive sign shall describe coastal processes such as erosion, sand transport, wave dynamics, and/or sea level rise, and the third interpretive sign shall describe the history and culture of the area of Montara State Beach and the surroundings.

i. The Public Access Signage Plan shall include evidence that the interpretive sign regarding biological resources has been prepared by a qualified biologist or ecologist, the interpretive signage regarding coastal processes has been prepared by a licensed coastal engineer and that the history and culture sign has been prepared with input by a historian and in consultation with local Native American tribal group(s).

ii. The interpretive signage shall include details regarding the size and construction of the proposed signage and identify the size that text will appear on the signage.

5. All public access signs placed on the Property pursuant to the Public Access Signage Plan shall include the language:

“Accessways provided in cooperation with the California Coastal Commission”, and all interpretive signs placed on the Property pursuant to the Public Access Signage Plan shall include the language: “Signage provided in cooperation with the California Coastal Commission”.

6. If any signs are proposed to be placed on property owned by Parks or CalTrans, Respondents must first receive approval from the relevant property owner prior to submitting the Public Access Signage Plan. Respondents shall comply with requirements of the relevant property owner, and with requirements of San Mateo County, consistent with this Consent Agreement.

7. Respondents shall commence implementation of the Public Access Signage Plan within 90 days of written approval of the Public Access Signage Plan by the Executive Director. Within 30 days of commencing implementation of activities under the Public Access Signage Plan, Respondents shall complete implementation of the Public Access Signage Plan. Within 10 days of completion of the Public Access Signage Plan, Respondents shall submit a report, with photographs, documenting completion of the Public Access Signage Plan.

D. **Public Access Deed Restriction.** Respondents shall record a deed restriction in a form and content approved by the Executive Director, and consistent with standard Commission practice, as follows:

1. The purpose of the deed restriction shall be to prohibit any limitations or restrictions on public access to, or use of, any of the public amenities included in this Consent Agreement, including: the trail to and along the bluff edge, viewing area, benches, signs, interpretive signs, water fountains, stairway to the beach, and bike racks or their designated locations; as well as access to and use of other public improvements on the property; including by ensuring public access from Highway 1 to and along access trails to and along the bluff edge, and to the beach, and use of public trails and public viewing areas on the property in locations approved by the Executive Director.

2. Prior to recordation of this deed restriction, Respondents shall provide Commission staff with any information requested to help in the preparation of the deed restriction, including a formal metes and bounds legal description and a corresponding graphic depiction prepared by a licensed surveyor of the deed restricted portion of this property, as well as a current Preliminary Report issued by a licensed title insurance company within the prior 30 days.

3. This deed restriction must be recorded against the entire legal parcels of the subject property within 60 days of receipt of the deed restriction approved in writing by the Commission.
4. This deed restriction must be recorded free of all prior liens, and encumbrances that the Executive Director determines would affect the interest being conveyed. Following recordation of this deed restriction, Respondents must provide evidence, including a Certified copy of the recorded deed restriction obtained from the San Mateo County Recorder's Office for the review and approval of Commission staff, as well as an updated Preliminary Report dated after the date of recordation, reflecting this deed restriction running in the chain of title for the subject property and recorded free of prior liens and encumbrances.
5. If the area designated for public access, described above, is subject to erosion or otherwise becomes unusable, Respondents shall work with Commission staff to ensure the recordation of a new deed restriction, in the same manner as described above, showing the new locations of the public access areas.

- 6.3 Strict compliance with this Consent Agreement by all parties subject hereto is required. Failure to comply with any term or condition of this Consent Agreement, including any deadline contained in this Consent Agreement, unless the Executive Director grants an extension under Section 19.0, will constitute a violation of this Consent Agreement and shall result in Respondents being liable for stipulated penalties in the amount of \$500 per day per violation. Violations of this Consent Agreement resulting from the use of the Property at hours that are not consistent with the hours authorized by CDP P-77-579 as it exists now or may be amended by the Commission in the future, or from the use of the Property in excess of the restaurant capacity authorized by CDP P-77-579 as it exists now or may be amended by the Commission in the future, shall result in Respondents being liable for additional stipulated penalties in the amount of \$10,000 per day per violation. Respondents shall pay stipulated penalties regardless of whether Respondents subsequently comply. If Respondents violate this Consent Agreement, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821, 30821.6, and 30822, as a result of the lack of compliance with this Consent Agreement and for the underlying Coastal Act violations as described herein.

7.0 RECORDATION OF A NOTICE OF VIOLATION

Respondents have not objected, and do not object, to recordation by the Executive Director of a notice of violation, pursuant to PRC § 30812(b). Accordingly, a

notice of violation will be recorded after issuance of this Consent Agreement. No later than 30 days after the Commission determines that Respondents have fully complied with this Consent Agreement, the Executive Director shall record a notice of rescission of the notice of violation, pursuant to PRC § 30812(f). The notice of rescission shall have the same effect as a withdrawal or expungement under Code of Civil Procedure § 405.61.

8.0 PERSONS SUBJECT TO THIS CONSENT AGREEMENT

A&G LLC, and any of its current and future members, including, but not necessarily limited to, Rahim Amidi, and Hamid Rafiei, and their successors in interest, lessees, heirs, assigns, employees, agents, and contractors, and any persons acting in concert with any of the foregoing are jointly and severally subject to all the requirements of this Consent Agreement, and shall undertake work required herein according to the terms of this Consent Agreement. Respondents shall provide notice to all successors, assigns, and potential purchasers of the Property of any remaining obligations or restrictions under this Consent Agreement.

9.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of these Coastal Act violations on the Property pursuant to PRC Sections 30810 and 30821. In light of the desire to settle these matters, Respondents agree not to and shall not contest the Commission's jurisdiction to issue or enforce this Consent Agreement at a public hearing or any other proceeding by or before the Commission, any other governmental agency, any administrative tribunal, or a court of law.

10.0 EFFECTIVE DATE AND TERMS OF THIS CONSENT AGREEMENT

The effective date of this Consent Agreement is the date the Commission votes to approve this Consent Agreement. This Consent Agreement shall remain in effect permanently unless and until rescinded by the Commission.

11.0 FINDINGS

This Consent Agreement is issued on the basis of the findings adopted by the Commission, as set forth in the document entitled "Staff Report: Recommendations and Findings for Consent Cease and Desist Order No. CCC-17-CD-01 and Consent Administrative Penalty No. CCC-17-AP-01." The activities authorized and required under this Consent Agreement are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act. The Commission has authorized the activities required in this Consent Agreement and has determined them to be consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act, if carried out in compliance with the terms of this Consent Agreement.

12.0 RESOLUTION OF MATTER VIA SETTLEMENT

In light of the intent of the parties to resolve these matters in settlement, Respondents have not submitted a “Statement of Defense” form as provided for in Sections 13181 of Title 14 of the California Code of Regulations (“14 CCR”) and have agreed not to contest the legal and factual bases for, the terms of, or the issuance of this Consent Agreement, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist Order Proceedings dated April 25, 2016. Specifically, Respondents have agreed not to, and shall not, contest the issuance or enforcement of this Consent Agreement at a public hearing or any other proceeding.

13.0 SETTLEMENT VIA CONSENT AGREEMENT

In light of the desire to settle this matter via this Consent Agreement and avoid litigation, pursuant to the agreement of the parties as set forth in this Consent Agreement, Respondents hereby agree not to seek a stay pursuant to PRC Section 30803(b) or to challenge the issuance and enforceability of this Consent Agreement in a court of law or equity.

14.0 SETTLEMENT OF CLAIMS

The Commission and Respondents agree that this Consent Agreement settles the Commission’s monetary claims for relief from Respondents for the violations of the Coastal Act specifically enumerated in Section 3.2, above, occurring prior to the date of this Consent Agreement, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, 30821, and 30822), provided that the Removal Plan discussed in Section 4.0 is fully implemented and the obligations of this Consent Agreement are fully satisfied, and with the exception that, if Respondents fail to comply with any term or condition of this Consent Agreement, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of this Consent Agreement.

15.0 SITE ACCESS

Respondents shall provide Commission staff and staff of any agency having jurisdiction over the work being performed under the Consent Agreement with access to the Property. Nothing in this Consent Agreement is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission and other relevant agency staff may enter and move freely about the following areas: (1) the portions of the Property on which the violations are located and within the restaurant, (2) any areas where work is to be performed pursuant to this Consent Agreement or pursuant to any

plans adopted pursuant to this Consent Agreement, (3) adjacent areas of the Property and any other area in order to view the areas where work is being performed pursuant to the requirements of this Consent Agreement, (4) any other area where evidence of compliance with this Consent Agreement may lie for purposes including but not limited to, inspecting records, logs and contracts relating to the Property; and overseeing, inspecting, documenting, and reviewing the progress of Respondents in carrying out the terms of this Consent Agreement.

16.0 GOVERNMENT LIABILITY

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to the Consent Agreement, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Consent Agreement.

17.0 REVISION OF DELIVERABLES

The Executive Director may require revisions to deliverables under this Consent Agreement, and Respondents shall revise any such deliverable consistent with the Executive Director's specifications, and resubmit them for review and written approval by the Executive Director, by the deadline established by the modification request from the Executive Director. The Executive Director may extend the time for submittals upon a written request and a showing of good cause, pursuant to Section 19.0, of this Consent Agreement.

18.0 SUBMITTAL OF DOCUMENTS

All documents and payments submitted pursuant to this Consent Agreement shall be sent to:

California Coastal Commission
Attn: John Del Arroz
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

With a copy to:
California Coastal Commission
Attn: Jo Ginsberg
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

19.0 MODIFICATIONS OF DEADLINES

Prior to the expiration of any of the deadlines established by this Consent Agreement, Respondents may request from the Executive Director an extension of any such unexpired deadline. Such a request shall be made in writing ten (10) days in advance of the deadline and directed to the Executive Director, care of John Del Arroz at the Commission's San Francisco office address identified in Section 18.0, above. The Executive Director may grant an extension of deadlines

upon a showing of good cause, if the Executive Director determines that Respondents have diligently worked to comply with their obligations under this Consent Agreement but cannot meet deadlines due to unforeseen circumstances beyond their control. A violation of deadlines established pursuant to this Consent Agreement will result in stipulated penalties, as provided for in Section 6.3, above.

20.0 SEVERABILITY

Should any provision of this Consent Agreement be found invalid, void, or unenforceable, such illegality or unenforceability shall not invalidate the whole, but this Consent Agreement shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

21.0 SUCCESSORS AND ASSIGNS

This Consent Agreement shall run with the land, binding Respondents and all successors in interest, lessees, heirs, and assigns of Respondents, and future owners of the Property. Respondents shall provide notice to all successors, lessees, heirs, and assigns and future owners of the Property of any remaining obligations under this Consent Agreement.

22.0 MODIFICATIONS AND AMENDMENTS TO THIS CONSENT AGREEMENT

Except as provided in Section 19.0, and for minor, immaterial matters upon mutual written agreement of the Executive Director and Respondents, this Consent Agreement may be amended or modified only in accordance with the standards and procedures set forth in 14 CCR Sections 13188(b).

23.0 GOVERNMENT JURISDICTION

This Consent Agreement shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

24.0 NO LIMITATION OF AUTHORITY

24.1 Except as expressly provided herein, nothing in this Consent Agreement shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Consent Agreement and the authority to take enforcement action for Coastal Act violations beyond those that are specified in Section 3.2 of this Consent Agreement.

24.2 Correspondingly, Respondents have entered into this Consent Agreement and agreed not to contest the factual and legal bases for issuance of this

Consent Agreement, and the enforcement thereof according to its terms. Respondents have agreed not to and shall not contest the Commission's jurisdiction to issue and enforce the Consent Agreement.

25. NATURE OF ORDERS AND OF CONSENT

- 25.1 Through the execution of this Consent Agreement, Respondents agree to comply with the terms and conditions of this Consent Agreement. This Consent Agreement authorizes and requires removal activities, among other things, outlined in this Consent Agreement. Nothing in this Consent Agreement conveys any right to development on the Property other than the work expressly authorized by this Consent Agreement. Any development subject to Coastal Act permitting requirements that is not specifically authorized under this Consent Agreement requires a coastal development permit. Nothing in this Consent Agreement will restrict the submittal of any future application(s) by Respondents for coastal development permits for proposed development on the Property. Nothing herein provides any assurance of the County of San Mateo or the Commission's approval of any future application(s) by Respondents for coastal development permits or coastal development permit amendments, or any other type of permit.
- 25.2 Respondents further agree to condition any contracts for work related to this Consent Agreement upon an agreement that any and all employees, agents, and contractors, and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.

26.0 CONTRACTUAL OBLIGATION

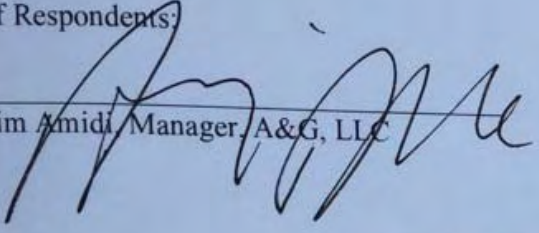
This Consent Agreement constitutes both an administrative order issued to Respondents personally and a contractual obligation between Respondents and the Commission, and therefore shall remain in effect until all terms are fulfilled, regardless of whether Respondents own the Property upon which the violations exist.

27.0 INTEGRATION

This Consent Agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Agreement.

IT IS SO STIPULATED AND AGREED:

On behalf of Respondents:


Rahim Amidi, Manager, A&G, LLC

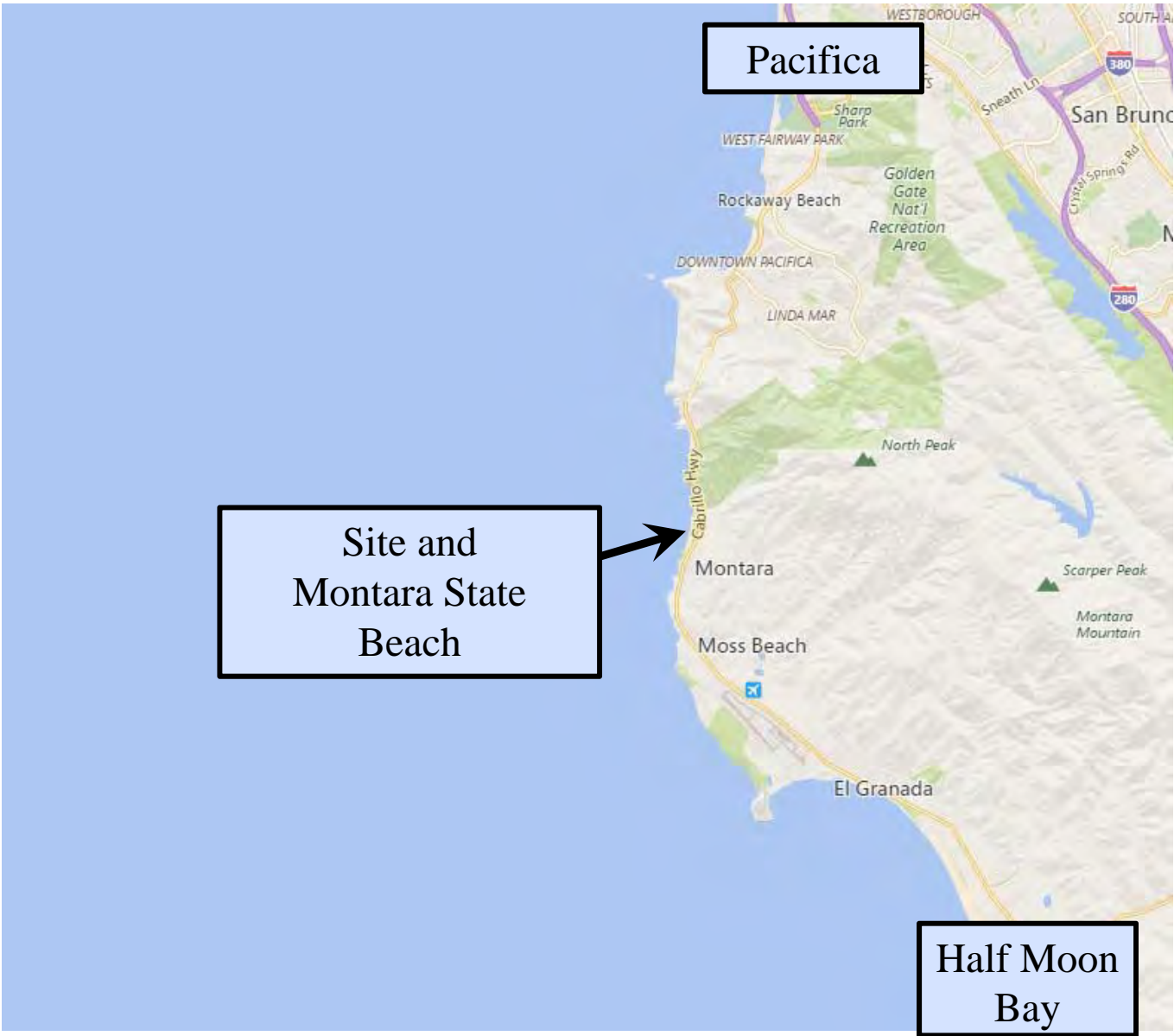
FEB 28, 2017
Date

Executed in _____ on behalf of the California Coastal Commission.

By: _____
John Ainsworth, Executive Director

Date _____

Vicinity Map









Make a reservation now at La Costanera

Reserve with OpenTable

Find Hotels in Montara

Check In

Check Out

Find Hotels

Book with TripAdvisor and save up to 30% on your hotel room.

5.0 "Best Peruvian"

Traveler photo by Wolfgangmadeusmarco: "Nice outside dining area" (Aug 2015)

Helpful?

Report

Thumbnails



https://www.tripadvisor.com/Restaurant_Review-g32731-d1554232-Reviews-La_Costanera-Montara_California.html#photos;geo=32731&detail=1554232&ff=144521471&albumViewMode=hero&albumid=101&baseMediaId=144521471&thumbnailMinWidth=50&cnt=30&offset=1&filter=7 Date Accessed: 2/22/17



Here Comes
THE GUIDE

Here Comes The Guide Presents

La Costanera 8150 Cabrillo Hwy, Montara, CA



Navigation controls for the virtual tour, including a toolbar with icons for back, forward, and search, and a row of seven thumbnail images representing different scenes in the tour.

Thumbnail labels: Photo, View, Loft, 2nd Loft, 3rd Loft, Scene view 4, Scene

English

Powered by Circlepix.com

SHARE

Dated: May 13, 2010

Weekly Special:

Tuesday: Neighbors Night..viva happy Hours.All night Long 5pm- close Discounted Drinks & Tapas

Wednesday: Vintage Social Special wine testing Dinner with wine Maker (check Event Calendar) Get That Special Bottle Out of your cellar -Corkage Free Night ½ off Selected Wines ½ Off Small Bites from 5-7pm

Thursday: Stogy and Fire Congac & Brandy specials Cigar roller events (Check Calendar) ½ Off Small Bites 4-7pm

Friday: Girl Talk 9-11pm ½ Off sparkling Wine ½ Off Sangaria Pitchers Specials Tapas Live Performances (checks Calendar)

Saturday SNL
Live Music performed by Bayarea top Latin Jazz Performes

Exhibit 3

Dated: May 11, 2014

JOIN US FOR
A VERY SPECIAL
Mother's Day
DINING EXPERIENCE

Sunday, May 11, 2014

12:00 noon until 9:00PM

Reservations strongly recommended

Chef Carlos Altamirano will be featuring an a la carte menu with house favorites and special dishes available for this day only!

Specialty cocktails include our
Rose Petal Champagne Cocktail

All moms will receive a gift from the restaurant

Live entertainment

Breathtaking views inside as well as on our heated patio



8150 Cabrillo Hwy, Montara, CA 94037 Tel: 650.728.1600
LaCostaneraRestaurant.com

Exhibit 3

CCC-17-CD-01 & CCC-17-AP-01

Page 2 of 7

Website Date: July 20, 2014

La Costanera Miss B will be performing in the lounge tonight.
Listen @ <http://t.co/dNzQdz75F>
<http://t.co/SN02wUJdwU>



SPECTACULAR VIEWS

The best views of the coast in the greater Half Moon Bay Area


With over 10 years of event experience, La Costanera can accommodate a variety of needs for receptions of 10 to groups of 300 plus- either at the restaurant or at your office, home or rented location. We customize every event to fit your needs.


With the combination of unique flavors, stunning presentations, and outstanding customer service, La Costanera prides itself on exceptional events. From festive small plates to share to a combined cocktail reception with multi course sit down wine dinners La Costanera offers affordable group dining with a distinctive Nuevo Latin flair.

Special arrangements include: DJ sounds or Live Music, Multi Media options, Late Night Service, Valet Parking, Flowers, Party Favors and more.

Restaurant Capacity: La Costanera can accommodate groups up to 300 seated guests 10,000 sq. ft. along the coast. Immediately adjacent to Highway 1.

For event inquires, please contact:
650.728.1600 or events@lacostanerarestaurant.com


EVENTS CALENDAR
View Upcoming Events


GIFT CERTIFICATES
Give the Gift of La Costanera


MICHELIN GUIDE
2013 - 2012 - 2011

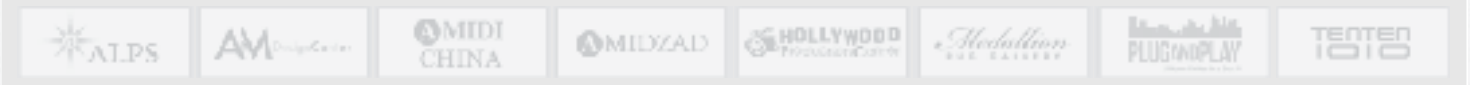

VIRTUAL TOUR
Take a Tour of La Costanera


JOIN OUR EMAIL LIST
Receive Offerings and Updates

Exhibit 3
CCC-17-CD-01 & CCC-17-AP-01
Page 3 of 7

<http://www.lacostanerarestaurant.com/private-dining-and-events>

Real Estate And Development	Amidi ventures & investing	Business Services	Amidi in the Community
Industrial/Commercial Supplies	Amidi International	Mediation Rug	All Businesses



La Costanera Restaurant

Perched on Montara Beach overlooking the Pacific Ocean, La Costanera is a contemporary Peruvian restaurant serving coastal cuisine of Latin America.

Experience the culinary richness of Peru at La Costanera, a modern Peruvian fusion restaurant opened its doors October 2, 2009. The scenic California coast in Montara, overlooks the Pacific, just a short, beautiful drive from San Francisco (21 miles). The space is grand, with floor to ceiling windows, three stories, and 10,000 square feet of oceanfront space, beach views and sea breeze every dinner is guaranteed an ocean view.

La Costanera also offers a full bar, domestic and imported Peruvian beers and a hand selected wine list. Come try our Pisco Sour – a classic Peruvian cocktail – and experience all that La Costanera has to offer...

The best views of the coast in the greater Half Moon Bay Area

With over 10 years of event experience, La Costanera can accommodate a variety of needs for receptions of 10 to groups of 300 plus- either at the restaurant or at your office, home or rented location. We customize every event to fit your needs.

With the combination of unique flavors, stunning presentations, and outstanding customer service, La Costanera prides itself on exceptional events. From festive small plates to share to a combined cocktail reception with multi course sit down wine dinners La Costanera offers affordable group dining with a distinctive Nuevo Latin flair.

Special arrangements include: DJ sounds or Live Music, Multi Media options, Late Night Service, Valet Parking, Flowers, Party Favors and more.

Restaurant Capacity: La Costanera can accommodate groups up to 300 seated guests 10,000 sq. ft. along the coast. Immediately adjacent to Highway1.

LaCostaneraRestaurant.com

La Constanera Restaurant

8150 Cabrillo Hwy
Montana Beach, CA 94037

Real Estate Holdings and Development

- TenTen Wilshire
- TenTen Oceanside
- Hollywood Production Center
- Plug and Play Tech Center
- AMA Construction
- MacroCons
- A&M Design

Amidi Ventures and Investing

- Amidzad
- Plug & Play Tech Center
- Plug & Play Startup Camp
- StartEngine
- Amplify
- Studio9+

Amidi in the Community

- TenTen Wilshire
- Hollywood Production Center
- Sias University
- StartEngine
- Amplify
- Studio9+



370 Convention Way
Redwood City, CA 94063
USA

Exhibit 3

CCC-17-CD-01 & CCC-17-AP-01



Here Comes THE GUIDE



download our { WEDDING CHECKLIST }

CEREMONY/RECEPTION

REHEARSAL DINNER, ETC.

La Costanera - Contemporary Peruvian Cuisine

like this venue?
{ Get more info! }

Montara Wedding Venue
8150 Cabrillo Highway
Montara, California 94037

Contact: **Events**
Phone: 650/728-1600
www.LaCostaneraRestaurant.com

Your Name

Your Email Address

Your Phone #

Desired Wedding Date

Message

Exhibit 3

CCC-17-CD-01 & CCC-17-AP-01

Page 5 of 7

Capacity

Ceremony

Max. Seated Indoors: 150

Max. Seated Outdoors: 100

Reception/Special Events

Max. Seated Indoors: 270

Max. Seated Outdoors: 50

Max. Standing/Cocktails Indoors: 400

Max. Standing/Cocktails Outdoors: 50

Meetings

Max. Seated: 200

CEREMONY CAPACITY: The restaurant holds 150 seated guests indoors and 100 seated outdoors.

EVENT/RECEPTION CAPACITY: The facility can accommodate 270 seated or 400 standing indoors and 50 seated or standing outdoors.

MEETING CAPACITY: Meeting rooms hold 200 seated guests.

Cost: Prices, Deposits, Etc.

25% of the total event cost is required to secure your date. The rental fee ranges \$400–3,500 depending on the space reserved. Meals range \$50–125/person. Tax, alcohol and a 20% service charge are additional.

Location Uses

Ceremonies

Wedding Receptions

Special Events, Parties

Business Functions/Meetings

Rehearsal Dinners

Venue Views

Coastline

Mountains

Ocean/Bay

Venue Type

La Costanera PENINSULA



Provided by: La Costanera

SHOW ALL 4 PHOTOS

You May Also Like These Similar Venues



The Mountain Terrace
Peninsula
from \$8,191 for 100 guests



Hamlin Mansion
San Francisco
from \$19,662 for 100 guests



Triple S Ranch Napa
Napa/Sonoma
from \$32,420 for 100 guests

La Costanera Details

OVERVIEW AMENITIES

Description

With over 10 years of event experience, La Costanera is one of the premier wedding destinations in the Bay Area. Situated along the coastline, this 10,000 sq. ft. venue boasts the best sunset views of the Half Moon Bay area. The main dining hall features floor to ceiling angled glass windows that allow your guests to savor the breathtaking views from every inch of the space. Aside from its picture-worthy location, La Costanera is also a Michelin-starred restaurant that specializes in contemporary Peruvian cuisine. The team here customizes every event to fit your needs. With the combination of unique flavors, stunning presentations, and outstanding customer service, La Costanera prides itself in making every celebration a memorable one. From festive small plates to share to a combined specialty cocktail reception with a multi-course, sit-down wine dinner, La Costanera offers a distinctive Nuevo Latin flair and a spectacular setting to leave a lasting impression of Half Moon Bay.

Venue Style

Banquet Hall/Restaurant, Ocean/Waterfront View, Beach, Outdoor

Services

Outdoor Ceremony, Indoor Reception

Capacity

Max Outdoor Ceremony: 200 guests
Max Indoor Reception: 280 guests

Time Restrictions

Flexible set up start time. Early morning can be arranged. Events must end by 2:00AM. The venue is not available for ceremony only weddings on Mondays.

Rental Fees

The rental fee ranges from \$2,000 to \$4,500 and includes 7 hours of event time excluding set up and clean up time. The fee to rent the Terrace or Beach for a wedding ceremony is \$300 to \$500. Additional hours can be arranged for a fee of \$1,000/hr. A food and beverage minimum is required for all events. Please contact venue wedding coordinator for more details.

Wedding Cost

The average wedding cost at La Costanera is estimated at between \$29,739 and \$35,793 for a ceremony & reception for 100 guests.

Catering

Provided

Alcohol

Provided

PRICE THIS VENUE

CONTACT VENUE

VENUE DETAILS

8150 Cabrillo Highway
Montara, CA 94037

Website Contact Info Favorite

Style: Banquet Hall/Restaurant, Ocean/Waterfront View, Beach, Outdoor
Max Capacity: 280 guests
Ceremony: Outdoor only
Reception: Indoor only
Catering Options: Provided
Alcohol Options: Provided
Time Restrictions: 08:00AM to 02:00AM

PRICE THIS VENUE

CONTACT VENUE

Share: Facebook Share Pinterest Tweet



Share: Facebook Share Pinterest Tweet



VIEW LARGER

Share: Facebook Share Pinterest Tweet



VIEW LARGER



July 26, 1977

PERMIT

CHE-Inc, The Chart House
836 Prospect Ave
La Jolla, CA

Dear Applicant:

Re: Regional Coastal Commission
Permit Application No. P-77-579

Pursuant to Public Resources Code Section 30600, your application for a permit to perform the work described in the above numbered application has been granted by the Central Coast Regional Commission in accordance with Resolution No. 77-178, passed on July 11, 1977; a copy of the resolution is attached hereto and made a part of this permit.

Please note:

(1) That this permit will become effective only when you have returned to the Regional Commission the enclosed copy of this letter, within 10 working days signed by you acknowledging thereon that you have received a copy of this letter and that you accept its contents.

(2) That upon completion of the development authorized by this permit you are required to notify the Regional Commission of such completion on the enclosed form provided for that purpose.

(3) This permit is issued subject to the conditions stated in attached documents, and approved plans on file with the Regional Commission. Unless otherwise provided in the conditions, all proposed changes must be submitted to the Commission prior to construction thereof.

(4) Development under this permit must be commenced within one year of issuance.

Very truly yours,

Edward Y. Brown
Executive Director

(I) (We) acknowledge receipt of the above captioned Regional Commission Permit and accept its contents.

Signed

August 3, 1977
Dated

Attachment

P-77-579 THE CHARTHOUSE: Remodel (interior and exterior) of existing restaurant/motel to create a +189-seat restaurant/bar, parking lot improvements and landscaping. West side of Highway 1 between Second Street and Kanoff, Montara.

Recommendation

We recommend adoption of the following findings and approval of a permit for the project as conditioned:

Findings:

- 1. The site is located on the west side of Hwy. 1 within the urbanized limits of the unincorporated residential and commercial development to the south-east across Hwy. 1, scattered residential use to the south, public beach and parking lot to the immediate south and west.

All necessary public services (sewer, utilities, and road access) currently serve the site and are of adequate capacity to accommodate the proposed, less intensive development. Continued urban use of this site is consistent with Section 30252 of the Coastal Act of 1976 which encourages the concentration of development with existing urbanized area.

- 2. The site, located on a bluff-top immediately adjacent to the beach, is highly visible to travelers on Hwy. 1, beach-users and from points in the urbanized portion of Montara. The existing two-story, stucco structure is of a severe, "boxy" design incompatible with the coastal setting and does not enhance the coastal viewshed in this highly scenic area.

The proposed development will result in a somewhat lower, less massive, shingled structure more appropriate to the bluff/beach location. Elimination of free-standing signs and outbuildings, extensive landscaping to provide screening of proposed parking areas and the use of natural wood materials on the building will also aid in improving the appearance of the site and reduce the visual impact of commercial use of the property both from the beach and the highway.

As proposed, the project is consistent with Section 30215 of the Coastal Act which requires that new development be visually compatible with the character of the area and to restore and enhance visual quality in degraded areas.

- 3. The site currently provides two types of recreational opportunities, (1) commercial, passive recreation--restaurant/motel and (2) public access through the site to the adjacent public beach. The proposed project retains the commercial recreational use, albeit less intensively (189-seat restaurant vs. 260-seat restaurant, 18-unit motel) and will enhance public access through the site by improvements to the beach path and bluff area.

As conditioned, the proposed development is consistent with those portions of the Coastal Act relevant to public access and commercial recreation (Sections 30210, 30211 and 30213).

- 4. The proposed development includes a +53 space parking area. Using a standard formula of 1 parking space per 2.5 seats. The parking provided is somewhat inadequate (75 spaces verses 53.) Access to the site is from Hwy. 1 via two driveways. Sight distance in the vicinity of the proposed development is good both to the north and southbound lanes.

4. Recommendation
Exhibit 4

DEVELOP-
MENT
PATTERNS

SCENIC
RESOURCES

PUBLIC
ACCESS &
COMMERCIAL
RECREATION

PARKING
EFFIC

The proposed restaurant will be a dinner house, open during the evenings only. It is anticipated that overflow beach parking will use the restaurant lot during the day and overflow restaurant parking will use the adjacent beach parking in the evenings.

As conditioned to hours of operation and reciprocal use, the project is consistent with Section 30252 of the Coastal Act which requires adequate parking.

GEOLOGIC
STABILITY

5. The proposed development will maintain the existing set-back from the bluff. Information from San Mateo County indicates that due to a wide beach, the bluff is relatively stable and not subject to a rapid erosion rate. Landscaping of the bluff with native plants, improvement of beach access paths and proper channellization of drainage would adequately mitigate the impacts of the proposed development on the bluff. Geo-technical information, indicates that this site, like much of the developed portion of Montara is subject to potential surface rupture during seismic activity. An analysis of the site by a qualified Soils Engineer or Geologist would identify potential hazards on this specific site and suggest appropriate mitigation. As conditioned, the proposed development is consistent with Section 30253 of the Coastal Act of 1976, which requires that geologic stability be assured prior to construction of new development.

CEQA
CHAPTER
THREE
CONFORMANCE
A
L
COASTAL
PLAN

6. As conditioned, the proposed development will have no significant adverse environmental impacts as identified by CEQA, is consistent with the policies contained in Chapter Three of the Coastal Act and will not prejudice the ability of the County of San Mateo to prepare a Local Coastal Plan for the mid-coastside.

CONDITIONS:

1. Prior to the commencement of construction, applicant shall submit a geologic report, prepared for the site, by a qualified Soils Engineer or Geologist, to staff review and approval. Surface rupture potential during seismic activity shall specifically be discussed in the report and mitigation plans, if any, are required, shall be prepared and implemented.

2. In order to assure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.

3. Free, public access thru the site to the adjacent public beach shall be maintained and improved as per final plans to be submitted to staff for review and approval.

4. Applicant shall submit, for staff review and approval, final plans for all signs and lights to be erected on the site.

5. Applicant shall submit final elevations, material samples and colors to staff for review and approval. Elevations shall indicate that the maximum height and ground coverage of the remodeled building do not exceed that of the existing structure.

4. Recommendation
(2 of 7)

Exhibit 4

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
CENTRAL COAST REGIONAL COMMISSION
701 OCEAN STREET, ROOM 300
SANTA CRUZ, CALIFORNIA 95060
PHONE: (408) 426-7390



APPLICATION SUMMARY

P-77-579

FILED: 5/25/77

CITY OR COUNTY: San Mateo

APPLICANT: Charthouse, Inc.
c/o Patrick Goddard
836 Prospect Avenue
La Jolla, CA

PROJECT LOCATION: West side of Hwy. 1 between
(See map) 1st and 2nd Streets, Montara

DEVELOPMENT PROPOSED: Remodel (interior and exterior) of existing restaurant and motel to create + 189-seat restaurant/bar, parking lot improvements and landscaping.

PLANNING DATA:

Parcel size: + 22,000 sq. ft. Proposed residential density: n/a
R-1/5-5 (limited hwy. frontage dist.)
Zoning: and P (parking) Allowable density: ---

General Plan Designation: Under revision to commercial recreation.

ARAG/Tri-County Plan Designation: Community Growth

Local Approvals received: CCR-15 - (5/24/77); Use Permit - (5/11/77); Rezoning of portion of site from R-1 to P - (5/11/77); Negative Declaration - (5/11/77); Exception to off-street parking (5/11/77); Board of Supervisors approval (6/14/77); Road abandonment (5/11/77).

SITE DATA:

Landform/slope: Land slopes gently from Hwy. 1 to -12' -15' bluff adjacent to beach.

Vegetation: No significant major vegetation.

Current land use: + 12,700 sq. ft. restaurant (260 seats) and motel (8 units), parking lot

Other: ---

PROJECT DATA:

Proposed site coverage: Building + 5,600 sq. ft. Paving + 16,000 sq. ft.

Open Space + 8,000 sq. ft. Parking 55 spaces

Height of structures: 30' max. Other: ---

ENVIRONMENTAL IMPACT DATA:

EIR Filed Negative Declaration Exempt

Environmental Impact Summary attached.

Date 5/16/77

DSL

Ed Brown
Edward Y. Brown, Executive Director

P-77-579

CCR- 22

4. Staff Report
(3 of 7)!!

Exhibit 4

CCC-17-CD-01 & CCC-17-AP-01

Page 4 of 8

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
 CENTRAL COAST REGIONAL COMMISSION
 701 OCEAN STREET, ROOM 300
 SANTA CRUZ, CALIFORNIA 95060
 PHONE: (408) 424-7390



STAFF COMMENTS

P-77-579

APPLICANT: Charthouse, Inc.

PROJECT: Restaurant remodel

ISSUE IDENTIFICATION:

Water quality _____
 Geologic stability _____
 Vegetation _____
 Wildlife _____
 Scenic Resources
 Public Recreation
 Development Patterns
 Coastal Neighborhoods _____
 Traffic

SITE REPORT:

Surrounding environment:

West - sloping bluff to sandy beach.
 North - coastal benchland.

Surrounding development:

South - scattered SFD's, unimproved (+30 space)
 public beach parking lot.
 East - mixed residential and commercial develop-
 ment.

ISSUE DISCUSSION:

Development Patterns: The site is located on the west side of Highway 1 within the urbanized limits of Montara (see attached map). Currently, the subject parcel is developed with a two-story, stucco building which contains a +260 seat restaurant and an eight-unit motel, parking areas and minimal landscaping. Land use in the vicinity includes substantial residential and some commercial development to the east and south-east across Highway 1, residential use to the south and state beach lands west of the site.

All necessary public services (sewer, utilities, road access) are available to the site and of adequate capacity to serve the proposed development. Continued urban use of this site is consistent with Section 30252 of the Coastal Act which encourages the infill of existing developed areas before expansion into non-urbanized areas.

Scenic Resources: The existing two-story, stucco building on the site is on an undistinguished, severe design that does not relate to the coastal setting of the site and is highly visible to both north and southbound travelers on Highway 1 as well as to people on the adjacent public beach. Due to less than mediocre design, existing development on this site does not enhance the coastal viewshed in the vicinity of the northern "gateway" to Montara and the developed portion of the mid-coastside of San Mateo County.

This application proposes extensive interior and exterior remodeling of the existing building in order to create a structure more compatible with the physical setting, less visually obtrusive and of a more interesting and attractive design. To achieve this result, the bulk of the structure will be reduced by cutting down the roof, shingling the exterior, adding architectural detail and re-orienting the building towards the beach rather than the highway. Proposed landscaping along the highway frontage, adjacent to paved areas and near the building will provide some screening of the parking lots and enhance the appearance of the proposed development.

The bluff area along the west side of the site will be landscaped with a variety of native plants to provide erosion control. The beach path will be minimally improved to provide somewhat easier access down the 12'-15' sloping bluff and to encourage use of the path rather than random access which contributes to erosion.

Public Recreation: Development on the site currently provides a passive type of public recreation (oceanside dining) as well as limited tourist accommodations (8-unit motel). There is also public access through the site to the state beach which bounds the property on the west.

P-77-579

H. Staff Report
 (4/26/77)

Exhibit 4

CCC-17-CD-01 & CCC-17-AP-01

Page 5 of 8

The proposed development, a +189-seat restaurant and bar, is a somewhat less intensive use than that now existing on the site. In addition, the motel units which are on the second story will be lost in order to effect the design modifications necessary to reduce the massiveness of the existing building. Public access through the site will, however, be retained and enhanced as discussed in the section on scenic resources.

Although there are other overnight tourist accommodations on the mid-coastside (Dan's Motel - Moss Beach, Motor Lodge - near Half Moon Bay County Club), the eight units on this site are the only such accommodations in Montara. Their loss, while perhaps balanced by design benefits, still results in a reduction of visitor overnight accommodations in the area.

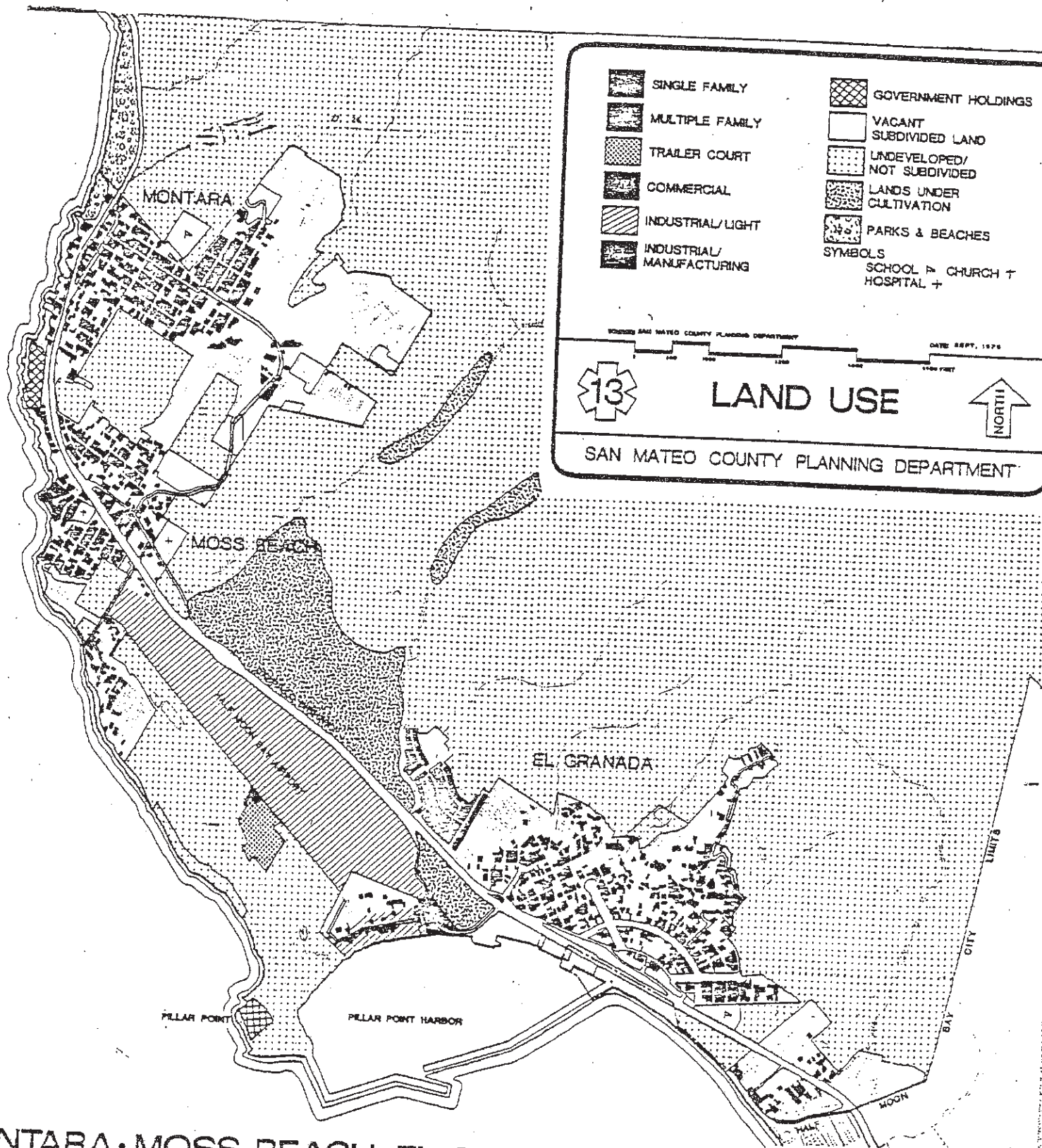
Traffic and Circulation: The proposed development includes a + 55-space parking area. Under normal county requirements for this type of use, 63 parking spaces would be required. Access to the site is from Highway 1 via two driveways. Sight distance in the vicinity of the proposed development is good both to north and southbound lanes.

The proposed restaurant is a dinner house, open during the evening hours only. It is anticipated that overflow beach parking will use the restaurant lot during the day and overflow restaurant parking will use the adjacent beach parking lots in the evenings. Final parking lot configuration and reciprocal arrangements for access and use (although not officially adopted) have been generally agreed to by the applicant, County of San Mateo and State Parks Department and are indicated in the attached site plan.

Geologic Stability: The proposed development will maintain the existing setback from the bluff edge. Information from the County of San Mateo indicates that the bluff is relatively stable and not subject to a rapid erosion rate. Landscaping of the bluff with native plant materials, improvement and use of a beach access path, and proper channelization of drainage would adequately mitigate the impact of the proposed development on the bluff area.

Geotechnical land capability maps prepared for this area indicate the site has a potential surface rupture during seismic activity. Landslide susceptibility is low. This site, like much of the developed portion, is indicated to be in constraint category "D" as explained on the attached map.

4. Staff Report
(5 of 7)



	SINGLE FAMILY		GOVERNMENT HOLDINGS
	MULTIPLE FAMILY		VACANT SUBDIVIDED LAND
	TRAILER COURT		UNDEVELOPED/NOT SUBDIVIDED
	COMMERCIAL		LANDS UNDER CULTIVATION
	INDUSTRIAL/LIGHT		PARKS & BEACHES
	INDUSTRIAL/MANUFACTURING	SYMBOLS	
		SCHOOL	CHURCH
		HOSPITAL	

SOURCE: SAN MATEO COUNTY PLANNING DEPARTMENT DATE: SEPT. 1976

13 LAND USE

SAN MATEO COUNTY PLANNING DEPARTMENT

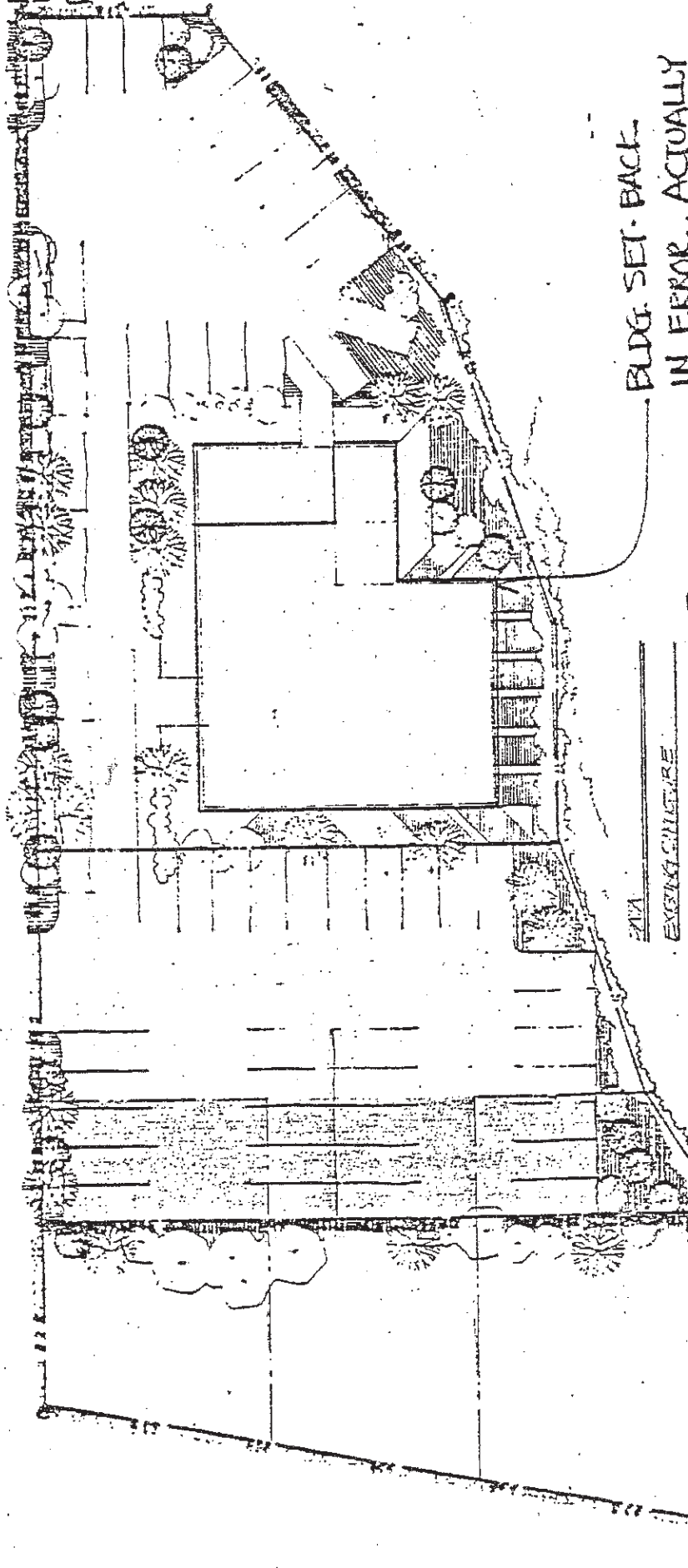
NORTH

MONTARA • MOSS BEACH • EL GRANADA COMMUNITY PLAN

4. Staff report (6 of 7)

P-77-579

HWY 4



BUDG. SET BACK -
 IN ERROR, ACTUALLY
 ± 10 EAST (CLOSER TO
 HWY 4)

BEACH

- EXIST. CULTURE
- EXIST. BLDG.
- EXIST. SIGNAGE - 29 SQUARE FT.
- FRANKED REMODEL
- 7,873 SQ. FT. 189 SEATS
- PARKING 55 CARS TOTAL



montara beach - chart house
 MAY 2, 1977
 SCALE: 1/4" = 10'-0"

PARKING LAYOUT CLIENT # 2

4. Staff report
 (70+ 1)

CENTRAL COAST REGIONAL COASTAL ZONE CONSERVATION COMMISSION

1 OCEAN STREET, ROOM 310
SAN ANTONIO, CALIFORNIA 95060
PHONE: (408) 426-7390



PERMIT DENIAL

Charthouse, Inc.
c/o Patrick Goddard
836 Prospect Avenue
La Jolla, CA.

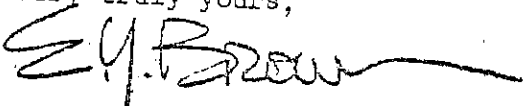
May 11, 1981

Dear Applicant:

Re: Regional Coastal Commission
Permit Application No. P-77-579

Please be advised that the Regional Coastal Commission has denied your application to perform the work described in the above number application in accordance with Resolution No. 81-77, passed on May 11, 1981.

A copy of the resolution is attached hereto. You may appeal this determination to the State Coastal Commission within 10 working days of the Regional Commission vote.

Very truly yours,

Edward Y. Brown
Executive Director

Attachment

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST REGIONAL COMMISSION

1 EAN STREET, ROOM 310
SAN ANTONIO, CALIFORNIA 95060
(408) 426-7390

RESOLUTION NO. 81-77

On the motion of Commissioner Leavy
duly seconded by Commissioner Bedesem
the following resolution was adopted:

RESOLUTION DENYING PERMIT FOR COASTAL DEVELOPMENT

WHEREAS, on March 30, 1981 the application of The Chart House
application number P-77-579 was filed for a coastal development permit pursuant
to Section 30600 of the Public Resources Code;

and

WHEREAS, the project as hereinafter applied for consists of: Amendment to allow
day use, on Sundays, of the Chart House restaurant, Highway One between Second and Kanoff
streets, Montara, San Mateo County.

and

WHEREAS, this Commission has given written public notice of the nature of the
proposed development and of the time and place of the public hearing thereof and has
held a public hearing in accordance with said notice and the California Coastal Act of
1976 and has otherwise complied with the provisions of said Act and the regulations of
the California Coastal Commission; and said public hearing commenced on May 11, 1981
and concluded on May 11, 1981.

and

NOW, THEREFORE, BE IT RESOLVED, that the Central Coast Regional Commission
as hereby deny the said permit, in accordance with the application submitted by the
applicant and subject to the Commission's findings, as cited in the attached staff report/
recommendation, with the following changes, if any: None

DATED: May 11, 1981

EST:



ROBERT GARCIA, CHAIRPERSON

EDMUND G. BROWN, EXECUTIVE DIRECTOR

FORMATIVE VOTE ON THE APPLICATION:

- : (0)
- 5: (12): Bedesem, Doten, Gregorio, Hughes, Hummel, Leavy, Matthews, McCarthy, Blohm, Exhibit 5
Parent, Taylor, Roberts
- ATTENTIONS: Garcia

PERMIT GRANTED: 7/11/77
HEARING DATE: 5/4/81
PREPARED ON: 4/29/81
BY: JS/cw

*10/15/81
4/29/81*

EXECUTIVE DIRECTOR'S PRELIMINARY RECOMMENDATION

P-77-579 THE CHART HOUSE: Amendment to allow day use, on Sundays, of the Chart House restaurant, Highway 1, Montara, San Mateo County.

RECOMMENDATION

We recommend adoption of the following findings and denial of the amended proposal.

FINDINGS

INCORPORATION
FINDING

1. This recommendation incorporates all the information contained in the staff report and recommendation (6/16/77) and amendment information (4/29/81).

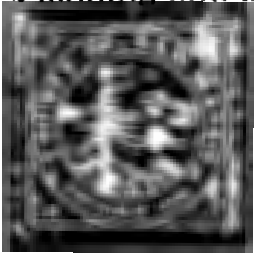
DEVELOPMENT
30252

2. The amended application is to provide day-use of a restaurant previously approved for evening use only. Evening use only mitigates the impacts of limited parking. Overflow restaurant parking utilizes the Montara State Beach parking area. Overflow beach parking utilizes the restaurant parking area. Day use of the restaurant would reduce the parking available to the public for beach access and directly conflicts with the original parking agreement with the County. Therefore, the amendment is inconsistent with Section 30252 of the Coastal Act which requires maintenance of public access to the coast by providing adequate parking facilities and Section 30210 which requires that development not interfere with the public's right of access to the sea.

ACCESS
30210

LCP
30604

3. The San Mateo County LCP has been certified. The LCP notes that existing parking spaces in this area are inadequate to meet the recreational demand, and states that existing parking facilities for shoreline access should be maintained at the existing levels. The amendment proposal would reduce available public parking for beach access. Therefore, the amended project is inconsistent with Section 30604 of the Coastal Act.



COUNTY OF SAN MATEO

COUNTY GOVERNMENT CENTER • REDWOOD CITY • CALIFORNIA 94063 (415) 363-4161

BOARD OF SUPERVISORS
ANNA G. ESHOO
ARLEN GREGORIO
WILLIAM J. SCHUMACHER
K. JACQUELINE SPEIER
JOHN M. WARD

DAVID C. HALE
PLANNING DIRECTOR

February 27, 1984

RECEIVED

APR 30 1987

John Shaw, Jr.
James Carroll & Associates
1407 East Third Avenue
San Mateo, CA 94401

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST DISTRICT

Dear Mr. Shaw:

SUBJECT: CDP 83-67 and UP 20-77 CHAFT HOUSE

On February 17, 1984, the Zoning Hearing Officer considered your application for a Coastal Development Permit and an Amendment to a Use Permit to place riprap on 460 lineal feet of ocean bluff, reconstruct parking lots and install storm drainage in the parking lot of the existing restaurant; pursuant to Sections 6267 and 6328.4 of the San Mateo County Zoning Ordinance. Location: 8150 Cabrillo Highway; APN 036-046-050. ~~Project Planned by Sidens.~~ This project is appealable to the California Coastal Commission. 14 property owners were notified.

Based on the information provided by staff and evidence presented at this hearing, the Zoning Hearing Officer:

- A. Found that the Negative Declaration for this project is complete and adequate, prepared in accordance with the California Environmental Quality Act and all applicable State and local guidelines.
- B. Regarding Coastal Development Permit:
 1. Found, on the basis of information contained in the staff report, that the project conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
 2. Found that the project, as conditioned, conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code.

C. Regarding Use Permit:

1. Found, on the basis of information contained in the staff report, that:

- a. The establishment and maintenance of this use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The Zoning Hearing Officer:

A. Approved the Coastal Development Permit subject to the following conditions:

- 1. Any additional work on shoreline protection shall be approved in accordance with Geotechnical Consultant Approval form (County Geologist).
- 2. Construct an access ramp from the top of the bluff to the beach - plans for ramp to be approved by the California Department of Parks and Recreation and San Mateo County Planning Director.
- 3. Maintain public access to walkway on west side of restaurant connecting north and south parking lots. The entire walkway, with the exception of the ramp, shall be located a safe distance from the cliff so that handrails will not be necessary. This design shall be to the satisfaction of the Planning Director.
- 4. Submit performance bond to guarantee installation of landscaping and maintenance for two growing seasons.

B. Approved the amendment of this Use Permit with the following conditions:

- 1. Submit revised parking plan that provides the required minimum dimensions and accurately delineates the property line.
- 2. Submit written approval of California Department of Parks and Recreation for all riprap and drainage facilities located on State land.
- 3. Construct all improvements in accordance with approved plans.
- 4. Maintain 53 parking spaces.
- 5. Maintain free public access through the parcel to the beach.
- 6. Hours of operation of restaurant/bar shall be limited to that period between 5:00 P.M. and normal closing time.

*1/1/01
request
to use permit
amendment
to change hrs.
1/1/01 Min. Handrails*

Any interested party aggrieved by the determination of the Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) days from such date of determination.

Very truly yours,



S. G. Dalton
Zoning Hearing Officer

SGD:pb - P1003276

cc: Chart House Restaurant
7432 LaJolla Boulevard
LaJolla, CA 92037

Coastal Commission
701 Ocean St., Room 310
Santa Cruz, CA 95060

Department of Public Works
Building Inspection

A&G, LLC/Amidi Group
370 Convention Way
Redwood City, CA 94063
Tel: (650) 216-2317
Email: hamid@amidigroup.com

July 22, 2015

Camille Leung
San Mateo County Planning Department
455 County Center
Redwood City, CA 94063

Re: 8150 Cabrillo Hwy. Montara, California
La Costanera Restaurant (APN: 036 – 46 – 050, 380, 390, and 400)
San Mateo County Planning letter dated July 10, 2015
California Coastal Commission letter dated July 13, 2015

Dear Ms. Leung:

Please consider this letter our response to your July 10 letter, and as response to the California Coastal Commission letter of July 13, 2015.

La Costanera Restaurant is an economically viable and aesthetically pleasing operation, highly valued by its patrons, employing dozens of workers, and is a true resource for the Coastside. As requested, we are addressing the issues you identified and have enclosed documentation to substantiate our progress toward zero violations. Our actions toward addressing the issues you identified are as follows:

1. **Lights (Patio and roof):** Per County directive, these lights were removed in June of 2013. Lights on roof at front of building are no being operated and will be remove of painted the color of the roof prior to August 10, 2015.
2. **Restaurant and bar use prior to 5:00 PM:** Per the 1977 coastal development permit, restaurant and bar usage is limited to 5:00 PM until closing time. However, due to the restaurant's need to survive economically, it has, from time to time, engaged in special events, whereby food and drinks were served prior to 5:00 PM. We acknowledge these violations, and, as of February 2015, have ceased to contract future events prior to 5:00 PM. Listed below, as requested, are special events for the next few months with dates the contracts were signed prior to February 2015.

Sept. 7; Wedding; 100 persons; 12-4 pm
Sept. 12; Wedding; 100 persons; 12-4 pm
Oct. 3; Wedding; 45 persons; 12-4 pm
Oct. 10; Wedding; 120 persons; 12-4 pm
3. **Unpermitted construction of a patio and addition of patio seating:** We have submitted a an After-the-fact Use Permit Amendment (UP20-77) and Design Review Permit to allow the use of two outdoor patios on July 22, 2015 with County Planning. However, during the past

three years, the restaurant obtained all requisite permits for patio construction. The application that was submitted to the county has now been submitted to the coastal commission, following its assumption of jurisdiction on this matter. With respect to the number of seats, please note the following fact: the number of seats, 189, is *exactly the number of the seats permitted by the Coastal commission under the 1977 permit*. As with special events, patio seating is vital to the economic success of this and any similarly situated restaurant.

4. **Stormwater Discharges:** Existing drainage plans were approved with the original 1977 permit and should not require additional documentation. The restaurant has developed a manual to better instruct their employees on washdown procedures that will prevent washing waters to discharge to the stormwater system. The restaurant has installed two washdown sinks that discharge water into the sanitary system. (Manual provided with Permit Amendment).
5. **Trim Paint (PLN 2015-00179):** The repainting of the building trim, gutters, skylight and roof lights will be done in a complimentary earthtone to be completed by August 10, 2015.
6. We are applying for an amendment to our liquor license to be permit to serve alcoholic beverages outside on the patios.

We remain hopeful that we can begin to operate the patios as part of the experience at our restaurant. Within the next six months to a year, we will resubmit our application to be open during lunch hours with the understanding that the undeveloped parking lot will be improved including enhanced beach access with a trail and restroom facilities.

We remain committed to meeting the expectations of San Mateo County Planning and the California Coastal Commission, and of course providing a unique culinary experience for our customers.



Very truly yours,

Rahim Amidi

Public Access In Area



CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**VIA REGULAR U.S. AND ELECTRONIC MAIL**

April 25, 2016

Camille Leung
Planning and Building Department
455 County Center, Second Floor
Redwood City, CA 94063

Subject: CCC Violation File No. V-2-11-008; La Costanera Restaurant at 8150 Cabrillo Highway and adjacent California Department of Parks and Recreation's property, Montara, San Mateo County

Dear Ms. Leung:

This letter is intended to confirm our April 25, 2016 telephone conversation regarding enforcement of the Coastal Act and the San Mateo County Local Coastal Program. This matter involves unpermitted construction of structures and patios at La Costanera restaurant, and use of the restaurant inconsistent with requirements of Coastal Development Permit P-77-579 ("the CDP").

As we discussed, the County has jurisdiction to enforce the Use Permit (which is a local permit that is separate and apart from a coastal development permit) issued by the County, and the Commission has enforcement authority regarding development on the property that is inconsistent with the CDP. To ensure coordination regarding these enforcement efforts, during our conversation, you requested that the Coastal Commission take the lead on enforcement action for Coastal Act violations at the La Costanera property. Commission Enforcement staff will continue to work with the property owner to address the Coastal Act and LCP violations.

Thank you for taking the time to speak with me and to work with us and for your collaboration in this matter. Commission staff will continue to coordinate with the County and welcomes your ongoing thoughts about this case. Please call me if this does not accurately reflect your understanding of our discussion and the County's position. If you have any questions or concerns regarding this letter or the pending enforcement matter, or if we can provide any assistance to the County, please do not hesitate to contact me at 415-904-5220.

Sincerely,

A handwritten signature in black ink, appearing to read "John Del Arroz".

John Del Arroz
Statewide Enforcement Analyst

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



23 December 2004

A & G LLC
370 Convention Way
Redwood City, CA 94063-1405

RE: Property at 8150 Cabrillo Highway, Montara, San Mateo County, APN 036-046-050
(Formerly Montara Beach Outrigger); **Coastal Permit No. P-77-579**

Dear Sir or Madam:

Our records show that you are the new owner of the former Montara Beach Outrigger property at the above-referenced location, which is in the coastal zone, now within the County of San Mateo's certified coastal permit jurisdiction. As the new property owner, you might not be aware of the public access and parking requirements attached to the County and Coastal Commission permits that authorized development on the subject site. These permits run with the land, and although the property has changed hands, the permits are still in effect. The terms and conditions of the coastal permits issued for the site are still legal and binding on the current property owner, even if the restaurant is not operating. We hope that by providing you with the permit history of the site, we will help you avoid any future Coastal Act violations resulting from non-compliance with the terms or conditions of the coastal permits.

In July of 1977, the Coastal Commission approved with five special conditions **Coastal Permit No. P-77-579** (Charthouse, Inc.) (Attachment No. 1), authorizing the remodel of an existing restaurant and motel to create a 189-seat restaurant/bar, parking lot improvements, and landscaping. The permit required that the hours of operation for the restaurant/bar be limited to the period between 5 p.m. and normal closing time. Specifically, Special Condition No. 2 of the CDP requires "*In order to assure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.*" Condition No. 3 states: "*Free, public access through the site to the adjacent public beach shall be maintained and improved per final plans to be submitted to staff for review and approval.*" The findings of this permit state that "*The proposed restaurant will be a dinner house, open during the evenings only. It is anticipated that overflow beach parking will use the restaurant lot during the day and overflow restaurant parking will use the adjacent beach parking in the evenings.*" Any proposed changes to this permit, including a change in the hours of operation of the restaurant or any changes to public access or parking, would require a coastal permit amendment from the Coastal Commission, preceded by local agency approval of the requested change.

In May of 1981, the Commission denied an amendment request to this permit (See Attachment No 2). The request was to allow day use of the restaurant on Sundays, commencing at 10 a.m.; as noted above, the restaurant was previously approved for evening use only. The basis for denial was that day use of the restaurant would reduce the parking available to the public for beach access and directly conflicts with the original parking agreement with the County, inconsistent with Section 30252 of the Coastal Act, which requires maintenance of public access to the coast by providing adequate parking facilities, and with Section 30210, which requires that development not interfere with the public's right of access to the sea.

In February of 1984, the County of San Mateo approved a Coastal Development Permit (CDP-83-67) and an amendment to a Use Permit (UP 20-77), authorizing the permittee to place riprap on 460 linear feet of ocean bluff; reconstruct parking lots, and install storm drainage in the parking lot of the existing restaurant at 8150 Cabrillo Highway. Use Permit Amendment Condition No. 6 states: "*Hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.*" (See Attachment No. 3.)

In February of 1987 the applicant submitted to the Commission another amendment request seeking to restrict public access to the north parking lot with a sign and barrier until 5 p.m. so as to reserve that parking lot for guests only, and also seeking to open the restaurant at 10 a.m. on Sundays. The permit amendment request was renumbered as **Coastal Permit No. 3-87-59-A**. This application was subsequently withdrawn, apparently because an amendment to the County Use Permit to allow for the proposed increase in business hours was required before the Commission could act on the request. No such amendment to the County Use Permit was ever approved.

Please note that while you are free to submit a coastal permit amendment request seeking to change the hours of operation of the restaurant or change the public access or parking requirements, it is possible that such an amendment request might not be accepted for filing, pursuant to Section 13166 of our Administrative Regulations. Section 13166(a)(1) states:

An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.


Further, should an application for an amendment to expand the hours of operation for the restaurant, or to reduce public parking or access at the site, be accepted for filing, it is possible that staff would not recommend approval of such a change. The hours of operation of the restaurant were limited by the original coastal permit to ensure that the public would have adequate beach parking, and a change of those hours would adversely affect public parking and beach access, inconsistent with Section 30252 of the Coastal Act, which requires maintenance of public access to the coast by providing adequate parking facilities, and with Section 30210,

which requires that development not interfere with the public's right of access to the sea, as noted above.

Please also note that any change of use on the property, from commercial visitor-serving (restaurant) to any other use, such as private residential, would require a coastal development permit amendment from the Coastal Commission, as well as any necessary permits or amendments from the County.

If you have any questions about the permit or Coastal Act violation history of the site, please feel free to call me at (415) 904-5269.

Sincerely,



JO GINSBERG
Enforcement Analyst

Enclosures:

Attachment No. 1, CDP No. P-77-579

Attachment No. 2, Denial of proposed amendment to P-77-579

Attachment No. 3, Letter from County of San Mateo describing conditions of CDP 83-67 and UP 20-77

cc: Chris Kern, Coastal Commission, North Central District Manager
Linda Locklin, Coastal Commission, Coastal Access Program Manager
Gary Warren, San Mateo County Code Enforcement

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885



SENT BY CERTIFIED AND REGULAR MAIL
Certification No. 7006 2760 0005 5883 4357

14 April 2010

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405

RE: Property at 8150 Cabrillo Highway (now La Costanera, formerly Montara Beach Outrigger), Montara, San Mateo County, APN 036-046-050 and 036-046-400;
Coastal Permit No. P-77-579

Dear Sir or Madam:

In a letter from me dated 23 December 2004 I described the public access and parking requirements attached to the San Mateo County and Coastal Commission permits that authorized existing development on the subject site. Since I understand that you are now seeking to amend your County Use Permit to allow expanded hours of operation for your restaurant, La Costanera, I would like to take this opportunity to reiterate the existing restrictions on the property and to remind you that if the County of San Mateo does amend the Use Permit for the site to allow expanded hours of operation of the restaurant, you will still need to apply to the Coastal Commission to seek an amendment to **Coastal Permit No. P-77-579**.

As we noted in our previous correspondence, in July of 1977, the Coastal Commission approved with five special conditions **Coastal Permit No. P-77-579** (Charthouse, Inc.) (see Attachment No. 1), authorizing the remodel of an existing restaurant and motel to create a 189-seat restaurant/bar, parking lot improvements, and landscaping. The permit required that the hours of operation for the restaurant/bar be limited to the period between 5 p.m. and normal closing time. Specifically, Special Condition No. 2 of the coastal permit requires "*In order to assure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.*" Special Condition No. 3 states: "*Free, public access through the site to the adjacent public beach shall be maintained and improved per final plans to be submitted to the staff for review and approval.*" The findings of this permit state that "*The proposed restaurant will be a dinner house, open during the evening hours only. It is anticipated that overflow beach*

parking will use the restaurant lot during the day and overflow restaurant parking will use the adjacent beach parking in the evenings.” Any proposed changes to this permit, including a change in the hours of operation of the restaurant or any changes to public access or parking, would require a coastal permit amendment from the Coastal Commission, preceded by local agency approval of the requested change.

In May of 1981, the Commission denied an amendment request to this permit (see Attachment No. 2). The request was to allow day use of the restaurant on Sundays, commencing at 10 a.m.; as noted above, the restaurant was previously approved for evening use only. The Commission found that day use of the restaurant would reduce the parking available to the public for beach access and would directly conflict with the original parking agreement with the County, inconsistent with Section 30252 of the Coastal Act, which requires maintenance of public access to the coast by providing adequate parking facilities, and with Section 30210, which requires that development not interfere with the public’s right of access to the sea.

In February of 1984, the County of San Mateo approved a Coastal Development Permit (CDP-83-67) and an amendment to a Use Permit (UP 20-77), authorizing the permittee to place riprap on 460 linear feet of ocean bluff, reconstruct parking lots, and install storm drainage in the parking lot of the existing restaurant at 8150 Cabrillo Highway. Use Permit Amendment Condition No. 6 states *“Hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.”* (See Attachment No. 3.)

In February 1987, the property owner submitted to the Commission another amendment request seeking to restrict public access to the north parking lot with a sign and barrier until 5 p.m. so as to reserve that parking lot for guests only, and also seeking to open the restaurant at 10 a.m. on Sundays. The permit amendment request was renumbered as **Coastal Permit Amendment No. 3-87-59-A**. This application was subsequently withdrawn, apparently because an amendment to the County Use Permit to allow for the proposed increase in business hours was required before the Commission could act on the request, and no such amendment to the County Use Permit was ever approved.

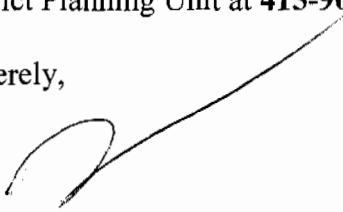
Please note that subsequent to obtaining an amendment to the County Use Permit, you are free to submit a coastal permit amendment request seeking to change the hours of operation of the restaurant or change the public access or parking requirements. However, it is possible that such an amendment request might not be accepted for filing, pursuant to Section 13166 of our Administration Regulations. Section 13166(a)(1) states:

An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.”

Further, should an application for an amendment to expand the hours of operation for the restaurant be accepted for filing, it is possible that staff would not recommend approval of such a change. The hours of operation of the restaurant were limited by the original coastal permit to ensure that the public would have adequate beach parking, and a change of those hours may adversely affect public parking and beach access, inconsistent with Section 30252 of the Coastal Act, which requires maintenance of public access to the coast by providing adequate parking facilities, and with Section 30210, which requires that development not interfere with the public's right of access to the sea, as noted above.

If you have any questions about the permit or Coastal Act violation history of the site, please feel free to call me at **415-904-5269**. If you wish to discuss the terms of the existing coastal permit, or to discuss the permit amendment process, you may contact Grace Ma of our North Central District Planning Unit at **415-904-5266**.

Sincerely,



JO GINSBERG
Enforcement Analyst

Enclosures:

- Attachment No. 1, CDP No. P-77-579
- Attachment No. 2, Denial of proposed amendment to P-77-579
- Attachment No. 3, Letter from County of San Mateo describing conditions of CDP 83-67 and UP 20-77

cc: Ruby Pap, CCC, North Central District Manager
Linda Locklin, CCC, Coastal Access Program Manager
Grace Ma, CCC, Coastal Planner
Dave Holbrook, San Mateo County, Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885



SENT BY CERTIFIED AND REGULAR MAIL
Certification No. 7006 2760 0005 5883 5484

25 April 2011

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405

RE: Alleged **Coastal Act Violation No. 2-11-008** (La Costanera), consisting of unpermitted development including changes to lighting and signage and the addition of an unpermitted patio with additional seating, located at 8150 Cabrillo Highway, Montara, San Mateo County, APN 036-046-050 and 036-046-400;
Coastal Permit No. P-77-579

Dear Sir or Madam:

I am writing concerning alleged Coastal Act violations at La Costanera Restaurant (the Restaurant), located at 8150 Cabrillo Highway in Montara, San Mateo County, consisting of the unpermitted addition of outdoor lighting and signage at the site. Further, there have been allegations of an unpermitted patio being installed for additional restaurant seating:

1. **Permit History.** As I have described in previous correspondence dated December 23, 2004 and April 14, 2010, in July of 1977 the Coastal Commission approved with five special conditions **Coastal Permit No. P-77-579** (the Permit), authorizing the remodeling of an existing restaurant/motel to create a 189-seat restaurant/bar, parking lot improvements, and landscaping. This permit required that, in order to assure adequate parking accommodations both for the restaurant and the adjacent public beach, hours of operation for the restaurant/bar be limited to that period between 5 p.m. and normal closing; that free, public access through the site to the adjacent public beach be maintained and improved; and that final plans for signs and lights to be erected on the site be submitted for staff review and approval.

In May of 1981, the Commission denied an amendment request to the Permit. The request was to allow day use of the Restaurant on Sundays, commencing at 10 a.m.; as noted above, the restaurant was previously approved for evening use only. The Commission found that day use of the restaurant would reduce the parking available to the public for beach access and would

directly conflict with the original parking agreement with the County, inconsistent with Section 30252 of the Coastal Act, which requires maintenance of public access to the coast by providing adequate parking facilities, and with Section 30210, which requires that development not interfere with the public's right of access to the sea.

In February of 1984, the County of San Mateo approved a Coastal Development Permit (CDP-83-67) and an amendment to a Use Permit (UP 20-77), authorizing the permittee to place riprap on 460 linear feet of ocean bluff, reconstruct parking lots, and install storm drainage in the parking lot of the existing restaurant at 8150 Cabrillo Highway. Use Permit Amendment Condition No. 6 states "*Hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.*"

In February 1987, the property owner at that time submitted to the Commission another amendment request seeking to restrict public access to the north parking lot with a sign and barrier until 5 p.m. so as to reserve that parking lot for guests only, and also seeking to open the restaurant at 10 a.m. on Sundays. The permit amendment request was renumbered as **Coastal Permit Amendment No. 3-87-59-A**. This application was subsequently withdrawn, apparently because an amendment to the County Use Permit to allow for the proposed increase in business hours was required before the Commission could act on the request, and no such amendment to the County Use Permit was ever approved.

2. **Alleged Coastal Act Violations.** It has been alleged that unpermitted development has taken place on the subject property, including the installation of new outdoor lighting; the erection of new signs in the parking lot (warning the public that any cars parked there after 5:00 p.m. will be towed); and the installation of a new patio for additional restaurant seating.

Pursuant to Section 30106 of the Coastal Act:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act...change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.....(Emphasis added)

As such, the installation of new outdoor lighting, the installation of a new patio, and the erection of new signs in the parking lot ("placement or erection of any solid material of structure" and "change in the intensity of use of water, or of access thereto") on the subject property constitutes development under the Coastal Act.

Section 30600(a) of the Act requires that any person wishing to perform or undertake development in the coastal zone must first obtain a coastal development permit (CDP), in addition to any other permit required by law, before carrying out any development. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act. Thus, the installation of outdoor lighting, erection of new signs in the parking lot, and the installation of a new patio for additional seating is considered to be unpermitted development, constituting a Coastal Act violation.

Further, the above referenced unpermitted development is inconsistent with the terms and conditions of the Permit.

Section 13172 of the California Code of Regulations states that:

Violation of a permit or any term, condition, or provision of a permit is grounds for enforcement under this section and under Chapter 9 of the California Coastal Act of 1976.

Special Condition No. 4 of the Permit requires the submittal for staff review and approval final plans for all signs and lights to be erected on the site. Within the last year or so, new outdoor lighting, including "Christmas lights" on the roof, spotlights that illuminate the parking lots, and spotlights that shine on the surf, has been erected without benefit of a coastal permit. In addition, new free-standing signs restricting public parking have been erected in the parking lot without benefit of a coastal permit. These lights and signs were not initially approved by staff pursuant to Special Condition No. 4 of the Permit, and, therefore, are inconsistent with the Permit. The findings of the Permit refer to the fact that the site, located on a blufftop immediately adjacent to the beach, is highly visible to travelers on Highway One, beach users, and from points in the urbanized portion of Montara, and discusses how the elimination of free-standing signs, among other things, on the site will aid in improving the appearance of the site and reduce the visual impact of commercial use of the property both from the beach and the highway. It is clear from these findings that the Commission considered the visual impact of the proposed development when making its decision to approve the restaurant in this highly scenic area.

Further, Special Condition No. 2 of the Permit requires that in order to secure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time. The findings of the Permit indicate that the 53 space parking area is somewhat inadequate to serve the approved seating capacity of the restaurant/bar (189 seats). The Commission approved the proposed project in part because the restaurant was to be a dinner house, open during the evenings only, and the findings state that it is anticipated that overflow beach parking for the adjacent state beach will use the restaurant parking lot during the day and overflow restaurant parking will use the adjacent beach parking lot in the evenings. The erection of signs within the restaurant parking lot stating "Customer Parking Only" and warning the public that cars parked in the parking lot after 5:00 will be towed, without also stating that the public may use the

parking lot prior to 5:00 and whenever the restaurant is not open, is not consistent with the intent of the terms and conditions of the Permit, or with the spirit of the Permit, which authorized a shared parking arrangement. The erection of unpermitted free-standing sign(s) thus constitutes a violation of the Permit, and, therefore, of the Coastal Act.

In addition, Special Condition No. 3 states that free, public access through the site to the adjacent public beach shall be maintained and improved as per final plans to be submitted to staff for review and approval. Erection of signs that refer only to the towing of cars parked after 5:00 are likewise not consistent with the intent or spirit of the Permit.

Finally, it has been alleged that an unpermitted patio with additional seating was installed on the site. Installation of this patio, which provides more seating than initially authorized under the Permit, is inconsistent with the terms and conditions of the permit and therefore constitutes a violation of the Permit and, thus, of the Coastal Act.

3. **Enforcement Remedies.** The Coastal Act contains enforcement remedies for Coastal Act violations. Coastal Act section 30809 states that if the Executive Director determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to ensure compliance with the Coastal Act. Moreover, Section 30811 authorizes the Commission to order restoration of a site where development occurred without a coastal development permit from the Commission, is inconsistent with the Coastal Act, and is causing continuing resource damage. Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against the subject property.

In addition, Section 30820(a) provides for civil liability to be imposed on any person who performs or undertakes development without a coastal development permit and/or that is inconsistent with any coastal development permit previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a coastal development permit and/or that is inconsistent with any coastal development permit previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which the violation persists. Section 30821.6 provides that a violation of either a cease and desist order or a restoration order can result in civil fines of up to \$6,000 for each day in which the violation persists. Section 30822 provides for exemplary damages in cases of knowing and intentional violations of the Coastal Act.

4. **Resolution of Alleged Coastal Act Violations.** To begin resolution of the alleged Coastal Act violations, you should submit to Ruby Pap of our North Central District Planning

Office, by May 25, 2011, a CDP application that seeks after-the-fact authorization of the unpermitted outdoor lighting, signage, and patio area. I have enclosed a Permit Amendment application for your use. You may contact Ruby Pap at 415-904-5260 to discuss permit amendment application filing requirements.

Failure to meet the deadline noted above may result in more formal action by the Commission to resolve this Coastal Act violation. The formal action could include a civil lawsuit, recording a Notice of Violation on your property, the issuance of an Executive Cease and Desist Order or Commission Cease and Desist and/or Restoration Order, and/or imposition of monetary penalties, pursuant to Coastal Act sections 30803, 30805, 30809, 30810, 30811, 30812, 30820, 30821.6, and 30822, as noted above.

Please also note that subsequent to obtaining an amendment to the County Use Permit, you are free to submit a coastal permit amendment request seeking to change the hours of operation of the restaurant or change the public access or parking requirements. However, it is possible that such an amendment request might not be accepted for filing, pursuant to Section 13166 of our Administration Regulations. Section 13166(a)(1) states:

An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

Further, should an application for an amendment to expand the hours of operation for the restaurant be accepted for filing, it is possible that staff would not recommend approval of such a change. The hours of operation of the Restaurant were limited by the original coastal permit to ensure that the public would have adequate beach parking, and a change of those hours may adversely affect public parking and beach access.

As noted in our previous correspondence, we understand that you are seeking to amend your County Use Permit to allow expanded hours of operation at the restaurant, and that you are pursuing some alternative parking arrangement with State Parks. Should the County approve your amendment request for expanded hours of operation, you will then need to submit to the Coastal Commission a coastal permit amendment application, seeking to amend the Permit.

Please note that staff cannot guarantee that your amendment application will be accepted for filing and further cannot guarantee a recommendation of approval of any existing unpermitted development simply because you submit an application requesting approval. A recommendation by staff for after-the-fact approval of the existing unpermitted outdoor lighting, signage, and patio can be made only if the unpermitted development is found to be consistent with the coastal resource policies of Chapter 3 of the California Coastal Act, and with the policies of the County's certified LCP.

5. Permit Fees. Section 13055 of the Commission's Administrative Regulations addresses the schedule of filing fees for processing permit applications. Subsection (a) (7)(d) provides that fees for an after-the-fact (ATF) permit application shall be five times the normal amount specified in the regulations, unless such added increase is reduced by the Executive Director when it is determined that either the ATF permit application can be processed by staff without significant additional review time (as compared to the time required for the processing of a regular permit), or the owner did not undertake the development for which the owner is seeking the ATF permit. The regulations further specify that in no case shall such reduced fees be less than double the regular amount. Once it is determined what sort of CDP amendment is required, Commission staff will determine the appropriate permit fee.

If you have any questions about the alleged Coastal Act violations, you may contact me at **415-904-5269**.

Thank you for your cooperation.

Sincerely,



JO GINSBERG
Enforcement Analyst

Enclosure

cc: Ruby Pap, CCC, North Central District Manager
Linda Locklin, CCC, Coastal Access Program Manager
Nicholas Dreher, CCC, Coastal Program Analyst
Dave Holbrook, San Mateo County, Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885



SENT BY CERTIFIED AND REGULAR MAIL
Certification No. 7006 2760 0005 5883 5354

30 November 2011

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405

RE: Alleged **Coastal Act Violation No. 2-11-008** (La Costanera), consisting of unpermitted development including changes to lighting and signage and the addition of an unpermitted patio with additional seating, located at 8150 Cabrillo Highway, Montara, San Mateo County, APNs 036-046-050, 036-046-400, 036-046-380, 036-046-390, and 036-046-310; **Coastal Permit No. P-77-579**

Dear Sir or Madam:

I am writing once again concerning alleged Coastal Act violations at La Costanera Restaurant (the Restaurant), located at 8150 Cabrillo Highway in Montara, San Mateo County, consisting of the unpermitted addition of outdoor lighting and signage at the site. Further, there have been allegations of an unpermitted patio being installed for additional restaurant seating.

1. **Permit History.** As I have described in previous correspondence dated December 23, 2004, April 14, 2010, and April 25, 2011, in July of 1977 the Coastal Commission approved with five special conditions **Coastal Permit No. P-77-579** (the Permit), authorizing the remodeling of an existing restaurant/motel to create a 189-seat restaurant/bar, parking lot improvements, and landscaping. This permit required that, in order to assure adequate parking accommodations both for the restaurant and the adjacent public beach, hours of operation for the restaurant/bar be limited to that period between 5 p.m. and normal closing; that free, public access through the site to the adjacent public beach be maintained and improved; and that final plans for signs and lights to be erected on the site be submitted for staff review and approval.

In May of 1981, the Commission denied an amendment request to the Permit. The request was to allow day use of the Restaurant on Sundays, commencing at 10 a.m.; as noted above, the restaurant was previously approved for evening use only. The Commission found that day use of the restaurant would reduce the parking available to the public for beach access and would directly conflict with the original parking agreement with the County, inconsistent with Section

30252 of the Coastal Act, which requires maintenance of public access to the coast by providing adequate parking facilities, and with Section 30210, which requires that development not interfere with the public's right of access to the sea.

In February of 1984, the County of San Mateo approved a Coastal Development Permit (**CDP-83-67**) and an amendment to a Use Permit (**UP 20-77**), authorizing the permittee to place riprap on 460 linear feet of ocean bluff, reconstruct parking lots, and install storm drainage in the parking lot of the existing restaurant at 8150 Cabrillo Highway. Use Permit Amendment Condition No. 6 states "*Hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.*"

In February 1987, the property owner at that time submitted to the Commission another amendment request seeking to restrict public access to the north parking lot with a sign and barrier until 5 p.m. so as to reserve that parking lot for guests only, and also seeking to open the restaurant at 10 a.m. on Sundays. The permit amendment request was renumbered as **Coastal Permit Amendment No. 3-87-59-A**. This application was subsequently withdrawn, apparently because an amendment to the County Use Permit to allow for the proposed increase in business hours was required before the Commission could act on the request, and no such amendment to the County Use Permit was ever approved.

2. **Alleged Coastal Act Violations.** As I stated in my letter dated April 25, 2011, it has been alleged that unpermitted development has taken place on the subject property, including the installation of new outdoor lighting; the erection of new signs in the parking lot (warning the public that any cars parked there after 5:00 p.m. will be towed); and the installation of a new patio for additional restaurant seating.

Pursuant to Section 30106 of the Coastal Act:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act...change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.....(Emphasis added)

As such, the installation of new outdoor lighting, the installation of a new patio, and the erection of new signs in the parking lot ("placement or erection of any solid material of structure" and "change in the intensity of use of water, or of access thereto") on the subject property constitutes development under the Coastal Act.

Section 30600(a) of the Act requires that any person wishing to perform or undertake development in the coastal zone must first obtain a coastal development permit (CDP), in addition to any other permit required by law, before carrying out any development. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act. Thus, the installation of outdoor lighting, erection of new signs in the parking lot, and the installation of a new patio for additional seating is considered to be unpermitted development, constituting a Coastal Act violation.

Further, the above referenced unpermitted development is inconsistent with the terms and conditions of the Permit.

Section 13172 of the California Code of Regulations states that:

Violation of a permit or any term, condition, or provision of a permit is grounds for enforcement under this section and under Chapter 9 of the California Coastal Act of 1976.

Special Condition No. 4 of the Permit requires the submittal for staff review and approval final plans for all signs and lights to be erected on the site. Within the last year or two, new outdoor lighting, including but not necessarily limited to "Christmas lights" on the roof, spotlights that illuminate the parking lots, and spotlights that shine on the surf, has been erected without benefit of a coastal permit. In addition, new free-standing signs restricting public parking have been erected in the parking lot without benefit of a coastal permit. These lights and signs were not initially approved by staff pursuant to Special Condition No. 4 of the Permit, and, therefore, are inconsistent with the Permit. The findings of the Permit refer to the fact that the site, located on a blufftop immediately adjacent to the beach, is highly visible to travelers on Highway One, beach users, and from points in the urbanized portion of Montara, and discusses how the elimination of free-standing signs, among other things, on the site will aid in improving the appearance of the site and reduce the visual impact of commercial use of the property both from the beach and the highway. It is clear from these findings that the Commission considered the visual impact of the proposed development when making its decision to approve the restaurant in this highly scenic area.

Further, Special Condition No. 2 of the Permit requires that in order to secure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time. The findings of the Permit indicate that the proposed 53-space parking area is somewhat inadequate to serve the approved seating capacity of the restaurant/bar (189 seats). The Commission approved the proposed project in part because the restaurant was to be a dinner house, open during the evenings only, and the findings state that it is anticipated that overflow beach parking for the adjacent state beach will use the restaurant parking lot during the day and overflow restaurant parking will use the adjacent beach parking lot in the evenings. Nowhere in the Permit does it state that beach users are not allowed to use the Restaurant parking lot after 5:00

p.m. The erection of signs within the restaurant parking lot stating "Customer Parking Only" and warning the public that cars parked in the parking lot after 5:00 will be towed is not consistent with the intent of the terms and conditions of the Permit, or with the spirit of the Permit, which authorized a shared parking arrangement. The erection of unpermitted free-standing sign(s) thus constitutes a violation of the Permit, and, therefore, of the Coastal Act.

In addition, Special Condition No. 3 states that free, public access through the site to the adjacent public beach shall be maintained and improved as per final plans to be submitted to staff for review and approval. Erection of signs that refer only to the towing of cars parked after 5:00 are likewise not consistent with the intent or spirit of the Permit.

Finally, it has been alleged that an unpermitted patio with additional seating was installed on the site. Installation of this patio, which provides additional seating than initially authorized under the Permit, is inconsistent with the terms and conditions of the permit and therefore constitutes a violation of the Permit and, thus, of the Coastal Act.

3. **Enforcement Remedies.** We hope that we will be able to resolve the alleged existing Coastal Act violation(s) administratively, without resorting to more formal enforcement action. However, if we are unable to resolve these matters informally, the Coastal Act contains enforcement remedies for Coastal Act violations. Coastal Act section 30809 states that if the Executive Director determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to ensure compliance with the Coastal Act. Moreover, Section 30811 authorizes the Commission to order restoration of a site where development occurred without a coastal development permit from the Commission, is inconsistent with the Coastal Act, and is causing continuing resource damage. Finally, the Executive Director is authorized, after providing notice and the opportunity for a hearing as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against the subject property.

In addition, Section 30820(a) provides for civil liability to be imposed on any person who performs or undertakes development without a coastal development permit and/or that is inconsistent with any coastal development permit previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each instance of development. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a coastal development permit and/or that is inconsistent with any coastal development permit previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less than \$1,000 and not more than \$15,000 per day for each day in which each violation persists. Section 30821.6 provides that a violation of either a cease and desist order or a restoration order can result in civil fines of up to \$6,000 for each day in which the violation

persists. Section 30822 additionally provides for exemplary damages in cases of knowing and intentional violations of the Coastal Act.

4. Resolution of Alleged Coastal Act Violations. To begin resolution of the alleged Coastal Act violations, you should submit to Ruby Pap of our North Central District Planning Office, by December 27, 2011, a CDP application that seeks after-the-fact authorization of the unpermitted outdoor lighting, signage, and patio area. I have enclosed a Permit Amendment application for your use. You may contact Ruby Pap or Nicholas Dreher at 415-904-5260 to discuss permit amendment application filing requirements.

In my last enforcement letter, sent more than six months ago on April 25, 2011, I requested that you submit a CDP amendment request to Ms. Pap to begin resolution of the alleged Coastal Act violations on your property. We received no response. Once again, we are requesting that you seek resolution of the outstanding alleged Coastal Act violations. Failure to meet the deadline noted above may result in more formal action by the Commission to resolve this Coastal Act violation. The formal action could include a civil lawsuit, recording a Notice of Violation on your property, the issuance of an Executive Cease and Desist Order or Commission Cease and Desist and/or Restoration Order, and/or imposition of monetary penalties, pursuant to Coastal Act sections 30803, 30805, 30809, 30810, 30811, 30812, 30820, 30821.6, and 30822, as noted above.

Please note that staff cannot guarantee that your amendment application will be accepted for filing and further cannot guarantee a recommendation of approval of any existing unpermitted development simply because you submit an application requesting approval. A recommendation by staff for after-the-fact approval of the existing unpermitted outdoor lighting, signage, and patio can be made only if the unpermitted development is found to be consistent with the coastal resource policies of Chapter 3 of the California Coastal Act, and with the policies of the County's certified LCP.

Please note that we are aware that you are currently pursuing from the County an amendment to your County Use Permit to expand hours of operation at the restaurant, and to supplement onsite parking with an additional 21 spaces on adjacent State Park property. As we have previously indicated, if you wish to change the hours of operation of the restaurant, change the existing public access or parking requirements, or increase the existing permitted seating capacity, you will also need to submit to the Coastal Commission a request to amend the Permit. Please also note that it is possible that such an amendment request might not be accepted for filing, pursuant to Section 13166 of our Administration Regulations. Section 13166(a)(1) states:

An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

Further, should an application for an amendment to expand the hours of operation for the restaurant be accepted for filing, it is possible that staff would not recommend approval of such a change. The hours of operation of the Restaurant were limited by the original coastal permit to ensure that the public would have adequate beach parking, and a change of those hours may adversely affect public parking and beach access, even with the addition of 21 spaces on the adjacent State Parks property.

We are also aware that your request to amend your County Use Permit includes a request for improvements to the property that were not authorized by the original Use Permit, some of which appear to have already been installed, including additional signage in the parking lot, lighting added to the building, and added tiles and railings to outdoor patios. As noted above, these improvements require a coastal development permit from the Coastal Commission.

5. Permit Fees. Section 13055 of the Commission's Administrative Regulations addresses the schedule of filing fees for processing permit applications. Subsection (a) (7)(d) provides that fees for an after-the-fact (ATF) permit application shall be five times the normal amount specified in the regulations, unless such added increase is reduced by the Executive Director when it is determined that either the ATF permit application can be processed by staff without significant additional review time (as compared to the time required for the processing of a regular permit), or the owner did not undertake the development for which the owner is seeking the ATF permit. The regulations further specify that in no case shall such reduced fees be less than double the regular amount. Once it is determined what sort of CDP amendment is required, Commission staff will determine the appropriate permit fee.

Thank you for your cooperation. If you have any questions about the alleged Coastal Act violations, call me at **415-904-5269**.

Sincerely,



JO GINSBERG
Enforcement Analyst

Enclosure

cc: Farhad Mortazavi
Michael McCracken
Ruby Pap, CCC, North Central District Manager
Linda Locklin, CCC, Coastal Access Program Manager
Nicholas Dreher, CCC, Coastal Program Analyst
Dave Holbrook, San Mateo County, Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885



SENT BY REGULAR AND CERTIFIED MAIL
Certification No. 7006 2760 0005 5883 4258

March 23, 2012

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405
ATTN: Hamid Rafiei

RE: La Costanera Restaurant located at 8150 Cabrillo Highway, Montara, San Mateo County
(APNs 036-046-050, 035-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Mr. Rafiei:

I am writing to commemorate our telephone discussion of March 6, 2012 in which you and Farhad Mortazavi, representing the property owners of the La Costanera site, spoke with Nick Dreher and me about resolution of the outstanding alleged Coastal Act violations that have occurred on the site and about the pending Coastal Development Permit (CDP) amendment application **No. P-77-579-A** that is being processed by Coastal Commission (Commission) permitting staff.

The alleged violations in question are as follows:

1. Unpermitted erection and use of lighting, including spotlights illuminating the beach and the parking lot, and holiday or “twinkle” lights on the roof of the restaurant;
2. Unpermitted construction of a patio and addition of patio seating;
3. Unpermitted erection of signs in the parking lot(s) restricting public use of the lot to restaurant customers and warning the public that any cars parked there after 5 p.m. will be towed;

4. Unpermitted restaurant use prior to 5 p.m. (serving of happy hour drinks beginning at 4 p.m.).

As I have described in previous correspondence sent to you dated December 23, 2004, April 14, 2010, April 25, 2011, and November 30, 2011, in July of 1977 the Coastal Commission approved with five special conditions **Coastal Permit No. P-77-579** (the Permit), authorizing the remodeling of an existing restaurant/motel to create a new 189-seat restaurant/bar, parking lot improvements, and landscaping.

Special Condition No. 4 of the Permit required the submittal for staff review and approval of final plans for all signs and lights to be erected on the site. As we have discussed, new outdoor lighting has been installed without benefit of a coastal permit, including holiday or "twinkle" lights on the roof, spotlights that illuminate the parking lot(s), and spotlights that shine on the surf. In addition, new free-standing signs restricting public parking were erected in the parking lot(s) without benefit of a coastal permit. These lights and signs were not initially approved by Commission staff pursuant to Special Condition No. 4 of the Permit, and, therefore, are inconsistent with the Permit. The findings of the Permit refer to the fact that the site, located on a blufftop immediately adjacent to the coast and ocean, is highly visible to travelers on Highway One, beach users, and from points in the urbanized portion of Montara, and discusses how the elimination of free-standing signs, among other things, on the site will aid in improving the appearance of the site and minimize the visual impact of commercial use of the property both from the beach and the highway. It is clear from these findings that the Commission considered the visual impact of the proposed development when making its decision to approve the restaurant in this highly scenic area.

Further, Special Condition No. 2 of the Permit required that in order to secure adequate parking accommodations both for the restaurant and adjacent State public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time, so that during peak beach usage, the public could utilize the parking lots to access the public beach below the restaurant. The State beach does not provide enough public parking for its users. The findings of the Permit indicate that the proposed 53-space parking area is somewhat inadequate to serve the approved seating capacity of the restaurant/bar (189 seats). The Commission approved the proposed project in part because the restaurant was to be a dinner house, open during the evenings only, and the findings state that "it is anticipated that overflow beach parking will use the restaurant lot during the day and overflow restaurant parking will use the adjacent beach parking in the evenings." Nowhere in the Permit does it state that beach users are not allowed to use the Restaurant parking lot after 5:00 p.m. The erection of signs within the restaurant parking lot stating "Customer Parking Only" and warning the public that cars parked in the parking lot after 5:00 will be towed is not consistent with the intent of the terms and conditions of the Permit, or with the spirit of the Permit, which authorized a shared parking arrangement. The erection of unpermitted free-standing sign(s) thus constitutes a violation of the Permit, and, therefore, of the Coastal Act.

In addition, Special Condition No. 3 states that free, public access through the site to the adjacent public beach shall be maintained and improved as per final plans to be submitted to staff for review and approval. Erection of signs that refer only to the towing of cars parked after 5:00 p.m. is likewise not consistent with the intent or spirit of the Permit.

Finally, it has been alleged that an unpermitted patio with additional seating was installed on the site. Installation of this patio, which provides for additional seating not initially authorized under the Permit, is inconsistent with the terms and conditions of the permit and therefore constitutes a violation of the Permit and, thus, of the Coastal Act.

During our recent telephone conversation, you indicated that the unpermitted signs have been removed, that the spotlights shining on the parking lot have been eliminated, and that the restaurant is no longer serving drinks prior to 5 p.m.

We must stress again that unless and until a CDP amendment is approved by the Commission that changes the terms and conditions of the Permit, the public is allowed to park in the restaurant parking lot at any time with no restrictions, as the parking lot is to be shared by beachgoers and restaurant patrons, pursuant to the terms and conditions of the Permit. Further, as you know, the Permit requires that in order to assure adequate parking both for users of the beach and users of the restaurant, that restaurant hours be limited to 5 p.m. until closing time. Please confirm in writing that the unpermitted signs have been removed and also that the restaurant is not open for business or serving drinks prior to 5 p.m.

Concerning the unpermitted lighting, please remove or keep turned off all spotlights illuminating the parking lot and the surf, and the rooftop "twinkle" lights at the subject site, and indicate in writing that you have done so. At such time as Commission staff reviews your CDP amendment application, staff will make an assessment as to whether these lights are appropriate and consistent with the visual resource policies of the Coastal Act and the County's certified Local Coastal Program (LCP), and will make a recommendation to the Commission. Until such time as a CDP amendment authorizes these lights, they may not be used. Should the Commission deny your request for after-the-fact authorization of these lights, they will need to be removed.

Concerning the unpermitted patio, you indicated during our telephone conversation that the County had issued a permit for the construction of a patio, so you considered it to be authorized. It was not clear to me whether the County issued a coastal permit or a building permit for the patio, but in any case, because there is a Commission CDP in place that authorized development on the site, any proposed changes to the existing development that affects or is affected by any terms or conditions of the CDP must be brought before the Commission. The construction of a new patio with additional seating is a change to the approved project that must be authorized by the Commission through a CDP amendment. The additional seating could further impact the availability of parking, an issue of prime concern at the time the original project was approved. In addition, the construction of the patio seaward of the existing permitted restaurant closer to the bluff edge could further impact the bluff stability. The County may process a building permit or

use permit, if appropriate, but it is the Coastal Commission that has the authority for issuing a CDP or CDP amendment in this case. Commission staff will need to review and analyze whether such a patio addition is appropriate, and will make a recommendation to the Commission. Should the Commission deny your request for after-the-fact authorization of the patio and/or patio seating, the patio will need to be removed.

To begin resolution of the outstanding Coastal Act violations on the site, please take the following steps:

1. Submit to Nick Dreher by April 16, 2012 a revised project description for the pending CDP amendment application **No. P-77-579-A** that includes a request for after-the-fact authorization for construction of the patio and additional patio seating. If the patio seating will replace equivalent existing restaurant seating, please so indicate. Please include plans for the patio and any other materials relating to its construction and proposed use.
2. Include in the revised project description a request for after-the-fact authorization of all existing, unpermitted lighting (e.g., spotlights and rooftop "twinkle lights"). Please submit by April 16, 2012.
3. Confirm in writing by April 16, 2012 that all of the outdoor spotlights and twinkle lights have either been removed or turned off, that the signage limiting public use of the parking lot has been removed, and that the restaurant/bar is not open for business or serving drinks prior to 5 p.m.

Please note that Enforcement staff cannot predict what the staff recommendation will be or whether the Commission will approve your CDP application.

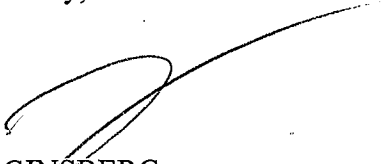
We are aware that you are currently pursuing with the County a Use Permit amendment to expand the hours of use of the restaurant, and to develop additional parking for public beach use in the undeveloped State Park land located to the north of the subject property to replace public beach use of the south restaurant parking lot, which would then be reserved for restaurant patrons some portion of the day. If a Use Permit amendment is obtained from the County for these changes, you should then submit to Commission staff a new request to amend the Permit to include these changes. Please note that we cannot guarantee that staff will recommend approval of such proposed changes. At such time as an amendment request for these changes is submitted, staff will look carefully at such things as whether the proposed new location is appropriate for public parking; whether new spaces would be equivalent in number and quality to the spaces currently available to the public; whether beach access from the proposed new parking lot would be as convenient to the public as what is currently available in the restaurant parking lot(s); if an appropriate method of controlling who uses the new parking lot is proposed to ensure that the public would have full use of the lot, etc.

A&G LLC
Mr. Hamid Rafiei
Page No. 5

If you have any questions concerning enforcement issues, please call me at 415-904-5269. If you have any questions about your CDP application, please call Nick Dreher at 415-904-5251.

Thank you for your cooperation.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Farhad Mortazavi
Michael McCracken
Shu Dai
Nicholas Dreher, CCC, Permit Analyst
Madeline Cavalier, CCC, District Manager
Linda Locklin, CCC, Coastal Access Program Coordinator
Nancy Cave, Supervisor, CCC Enforcement Program
Dave Holbrook, San Mateo County Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885



SENT BY REGULAR AND CERTIFIED MAIL
Certification No. 7006 2760 0005 5883 6924

December 5, 2012

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405
ATTN: Hamid Rafiei

Violation File: V-2-11-008 (La Costanera)

Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050,
035-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Mr. Rafiei:

On March 6, 2012, you and Farhad Mortazavi, representing the property owners of the La Costanera site, spoke with Nick Dreher and me about resolution of the outstanding alleged Coastal Act violations that have occurred on the site and about the pending Coastal Development Permit (CDP) amendment application **No. P-77-579-A** that is being processed by Coastal Commission (Commission) permitting staff, but is still incomplete.

As noted in my last letter of March 23, 2012, the alleged violations in question are as follows:

1. Unpermitted erection and use of lighting, including spotlights illuminating the beach and the parking lot, and holiday or "twinkle" lights on the roof of the restaurant;
2. Unpermitted construction of a patio and addition of patio seating;
3. Unpermitted erection of signs in the parking lot(s) restricting public use of the lot to restaurant customers and warning the public that any cars parked there after 5 p.m. will be towed;

4. Unpermitted restaurant use prior to 5 p.m. (serving of happy hour drinks beginning at 4 p.m.).

As I have described in previous correspondence dated December 23, 2004; April 14, 2010; April 25, 2011; November 30, 2011; and March 23, 2012, in July of 1977 the Coastal Commission approved with five special conditions **Coastal Permit No. P-77-579** (the Permit), authorizing the remodeling of an existing restaurant/motel to create a new 189-seat restaurant/bar, parking lot improvements, and landscaping.

Special Condition No. 4 of the Permit required the submittal for staff review and approval of final plans for all signs and lights to be erected on the site. As we have discussed, new outdoor lighting has been installed without benefit of a coastal permit, including holiday or "twinkle" lights on the roof, spotlights that illuminate the parking lot(s), and spotlights that shine on Montara State Beach and the adjacent ocean. The unpermitted erection of such lighting constitutes a Coastal Act violation.

In addition, new free-standing signs restricting public parking were erected in the parking lot(s) without benefit of a coastal permit. The lights and signs were not initially approved by Commission staff pursuant to Special Condition No. 4 of the Permit, and, therefore, are inconsistent with the Permit. The findings of the Permit refer to the fact that the site, located on a blufftop immediately adjacent to the coast and ocean, is highly visible to travelers on Highway One, beach users, and from points in the urbanized portion of Montara, and discusses how the elimination of free-standing signs, among other things, on the site will aid in improving the appearance of the site and minimize the visual impact of commercial use of the property both from the beach and the highway. It is clear from these findings that the Commission considered the visual impact of the proposed development when making its decision to approve the restaurant in this highly scenic area.

Further, Special Condition No. 2 of the Permit required that in order to secure adequate parking accommodations both for the restaurant and adjacent State public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time, so that during peak beach usage, the public could utilize the parking lots to access the public beach below the restaurant. The State beach does not provide enough public parking for its users. The findings of the Permit indicate that the proposed 53-space parking area is somewhat inadequate to serve the approved seating capacity of the restaurant/bar (189 seats). The Commission approved the proposed project in part because the restaurant was to be a dinner house, open during the evenings only, and the findings state that "it is anticipated that overflow beach parking will use the restaurant lot during the day and overflow restaurant parking will use the adjacent beach parking in the evenings." Nowhere in the Permit does it state that beach users are not allowed to use the Restaurant parking lot after 5:00 p.m. The erection of signs within the restaurant parking lot stating "Customer Parking Only" and warning the public that cars parked in the parking lot after 5:00 will be towed is not consistent with the intent of the terms and conditions of the Permit, or with the spirit of the Permit, which authorized a shared parking

arrangement. The erection of unpermitted free-standing sign(s) thus constitutes a violation of the Permit, and, therefore, of the Coastal Act.

In addition, Special Condition No. 3 states that free, public access through the site to the adjacent public beach shall be maintained and improved as per final plans to be submitted to staff for review and approval. Erection of signs that refer only to the towing of cars parked after 5:00 p.m. is likewise not consistent with the intent or spirit of the Permit.

Finally, it has been alleged that an unpermitted patio with additional seating was installed on the site. Installation of this patio, which provides for additional seating not initially authorized under the Permit, is inconsistent with the terms and conditions of the permit and therefore constitutes a violation of the Permit and, thus, of the Coastal Act.

Status of Coastal Act Violation Resolution

My March 23, 2012 letter requested that you do certain things by specified dates in order to continue to avoid formal enforcement proceedings. You were to:

1. Submit to Nick Dreher by April 16, 2012 a revised project description for the pending CDP amendment application **No. P-77-579-A**.
2. Include in the CDP amendment application a request for after-the-fact authorization for construction of the patio and additional patio seating, and if the patio seating will replace equivalent existing restaurant seating, so indicate, and include plans for the patio and any other materials relating to its construction and proposed use.
3. Confirm in writing that all lights have been removed or will remain off, that the signage limiting public use of the parking lot has been removed, and that the restaurant/bar is not open for business or serving drinks prior to 5 p.m.

You did not comply with any of the requests made in my March 23, 2012 letter. Additionally, staff visited the site recently and confirmed that the spotlights on the exterior of the restaurant are still being used, despite our request that you cease using them until and unless you receive Coastal Commission authorization for their use.

We must also stress again that unless and until a CDP amendment is approved by the Commission that changes the terms and conditions of the Permit, the public is allowed to park in the restaurant parking lot at any time with no restrictions, as the parking lot is to be shared by beachgoers and restaurant patrons, pursuant to the terms and conditions of the Permit. Further, as you know, the Permit requires that in order to assure adequate parking both for users of the beach and users of the restaurant, that restaurant hours be limited to 5 p.m. until closing time. To ensure that the public is aware of the availability of free parking in the restaurant parking lot, it would be appropriate to erect signage that so indicates.

At such time as you complete your CDP amendment application, and Commission staff reviews your CDP amendment application, staff will make an assessment as to whether any proposed lights and/or signs and/or changes to the current hours of operation are appropriate and consistent with the resource policies of the Coastal Act and the County's certified Local Coastal Program (LCP), and will make a recommendation to the Commission. Until you have obtained a CDP amendment allowing and authorizing exterior lights or signs concerning parking, they may not be present on the site. Further, until such time as the Commission authorizes any changes to the existing hours of use, the restaurant may not serve food or drinks prior to 5 p.m.

Concerning the unpermitted patio, you indicated during our March 6, 2012 telephone conversation that the County had issued a permit for the construction of a patio, so you considered it to be authorized. It was not clear to me whether the County issued a coastal permit or a building permit for the patio, but in any case, because there is a Commission CDP in place that authorized the restaurant development on the site, any proposed changes to the existing Coastal Commission-approved development that affects or is affected by any terms or conditions of the original CDP must be brought before the Commission. The construction of a new patio with additional seating is a change to the approved project that must be authorized by the Commission through a CDP amendment. The additional seating could further impact the availability of parking, an issue of prime concern at the time the original project was approved. In addition, the construction of the patio seaward of the existing permitted restaurant closer to the bluff edge could further impact the bluff stability. You may need to obtain from the County an assortment of permits including a building or use permit, but you must submit a CDP amendment to the Commission to authorize after-the-fact the patio addition. Commission staff will need to review and analyze whether such a patio addition is appropriate, and will make a recommendation to the Commission.

To begin resolution of the outstanding Coastal Act violations on the site, please take the following steps:

1. Remove at once all unpermitted lighting from the site, including holiday lights and spotlights that shine on the parking lot and on Montara State beach and adjacent ocean;
2. Confirm in writing and provide photographic evidence by **January 7, 2013** that all unpermitted lighting has been removed from the site; that all unpermitted signs have been removed from the site--specifically, signage limiting public use of the parking lot; and that the restaurant/bar is not open for business or serving drinks prior to 5 p.m.;
3. Submit to Nick Dreher by **January 7, 2013** a revised project description for the pending CDP amendment application **No. P-77-579-A** that includes a request for after-the-fact authorization for construction of the patio and additional patio seating. If the patio seating will replace equivalent existing restaurant seating, please so indicate. Please include plans for the patio and any other materials relating to its construction and proposed use. Also include in the revised project description a request to erect appropriate parking signage that indicates that free public parking for beach use is available at all times in the restaurant parking lot; and

4. If, after you have removed all unpermitted lighting, you wish to erect spotlights or holiday lights on the site, you may include in your revised project description a request for such lighting.

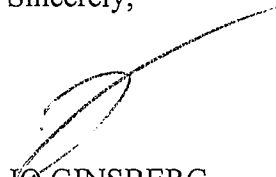
Please note that Enforcement staff cannot predict whether the Commission will accept all aspects of your CDP amendment application as appropriate for filing, what the staff recommendation will be, or whether the Commission will approve your CDP amendment application.

We are aware that you are still pursuing with the County a Use Permit amendment to expand the hours of use of the restaurant, and to develop additional parking for public beach use in the undeveloped State Park land located to the north of the subject property to replace public beach use of the south restaurant parking lot, which would then be reserved for restaurant patrons some portion of the day. If and when you obtain a Use Permit amendment for these changes, you should then submit to Commission staff a new request to amend the Permit to include these changes.

As I have said previously, Commission enforcement staff would prefer to work with you to resolve the outstanding alleged Coastal Act violations administratively; however, your continued failures to meet the cited deadlines may result in our elevating this violation to our Statewide Enforcement Unit for appropriate formal enforcement action by the Commission. If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**. If you have questions concerning completion of the CDP application, please contact **Nick Dreher** at Nicholas.dreher@coastal.ca.gov.

Thank you for your cooperation.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Farhad Mortazavi
Michael McCracken
Shu Dai
Nicholas Dreher, CCC, Permit Analyst
Madeline Cavalier, CCC, District Manager
Linda Locklin, CCC, Coastal Access Program Coordinator
Nancy Cave, Supervisor, CCC Enforcement Program
Dave Holbrook, San Mateo County Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885

**SENT BY REGULAR AND CERTIFIED MAIL**

June 24, 2013

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405
ATTN: Hamid Rafiei
Certification No. 7006 2760 0005 5883 7419

Michael McCracken, Esq.
870 Mitten Road
Burlingame, CA 94010-1304
Certification No. 7006 2760 0005 5883 7440

Violation File: V-2-11-008 (La Costanera)

Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050, 035-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Mr. Rafiei and Mr. McCracken:

I am writing concerning the ongoing alleged Coastal Act violations occurring at the La Costanera restaurant site at 8150 Cabrillo Highway in Montara (subject property), and am also responding to letters sent to us via email by Mr. McCracken. Some confusion has arisen concerning these letters, since I received multiple emails from Mr. McCracken and two slightly different versions of the same letter, each dated February 10, 2013. One letter is signed, and was emailed to me on March 13, 2013. This letter states: "Prior to the December 29, 2011 application, all holiday lighting was removed. For purposes of public safety, and as was requested in the application, the beach spotlights were retained." The other letter is unsigned, and was emailed to me on March 14, 2013 and states: "Effective December 5, 2011, all spot lights illuminating the beach and all holiday lighting was removed." Because the information contained in these letters is slightly

different, and because Mr. McCracken informed me via email on March 14, 2013 that the unsigned version was the final version, it is unclear which letter was meant to be the final version and which facts as stated in the two different letters were correct. However, we have confirmed that the spotlights have *not* been removed, so either the signed version of the letter, which states that the spotlights remain, is the correct final version, or Mr. McCracken is mistaken by asserting that the spotlights have been removed, as he does in the unsigned version of the letter.

The Coastal Commission is very concerned about a number of ongoing violations at the subject property, and we have previously expressed these concerns in multiple letters to you dated April 25, 2011; November 30, 2011; March 12, 2012; and, most recently, December 5, 2012. We have also discussed the violations by telephone on several occasions. In the most recent of these telephone discussions, on February 14, 2013, Nick Dreher and I spoke with Mr. Rafiei, Mr. Mortazavi, and Mr. McCracken. I also spoke with Mr. McCracken on March 6, 2013. During these conversations, Mr. McCracken assured Commission staff that the Coastal Act violations raised in our letters had been addressed and resolved, and that the unpermitted signs and lights had been removed. However, I have confirmed through two recent site visits, one during daylight hours (March 29, 2013) and one after dark (April 14, 2013) that several instances of unpermitted development still persist at the subject property, and therefore the subject property remains in violation of the Coastal Act.

Mr. McCracken asks in his letter if I have ever visited the site and suggests that if I have not, that I do so. In point of fact, I have visited the subject site at least a dozen times over the past few years, and each time I visit the site, most recently on April 14, 2013, I have noted the presence of unpermitted development at the subject property.

Alleged Coastal Act Violations

For purposes of clarity, I will discuss each of the alleged Coastal Act violations separately.

1. **Unpermitted lights.** In our past correspondence, we have cited the presence of two types of unpermitted lighting systems: holiday or “twinkle” lights strung along the rooftop of the restaurant; and several large spotlights installed on the restaurant. One of the two lighting system violations that we expressed concerns about in the past appears to have been finally resolved: the holiday or “twinkle” lights that were located along the roof of the restaurant appear to have been removed. However, we have expressed and continue to express our concern about the unpermitted spotlights that shine brightly on the parking lot, Montara State Beach, and adjacent ocean, and have made repeated requests that these lights be removed.

As I described above, in the unsigned version of the letter dated February 10, 2013 that I received by email from Mr. McCracken on March 14, 2013, he asserts that “effective December 5, 2011, all spot lights illuminating the beach and all holiday lighting was

removed.” In the other version of the letter, this one signed, which I received by email on March 13, 2013, he asserts that “prior to the December 29, 2011 application, all holiday lighting was removed. For purposes of public safety, and as was requested in the application, the beach spotlights were retained.”

I have confirmed that the holiday lights have indeed been removed. I have also confirmed during my recent site visits that the spotlights are still in place and it has also been confirmed that as of May 9, 2013, the spotlights are shining at night. As we have discussed many times and conveyed to you previously, these spotlights are unpermitted, are a violation of the terms and conditions of the Permit, and, therefore, of the Coastal Act, and may not remain in place. *They must be removed at once.* Should you wish to include in a future CDP application a request to install spotlights, you may do so, but please be aware that it is highly unlikely that such requested spotlights would be recommended for approval by the Commission staff.

2. **Unpermitted restaurant use prior to 5 p.m.** (serving of happy hour drinks beginning at 4 p.m.). As we have made clear in our previously sent enforcement letters, the restaurant may not be open for business prior to 5 p.m., consistent with the Permit. While Mr. McCracken asserts in his letters of February 10, 2013 that this issue is “currently being addressed and corrected,” we need written confirmation that this is so. Merely noting that it is being addressed and corrected is not the same as stating that the restaurant is no longer open for business prior to 5 p.m. *You must submit written confirmation that the restaurant is no longer serving food or drinks prior to 5 p.m. for us to consider this violation to be “addressed and corrected.”*
3. **Unpermitted construction of a patio and addition of patio seating.** Without benefit of a CDP amendment from the Commission, a new patio was constructed; this patio now provides additional seating not contemplated or approved by the Permit. This constitutes a violation of the terms and conditions of the Permit, and, therefore, of the Coastal Act. Although the County may have issued a building and/or coastal permit for the patio, no CDP amendment was authorized by the Commission for this patio. Mr. McCracken does not specify in his letters of February 10, 2013 how this violation is being addressed. Unless and until a CDP amendment authorizes this patio and the additional seating it affords, you are using this patio in violation of the Permit. During my recent site visits, I noted customer seating on the patio.
4. **Unpermitted Signage.** Lastly, there is the matter of unpermitted No Trespassing signs. In the past, there were No Trespassing signs placed in the parking lot, and in response to our enforcement letters and phone calls, these were eventually removed. However, we were notified recently that three new signs had been installed: one at each entrance to the main restaurant parking lot, and one at the entrance to the unpaved overflow parking lot owned by State Parks located just north of and adjacent to the restaurant site. We saw

many photos of these signs sent to us by various members of the public. Mr. Rafiei sent me an email dated April 30, 2013, stating that he did not know who placed the signs and that he would look into it. I was notified by a local resident that the signs were removed on or about May 9, 2013, but we are very concerned that these signs were installed again and were in place for more than a week after we had made it very clear in the past that such signs are not permitted under the terms and conditions of the Coastal Development Permit (CDP) No. P-77-579 that authorized the restaurant/bar, parking lot improvements, and landscaping.

Coastal Act Violation Resolution

To begin resolution of the outstanding Coastal Act violations on the site, please take the following steps:

1. Remove at once all unpermitted spotlights;
2. Confirm in writing and provide photographic evidence by **July 22, 2013** that all unpermitted lighting has been removed from the site; that all unpermitted signs have been removed from the site--specifically, signage limiting public use of the parking lot; and that the restaurant/bar is not open for business or serving drinks prior to 5 p.m.;
3. Submit to Nick Dreher by **July 22, 2013** a revised project description for the pending CDP amendment application **No. P-77-579-A** that includes a request for after-the-fact authorization for construction of the patio and additional patio seating. If the patio seating will replace equivalent existing restaurant seating, please so indicate. Please include plans for the patio and any other materials relating to its construction and proposed use. Also include in the revised project description a request to erect appropriate parking signage that indicates that free public parking for beach use is available at all times in the restaurant parking lot; and
4. If, after you have removed all unpermitted lighting, you wish to erect spotlights or holiday lights on the site, you may include in your revised project description a request for such lighting. As mentioned above, please note that it is unlikely the Commission staff would recommend approval of spotlights that shine on the beach or ocean due to concerns with visual resources and possible adverse effects on birds or other wildlife.

Please note that Enforcement staff cannot predict whether the Commission will accept all aspects of your CDP amendment application as appropriate for filing, what the staff recommendation will be, or whether the Commission will approve your CDP amendment application.

We are disappointed that despite your many assurances in the past, these Coastal Act violations persist after more than two years. **Failure to meet the deadlines noted above will result in our**

A&G LLC
Mr. Hamid Rafiei
Mr. Michael McCracken
Page No. 5

elevating this violation to our Statewide Enforcement Unit for appropriate formal enforcement action by the Commission. If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**. If you have questions concerning completion of the CDP application, please contact **Nick Dreher** at Nicholas.dreher@coastal.ca.gov.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Farhad Mortazavi
Shu Dai
Nicholas Dreher, CCC, Permit Analyst
Madeline Cavalieri, CCC, District Manager
Linda Locklin, CCC, Coastal Access Program Coordinator
Nancy Cave, Supervisor, CCC Enforcement Program
Dave Holbrook, San Mateo County Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 PREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885

**SENT BY REGULAR AND CERTIFIED MAIL**

April 25, 2014

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405
ATTN: Hamid Rafiei
Certification No. 7006 2760 0005 5883 6481

Michael McCracken, Esq.
870 Mitten Road
Burlingame, CA 94010-1304
Certification No. 7006 2760 0005 5883 6474

Violation File: V-2-11-008 (La Costanera)

Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050, 035-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Mr. Rafiei and Mr. McCracken:

I am writing once again concerning the ongoing alleged Coastal Act violations occurring at the La Costanera restaurant site at 8150 Cabrillo Highway in Montara, which previously consisted of the unpermitted construction of two patios and addition of restaurant seating thereto; unpermitted erection of rope lights and spotlights; unpermitted installation of signs limiting public parking at the site; and unpermitted expansion of operating hours of the bar and restaurant. More recently, it has come to our attention that unpermitted "A-Frame" signs and banners have been erected at the site, and that there has been unpermitted painting of the restaurant.

The Coastal Commission ("Commission") continues to be very concerned about the ongoing, unresolved nature of Coastal Act violations at La Costanera, some of which have persisted for

several years. Commission staff has repeatedly expressed these concerns in multiple letters to you dated April 25, 2011; November 30, 2011; March 12, 2012; December 5, 2012; and June 21, 2013, and by telephone with one or both of you on several occasions.

Alleged Coastal Act Violations

For purposes of clarity, I will discuss each of the alleged Coastal Act violations separately.

- 1. Unpermitted lights.** In our past correspondence, we have cited the presence of two types of unpermitted lighting systems: rope lights strung along the rooftop of the restaurant; and several large spotlights installed on the restaurant pointed to shine on the parking lot, Montara State Beach, and the adjacent ocean. We confirmed in our letter of June 24, 2013 that one of the two lighting system violations appears to have been finally resolved: the rope lights appear to have been removed. Unpermitted spotlights were initially installed in 2010; after repeated requests by us and in response to a petition circulated by the public, the unpermitted spotlights were removed in June of 2013. We note that spotlights were again temporarily erected without appropriate permits in October of 2013 for a wedding but were removed about a week later. Currently we are unaware of any exterior lighting system in existence at the restaurant; however, please note that while your current incomplete Coastal Development Permit ("CDP") application includes a request for new outdoor lighting, unless and until such a request is authorized by the Commission, no new outdoor lighting is allowed.
- 2. Unpermitted restaurant and bar use prior to 5:00 p.m.** As we have reminded your client on numerous occasions (via written and verbal communication), pursuant to CDP No. P-77-579 ("the Permit") and the County's Use Permit, the restaurant and bar may not be open for business prior to 5:00 p.m. In his letter of February 10, 2013, Mr. McCracken asserted that this issue is "currently being addressed and corrected," but it has come to our attention that, at least on Sundays, the bar has been opening at 4:00 p.m. and the main dining room has been opening at 4:30 p.m., which is not consistent with the requirements of the Permit and the County's Use Permit, constituting yet another Coastal Act violation.
- 3. Unpermitted construction of a patio and addition of patio seating.** Without benefit of a CDP amendment from the Commission, two new patios were constructed; these patios now provide additional seating not contemplated or approved by the Permit. This constitutes a violation of the terms and conditions of the Permit, and, therefore, of the Coastal Act. Although the County may have issued a building and/or coastal permit for the patios, no CDP amendment was authorized by the Commission for these patios. Unless and until a CDP amendment authorizes these patios and the additional seating they afford, use of the patios constitutes an ongoing Permit violation. During various site visits, I have noted customer seating on at least one of the two new patios.

4. **Unpermitted Signage.** In the past, your client placed No Trespassing signs in the parking lot; in response to our previous enforcement letters and phone calls, these were eventually removed. Then, Commission staff became aware that three new signs had been installed: one at each entrance to the main restaurant parking lot, and one at the entrance to the unpaved overflow parking lot owned by State Parks located just north of and adjacent to the restaurant site. Mr. Rafiei sent me an email dated April 30, 2013, stating that he did not know who placed the signs and that he would look into it. I was notified by a local resident that the signs were removed on or about May 9, 2013.

Despite our previous correspondence and action on unpermitted signage, it has come to our attention that your client has recently installed some new "A-frame" signs and banners on the site. As we have stated previously, these signs and banners are not permitted, and, therefore, constitute a Coastal Act violation.

5. **Exterior Painting of the Restaurant.** The Permit required the submittal to staff of material samples and colors to ensure that the permitted restaurant would be visually compatible with the highly scenic character of the area and would enhance visual quality. In addition, the project site is located in a Design Review District and in the County's Scenic Corridor. The County's Community Design Manual encourages the use of colors that are non-reflective, earth-toned, and blend in with the natural setting and neighborhood. It has come to our attention that portions of the exterior of the restaurant have been painted bright white without consulting with the County or the Commission.

Coastal Act Violation Resolution

Please take the following steps:

1. Confirm in writing to me by **June 2, 2014** that neither the bar nor the restaurant is open for business or serving drinks prior to 5:00 p.m.
2. We are aware that there is a pending incomplete CDP amendment application being held by our North Central District office through which your client is seeking authorization for outdoor lighting and for after-the-fact authorization for the unpermitted patios and additional patio seating. If all requisite information is provided to complete this application, and if it is approved by the Commission, this CDP could resolve the many Coastal Act violations at La Costanera. Please note, however, that if the unpermitted patios and additional patio seating are not approved by the Commission, the patios will have to be removed, and removal may require a CDP from the County. Please also note that your CDP amendment application was first submitted on December 29, 2011, and while some requested additional materials have been submitted, the application remains incomplete and the Coastal Act violations concerning the unpermitted patios and

A&G LLC
Mr. Hamid Raffiei
Mr. Michael McCracken
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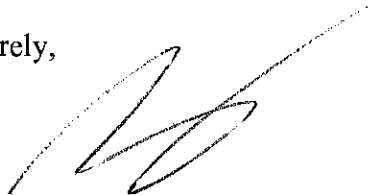
additional patio seating remain unresolved. To rectify this, please submit to Renée Ananda by **June 2, 2014** all materials requested by North Central in Ms. Ananda's letter of December 18, 2013 necessary to complete the CDP application.

3. Please remove all unpermitted "A-frame" signs and banners, and confirm in writing by **June 2, 2014** that this has taken place. Please submit photographic evidence of the removal with the June 2, 2014 letter.
4. Please consult with the County by **June 2, 2014** to obtain approval for the recent exterior painting of the building, and confirm in writing that you have done so. If the County does not approve this exterior painting, the building must be repainted to the County's specifications.

Please note that Enforcement staff cannot predict whether the Commission's Executive Director will accept all aspects of your CDP amendment application as appropriate for filing, and, if that happens, what the staff recommendation will be, or whether the Commission will approve your CDP amendment application.

We remain disappointed that despite your many assurances in the past, these Coastal Act violations persist after more than three years, and newly discovered violations continue to occur. **Failure to meet the deadlines noted above will result in our elevating this violation to our Statewide Enforcement Unit for appropriate formal enforcement action by the Commission.** If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**. If you have questions concerning completion of the CDP amendment application, please contact **Renée Ananda at 415-904-5292**.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Farhad Mortazavi
Shu Dai
Renée Ananda, CCC, Permit Analyst
Linda Locklin, CCC, Coastal Access Program Coordinator
Nancy Cave, Manager, CCC North Central District
Heather Johnston, Supervisor, CCC Enforcement Program
Dave Holbrook, San Mateo County Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**SENT BY REGULAR AND CERTIFIED MAIL**

January 28, 2015

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405
ATTN: Hamid Rafiei
Certification No. 7006 2760 0005 5883 3008

Michael McCracken, Esq.
Law Offices of Michael D. McCracken
951 Mariners Island Blvd. Suite 300
San Mateo, CA 94404
Certification No. 7006 2760 0005 5883 2995

Subject: Alleged Coastal Act Violations at La Costanera restaurant site

Violation File No.: V-2-11-008 (La Costanera)

Property Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050, 035-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Mr. Rafiei and Mr. McCracken:

I am writing in reference to Violation File No. V-2-11-008 regarding Coastal Act¹ violations occurring at the La Costanera restaurant site at 8150 Cabrillo Highway in Montara in unincorporated San Mateo County.

In this case, we first provided you with written notice of the violations² on **April 25, 2011**, and have also sent a number of subsequent letters and had telephone conversations affirming these

¹ The California Coastal Act of 1976 is codified in Sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code unless otherwise indicated.

² Please note that the description herein of the violation at issue is not necessarily a complete list of all development on the subject property that is in violation of the Coastal Act and/or that may be of concern

violations including letters to you dated April 25, 2011; November 30, 2011; March 23, 2012; December 5, 2012; June 24, 2013; and April 25, 2014, and telephone conversations with one or both of you and/or with Farhad Mortazavi on several occasions, including December 21, 2011 (I spoke with Mr. Mortazavi); March 6, 2012 (Nick Dreher and I spoke with Mr. Mortazavi and Mr. Rafiei); February 12, 2013 (I spoke with Mr. Rafiei); February 14, 2013 (Nick Dreher and I spoke with Mr. Mortazavi, Mr. Rafiei, and Mr. McCracken); and March 8, 2013 (I spoke with Mr. McCracken).

As demonstrated in these past letters and telephone conversations, we remain willing to resolve the outstanding Coastal Act violations amicably and still hope that this is feasible. However, since it is now 2015 and some of these violations have persisted as unresolved violations for several years, and new unpermitted development activities have been undertaken by the owners despite assurances that they will not, the Coastal Commission staff is increasingly concerned about our ability to resolve this amicably.

We note that San Mateo County ("County") is also requiring resolution of violations at the site. In a letter dated December 23, 2014, Steve Monowitz, San Mateo County Acting Community Development Director, informed you that at its meeting of September 23, 2014, the County Planning Commission denied your request for a Use Permit Amendment, Design Review Permit, Planning Agricultural District Permit, and a Grading Permit that sought to 1) expand the hours of operation to allow brunch and lunch service on Fridays and weekends only (93 seats only) and 2) legalize unpermitted exterior lighting and patios at a 189-seat restaurant, and 3) to allow access, landscaping, and drainage improvements, involving 246 cubic yards of fill placement and 5 cubic yards of excavation, on adjoining parcels owned by the State of California Department of Parks and Recreation ("State Parks") for a 21-space, gravel surface parking lot for beach users. The County letter goes on to require resolution of outstanding violations (patio and roof lights; hours of operation; restaurant use of outdoor patios; signs; stormwater discharges) and to describe the manner in which this resolution must take place.

Background

As you know, in 1977 the Coastal Commission ("Commission") approved Coastal Development Permit ("CDP") No. P-77-579 ("the Permit"), authorizing a 189-seat restaurant/bar, parking lot improvements, and landscaping on the subject property. The Permit included five special conditions in order to ensure public access to the coastal area, and to protect coastal resources including the highly visible coast here and the adjacent marine life. Four of these special conditions are relevant to the Coastal Act violations at the site.

to the Commission. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development. Please further note that the term "violation," as used throughout this letter, refers to alleged violations of the Coastal Act.

A&G LLC
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Special Condition No. 2 states that "In order to assure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time." Please note that while it was anticipated that the restaurant parking lot would be used primarily for visitors to the restaurant between 5:00 p.m. and normal closing time, the public visiting the beach is **NOT** restricted from parking in the restaurant parking lot after 5:00 p.m. Any attempt to restrict public parking in the restaurant parking lot **at any time** is a violation of the Permit and therefore of the Coastal Act.

Special Condition No. 3 states that "Free, public access thru the site to the adjacent public beach shall be maintained and improved as per final plans to be submitted to staff for review and approval." Please note that public access to the beach is **NOT** limited to daylight hours, and that any attempt to restrict public access to the beach, including signs or locked gates, constitutes a violation of the Permit and therefore of the Coastal Act.

Special Condition No. 4 requires that the applicant submit for staff review and approval final plans for all signs and lights to be erected on the site. The findings of the Permit refer to the fact that the site, located on a blufftop immediately adjacent to the coast and ocean, is highly visible to travelers on Highway One, beach users, and from points in the urbanized portion of Montara, and discusses how the elimination of free-standing signs, among other things, on the site will aid in improving the appearance of the site and minimize the visual impact of commercial use of the property both from the beach and the highway. It is clear from these findings that the Commission considered the visual impact of the proposed development when making its decision to approve the restaurant in this highly scenic area. Large or free-standing signs are not consistent with the community character of the area. Spotlights or floodlights shining on the beach and ocean can have adverse impacts on birds, marine life, and beachgoers, and such lights shining on the highway can be blinding to motorists. Any signs or lighting that have been installed on the site but not approved by the Permit are a violation of the Permit and therefore of the Coastal Act.

Special Condition No. 5 requires that the applicant submit final elevations, material samples and color to staff for review and approval, and that the maximum height and ground coverage of the remodeled building do not exceed that of the existing structure. The findings of the Permit discuss how the project, as conditioned, will be visually compatible with the character of the area and will restore and enhance the visual quality of the area. Any unpermitted changes to the height, color, or ground coverage of the restaurant/bar constitute a violation of the Permit and therefore of the Coastal Act.

The Commission found in approving the Permit that attaching these conditions would result in a project that is consistent with the policies of the Coastal Act. Without these conditions, the project could not have been found to be consistent with the Coastal Act, and, therefore, would not have been approved by the Commission. Critical to the Commission finding the proposed project, as conditioned, to be consistent with the Coastal Act are the requirements of the Permit

that protect and provide public access and parking and the requirements that the restaurant/bar structure be visually compatible with the character of the area and enhance the coastal viewshed.

CDP Jurisdiction

To clarify, in general, whenever the Coastal Commission has issued a coastal permit for development at a particular site, any future changes to the project approved by that coastal permit, or any additional development on the subject site that might affect a permit condition or be governed by a permit condition, would require a CDP amendment from the Commission, rather than a new coastal permit from the County. Decisions as to coastal permit jurisdiction, when there is an existing CDP for development at a particular site, are made on a case-by-case basis. In this particular case, since the Commission's CDP contains conditions concerning public access, parking, signs, and lighting, it is our position that such things as changes to seating capacity affecting parking; addition of new signs; and/or addition of new lighting triggers the need for a CDP amendment from the Coastal Commission.

Coastal Act Violations

For purposes of clarity, I will once again briefly discuss each of the Coastal Act violations separately and include the appropriate path for resolution.

1. **Unpermitted lights.** According to the County, there are still unpermitted light fixtures along the wind screen of the lower patio and on the roof at the front of the building. **These light fixtures must be removed and photographic evidence of this removal submitted to us. No new exterior lights, including holiday lights, rope lights, spotlights, etc., may be erected without first obtaining an amendment to your CDP.**
2. **Unpermitted restaurant and bar use prior to 5:00 p.m.** As we have reminded you on numerous occasions (via both written and verbal communication), pursuant to the Commission's CDP and the County's Use Permit, in order to protect the public access to this portion of the coast, the permit required that the restaurant and bar may not be open for business prior to 5:00 p.m. Further, these permits authorized a 189-seat restaurant/bar. Mr. Mortazavi sent me an email dated May 29, 2014, in which he responded to the concerns raised in our letter of April 25, 2014. He asserts that neither the restaurant nor the bar is open prior to 5:00 p.m., and while waiting patrons are sometimes allowed into the restaurant, neither food nor drink is served prior to 5 p.m. While it may be true, as Mr. Mortazavi asserts, that the restaurant is not normally open prior to 5:00 p.m., it has come to our attention that La Costanera has been hosting weddings and other special events that take place prior to 5:00 p.m. and use parking that should be available to beach users, which is a violation of the Permit and, therefore, of the Coastal Act. Further, we note that the La Costanera website advertises that La Costanera "can accommodate groups up to 300 seated guests." Since our permit only

authorizes 189 seats within the restaurant, this advertising offer appears to be yet another violation of the Permit, and, therefore, of the Coastal Act. **All special events that take place outside of the allowed time-frame for restaurant use and/or require seating beyond the 189 seats allowed by the Permit constitute a violation of the Permit and therefore of the Coastal Act and your allowance of such events must cease unless and until a Use Permit by the County and an amendment to your CDP are issued that allow such a use.**

- 3. Unpermitted construction of a patio and addition of patio seating.** Without benefit of a CDP amendment from the Commission, two new patios were constructed; these patios now provide additional seating not contemplated or approved by the Permit. This constitutes a violation of the terms and conditions of the Permit, and, therefore, of the Coastal Act. As you know, the amount of seating provided by the facility was specifically limited in the original permit in order to provide a balance between users and to ensure continued public access to the coast.

While the County may have initially indicated that they were willing to provide an exemption for the patios, it was later determined that a CDP from the Commission was required for these patios, and no CDP amendment has yet been authorized by the Commission for these patios. Unless and until a CDP amendment authorizes these patios and the additional seating they afford, use of the patios constitutes an ongoing Permit violation. During various site visits, I have noted customer seating on at least one of the two new patios.

In his email of May 29, 2014, Mr. Mortazavi requested a time extension beyond June 2, 2014 to complete a CDP amendment application that seeks authorization for outdoor patios and exterior lighting at the subject site. We note that, as of this date, the CDP amendment application being processed by Renée Ananda of our North Central District staff still remains incomplete, several years after it was initially submitted. Ms. Ananda's last permit filing status letter dated December 18, 2013 describes those materials that are still outstanding from the CDP application. **Use of these patios must cease unless and until a CDP amendment is issued by the Commission for the construction and use of these patios.**

- 4. Unpermitted Signage.** In the past, your client has placed "No Trespassing" signs in the parking lot; in response to our previous enforcement letters and phone calls, these were eventually removed. Then, Commission staff became aware that three new signs had been installed: one at each entrance to the main restaurant parking lot, and one at the entrance to the unpaved overflow parking lot owned by State Parks located just north of and adjacent to the restaurant site. Mr. Rafiei sent me an email dated April 30, 2013, stating that he did not know who placed the signs and that he would look into it. I was notified by a local resident that the signs were removed on or about May 9, 2013.

Despite our previous correspondence and action on unpermitted signage in 2013, it then came to our attention in 2014 that some new "A-frame" signs and banners had been installed on the site. Mr. Mortazavi notes in his May 29, 2014 email that all unpermitted "A-frame" signs and banners have been removed and that photo evidence would be provided to us by Hamid Rafiei, the Project Manager, prior to June 2, 2014. No such evidence has been submitted thus far.

5. **Exterior Painting of the Restaurant.** Mr. Mortazavi also notes that the outer box of an existing sign had been repainted without County design approval, and was subsequently repainted back to its original paint. Therefore, it appears that this issue has been satisfactorily resolved, and we do not consider it to be an outstanding Coastal Act violation at this time.

Public Access Violations

Section 30210 of the Coastal Act states that "maximum access... shall be provided for all the people..." and Section 30211 states that "Development shall not interfere with the public's right of access to the sea..." Preserving the public's right of access is a high priority for the Coastal Commission. As noted above, the Permit was conditionally approved to ensure that the project would be consistent with the policies of the Coastal Act; specifically, that, among other things, public access and parking would be provided for and protected. The Permit requires that the parking lot that serves the restaurant also serve the adjacent State Beach. The hours of operation of the restaurant/bar are limited to "that period between 5:00 p.m. and normal closing time" so that while the parking lot is available to beach users at all times, it is especially important that there be adequate public parking prior to 5:00 p.m. When you schedule special events, such as weddings, to take place prior to 5:00 p.m., and/or offer seating capacity greater than the 189 seats allowed by the Permit, this impacts the public's ability to park in the restaurant parking lot, and, therefore, adversely affects public access to the coast. Similarly, the unpermitted addition of patio seating resulting in a seating capacity greater than the 189 seats allowed by the Permit creates greater restaurant parking demand and, thus, reduces the number of parking spaces available to the public for beach access. In addition, signage that restricts the public from parking in the restaurant parking lot *at any time* adversely affects the public's ability to access the coast. The above described activities are violations of the Permit and directly interfere with the public's right to access the sea as required by Sections 30210 and 30211.

In cases involving violation(s) of the public access provisions of the Coastal Act, which is the case here, Section 30821 authorizes the Commission to impose administrative civil penalties in an amount of up to \$11,250 per day for each violation. Further, Section 30821(h) states the following:

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(h) Administrative penalties pursuant to subdivision (a) shall not be assessed if the property owner corrects the violation consistent with this division within 30 days of receiving written notification from the commission regarding the violation, and if the alleged violator can correct the violation without undertaking additional development that requires a permit under this division. This 30-day timeframe for corrective action does not apply to previous violations of permit conditions incurred by a property owner.

While we have already given you written notification of the subject violations (see above), please consider this letter to again be “written notification” of our intent to pursue administrative penalties pursuant to Section 30821.

Resolution

In order to resolve this matter quickly and avoid imposition of penalties pursuant to Section 30821, you must immediately comply with the terms and conditions of CDP No. P-77-579. Specifically, you must do all of the following:

1. Confirm in writing to me by **February 27, 2015** that neither the bar nor the restaurant is or will be open for business or serving drinks prior to 5:00 p.m. This includes “happy hour,” and also means that no special events such as weddings may take place prior to 5:00 p.m.
2. Confirm in writing to me by **February 27, 2015** that there shall be no seating at the site for more than 189 persons, pursuant to the County Use Permit and the Commission’s CDP. This means that no special events such as weddings may provide seating beyond the 189 seats authorized by the Permit. The La Costanera website, and any other websites that advertise the restaurant/bar as a special events venue, must be changed to reflect this.
3. As noted above, there is a pending incomplete CDP amendment application being held by our North Central Coast District office through which your client is seeking authorization for proposed new outdoor lighting and after-the-fact authorization for the unpermitted patios and additional patio seating. If all requisite information is provided to complete this application, and if it is approved by the Commission, this CDP could resolve some of the long outstanding Coastal Act violations occurring at La Costanera. Please note, however, that if the unpermitted patios and additional patio seating are not approved by the Commission, the patios will have to be removed, and removal may require a CDP from the County. Please also note that your CDP amendment application was first submitted on December 29, 2011, and while some requested additional materials have been submitted, the application remains incomplete and the Coastal Act violations concerning the unpermitted patios and additional patio seating remain unresolved. To rectify this, please submit to Renée Ananda by **February 27, 2015** all materials requested

A&G LLC
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in Ms. Ananda's letter of December 18, 2013 necessary to complete the CDP amendment application. Please note that the unpermitted patio areas are not to be used for restaurant seating unless and until they are authorized through the CDP process.

4. Please submit by **February 27, 2015** photographic evidence that all "A-frame" signs and banners, and any signs that restrict public parking and/or access, have been removed from the site and that all seating in the unpermitted patio areas has been removed.
5. Please contact me by no later than **February 13, 2015** regarding how you intend to resolve these violations.

While we are hopeful that we can resolve this matter amicably, please be advised that, in addition to the administrative penalty authority described above, the Coastal Act has a number of additional potential remedies to address violations of the Coastal Act, including the following:

Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. Section 30811 also provides the Coastal Commission the authority to issue a restoration order to address violations at a site. A violation of a cease and desist order or restoration order can result in civil fines of up to \$6,000 for each day in which each violation persists.

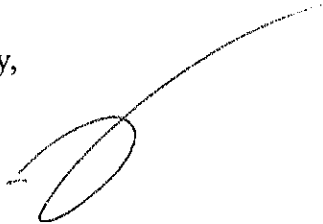
Additionally, Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 per violation for each day in which each violation persists.

Finally, Section 30812 authorizes the Executive Director to record a Notice of Violation against any property determined to have been developed in violation of the Coastal Act. If the Executive Director chooses to pursue that course, you will first be given notice of the Executive Director's intent to record such a notice, and you will have the opportunity to object and to provide evidence to the Commission at a public hearing as to why such a notice of violation should not be recorded. If a notice of violation is ultimately recorded against your property, it will serve as notice of the violation to all successors in interest in that property.

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Thank you for your prompt attention to this matter. If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**. If you have questions concerning completion of the CDP amendment application, please contact **Renée Ananda at 415-904-5292**.

Sincerely,



JO GINSBERG
Enforcement Analyst

- cc: Farhad Mortazavi
Shu Dai
Lisa Haage, CCC, Chief of Enforcement
Patrick Veesart, Supervisor, CCC Enforcement Program
Renée Ananda, CCC, Permit Analyst
Linda Locklin, CCC, Coastal Access Program Manager
Nancy Cave, Manager, CCC North Central District
Steve Monowitz, San Mateo County Acting Community Development Director
Dave Holbrook, San Mateo County Senior Planner
Camille Leung, San Mateo County Planner

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



March 12, 2015

Dave Holland
Conservation Connection
P.O. Box 3324
Half Moon Bay, CA 94019

Michael McCracken, Esq.
Law Offices of Michael D. McCracken
951 Mariners Island Blvd. Suite 300
San Mateo, CA 94404

Farhad Mortazavi
CSG Consultants
1700 South Amphlett Boulevard
San Mateo, CA 94402

Subject: Alleged Coastal Act Violations at La Costanera restaurant site

Violation File No.: V-2-11-008 (La Costanera)

Property Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050, 036-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Gentlemen:

I am writing to memorialize our recent meeting of March 5, 2015 at the site of La Costanera. Present at the meeting with you three gentlemen and Hamid Rafiei were representatives from the Coastal Commission (Nancy Cave, Renée Ananda, Pat Veasart, and Jo Ginsberg); from San Mateo County (Steve Monowitz, Camille Leung, and Ana Santiago); from the State Parks Department (Chet Bardo and Chris Spohrer); and Nicholas Calderón from Supervisor Don Horsley's office. We feel that it was a productive meeting and we are encouraged about moving forward to resolve the outstanding Coastal Act violations quickly and amicably.

At the meeting, we viewed the site and discussed the existing County and Coastal Commission violations, as well as a path forward to seek authorization for existing, unpermitted development and expansion of hours and facilities, including parking changes. As you know, the Coastal Commission's coastal development permit ("CDP") at issue here is CDP No. P-77-579 ("the Permit"), which initially authorized a 189-seat restaurant/bar, parking lot improvements, and landscaping on the subject property, and included five special conditions in order to ensure public access to the coastal area, and to protect coastal resources including the highly visible coast here and the adjacent marine life.

Pursuant to discussions at our meeting, I will discuss each Coastal Act violation of concern to the Coastal Commission below:

Coastal Act Violations

1. **Unpermitted lights.** It appears that all west- and north-facing light fixtures on the roof and the face of the building have been removed. However, there remain light fixtures on the east side of the roof that point upwards and with which the County has a concern. In addition to a concern that these lights may be unnecessary, the County has a concern that they were recently painted white and now have an additional adverse impact on visual resources. The Commission also has a concern with visual resources. Please work with the County to propose a suitable arrangement that discourages upward pointing lights and incorporates an appropriate color scheme for the light fixtures.
2. **Unpermitted restaurant and bar use prior to 5:00 p.m.** It became clear at our meeting that while the restaurant and bar are not normally open for business prior to 5 p.m., there are exceptions; notably, during past special events the restaurant and bar have served food and drinks prior to 5 p.m. This is not authorized by either the County use permit or the Coastal Commission Permit, and this unauthorized special events use must cease unless and until the County and the Coastal Commission have processed permits that authorize such use. We did note that the website has been corrected to advertise the permitted hours of operation, but we also note that as recently as three or four weeks ago a special event took place at La Costanera on a Saturday afternoon around 2 p.m. While we understand your desire to host special events that bring in revenue for the business, and that these special events have in the past taken place prior to 5 p.m., we cannot allow such unauthorized use to continue without appropriate permits. The parking situation is already problematic, and any increase in use beyond that which the Permit allows has the potential for adverse impacts on the public's ability to park at the site and, thus, to access the coast.
3. **Unpermitted construction of patios and addition of patio seating.** The physical construction and use of the unpermitted outdoor patios have not been authorized by either the County or the Commission. While you have indicated that the total number of seats

available to restaurant patrons remains as 189 (the number allowed by the Permit), unless and until approvals are obtained from the County and from the Commission for the construction and use of these patios as additional seating areas, they may not be used for restaurant or bar patrons.

4. **Unpermitted Signage.** It now appears that all “No Trespassing” signs or other signs restricting public parking or access in the parking lot or elsewhere on the site have been removed. The County did note that in the past someone has placed “A-frame” signs and banners on or adjacent to the highway, and that these signs and banners are not allowed. Please refrain from erecting any of these signs or banners in the future.
5. **Exterior Painting of the Restaurant.** During our site visit, Ms. Leung noted that that some trim and light fixtures on the restaurant have recently been painted white without Design Review approval. Please address this issue with the County.

Parking and Public Access Issues

We understand that there is at present a tentative letter agreement between State Parks and A&G LLC (owners of La Costanera) concerning the unimproved State-owned property adjacent to the restaurant site that is currently being used by the public for parking. It appears that in the context of seeking authorization from the County and the Coastal Commission to open for lunch, the property owners are now proposing to reserve their southern parking lot for restaurant parking only during lunchtime hours, while their northern parking lot, in addition to the unimproved parking lot (which would be paved), would be reserved for public parking only, and that signage would be used to implement these changes. We remain concerned that the number of spaces available to the public would be reduced by this scheme (which is a non-starter), and also that signage has so far proven to be ineffective, both here and elsewhere, in enforcing parking restrictions. We are therefore interested in hearing your ideas to improve and increase public access and to increase the public’s enjoyment of the coast, in the event that this scheme is proposed in the context of a permit application or amendment. It was mentioned at our site visit that a restroom and additional path and/or stairway are also possibilities. We are interested in learning more about these possible future amenities and ways to increase and maximize public access and recreational opportunities.

Please note that a CDP from the County would be required for the construction of such amenities, and also for any construction or changes to the existing unimproved parking area. Further, please note that State Parks would need to either be a co-applicant for any permits on its land, or would need to give written permission for A&G LLC to seek a CDP for development on State Park land.

Dave Holland
Michael McCracken
Farhad Mortazavi
Page No. 4

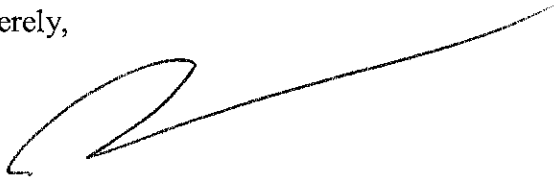
Resolution

In order to resolve this matter quickly and avoid imposition of penalties pursuant to Section 30821, you must immediately comply with the terms and conditions of CDP No. P-77-579. Specifically, you must do all of the following:

1. While Mr. Holland's email of February 27, 2015 did indicate that the restaurant's website has been changed (we have independently confirmed this) and that the restaurant would only be open from 5 p.m. until closing, it was made clear at our meeting that special events have continued to take place prior to 5 p.m. Please confirm in writing to me by **April 13, 2015** that neither the bar nor the restaurant is or will be open for business or serving drinks prior to 5:00 p.m. This includes "happy hour," and also means that **no special events** such as weddings may take place prior to 5:00 p.m.
2. While we have been assured that there are only 189 seats total at the site (indoor seating plus patio seating), it has been made clear that the unpermitted outdoor patios have continued to serve patrons. Please confirm in writing to me by **April 13, 2015** that the unpermitted outdoor patios shall not be used by restaurant or bar patrons until such use has been authorized.
3. As we discussed at our meeting, there is still a pending incomplete CDP amendment application being held by our North Central Coast District office through which your client is seeking authorization for proposed new outdoor lighting and after-the-fact authorization for the unpermitted patios and additional patio seating. Please submit to Renée Ananda by **April 13, 2015** all materials requested in Ms. Ananda's letter of December 18, 2013 necessary to complete the CDP amendment application.

Thank you for your prompt attention to these matters. If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**. If you have questions concerning completion of the CDP amendment application, please contact **Renée Ananda at 415-904-5292**.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Shu Dai
Lisa Haage, CCC, Chief of Enforcement
Patrick Veesart, Supervisor, CCC Enforcement Program

Dave Holland
Michael McCracken
Farhad Mortazavi
Page No. 5

Renée Ananda, CCC, Permit Analyst
Linda Locklin, CCC, Coastal Access Program Manager
Nancy Cave, Manager, CCC North Central District
Matt Christen, CCC, Staff Attorney
Steve Monowitz, San Mateo County Acting Community Development Director
Ana Santiago, San Mateo County Senior Code Compliance Officer
Camille Leung, San Mateo County Planner
Chet Bardo, California State Parks, Santa Cruz District Superintendent
Chris Spohrer, California State Parks, Santa Cruz District Services Manager
Nicholas Calderón, Senior Legislative Aide

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



July 13, 2015

Rahim Amidi
Amidi Group
370 Convention Way
Redwood City, CA 94063

Dave Holland
Conservation Connection
P.O. Box 3324
Half Moon Bay, CA 94019

Michael McCracken, Esq.
Law Offices of Michael D. McCracken
951 Mariners Island Blvd. Suite 300
San Mateo, CA 94404

Subject: Alleged Coastal Act and San Mateo County LCP Violations at La Costanera restaurant site, including, but not limited to, unpermitted patio construction and addition of patio seating; non-compliance with CDP No. P-77-579, including unpermitted use of the site prior to 5 p.m.

Violation File No.: **V-2-11-008** (La Costanera)

Property Location: 8150 Cabrillo Hwy., Montara, San Mateo County (APNs 036-046-050, 036-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Gentlemen:

I am writing concerning the above-referenced violation file. As you know, in the last few years we have written a number of enforcement letters concerning outstanding Coastal Act/San Mateo County LCP violations at the site (letters to you dated April 25, 2011; November 30, 2011; March 23, 2012; December 5, 2012; June 24, 2013; April 25, 2014; January 28, 2015; March 12, 2015) and received numerous assurances, both in writing and in person, that these violations would be addressed immediately and would cease. Some of the violations were eventually resolved, such as the removal from the roof and the face of the building all unpermitted west- and north-facing exterior lights, which took place approximately four years after we first

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requested their removal. Other violations, such as the periodic placement of unpermitted No Trespassing signs and other signs restricting public parking and/or access at the site, were resolved, only to reappear again sometime later. We have had to request removal of such unpermitted signs on at least five different occasions, as noted in five different letters we sent to you. We are pleased to note that currently there are no unpermitted signs restricting public access or use at the site.

However, we continue to receive complaints that some violations are still occurring at the site. Specifically, we have been notified that special events continue to take place at the site prior to 5 p.m., and that the patios continue to be used by restaurant patrons on various occasions. Most recently, we received complaints (from more than one source), along with corroborating photographs, that a large wedding took place at the site on Sunday, May 24, 2015, which was a holiday weekend when public beach use would have been high. We were informed that, beginning around 10 a.m. on that Sunday, a booth was set up in the parking lot in preparation for the wedding and valet parking at the site began sometime after that. We were informed that all three parking lots were mostly full by 10:30 a.m. and that by 2:00 p.m. all parking lots were packed. Members of the public who sought to enter the site to park so they could use the public beach were told the lots were closed for a wedding and were turned away. The reports and photographs clearly demonstrate continued non-compliance with the terms and conditions of La Costanera's coastal development permit (CDP No. P-77-579) and the County's Use Permit - both of which restrict use of the site to that period of time between 5 p.m. and closing time.

At our on-site meeting on March 5, 2015, it was made crystal clear by Coastal Commission and County staff that, pursuant to the requirements of Commission and County permits, the restaurant is not allowed to be open prior to 5 p.m. Representatives of La Costanera understood and agreed. Thus we were surprised and disappointed that only a mere two months after that meeting a wedding took place beginning in the morning and lasting all day, in "knowing and intentional" violation of the terms and conditions of the Commission and County permits, resulting in the parking lots being completely closed to the public on a busy holiday weekend.

We have been patient over the years and have tried to work with you and the County to resolve the outstanding Coastal Act/LCP violations. However, this latest incident makes it apparent that our efforts to resolve these violations amicably are not working. It appears that we have run out of options to resolve this matter short of formal enforcement action.

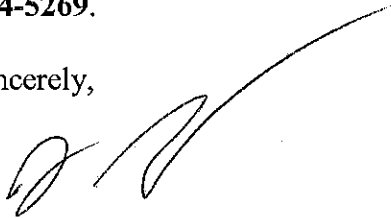
We remind you that Chapter 9 of the Coastal Act has a number of potential remedies to address violations of the Coastal Act including the following: Sections 30809(a) and 30810(a) of the Coastal Act provide that the Executive Director of the Coastal Commission and the Commission may issue an order to enforce the requirements of the Coastal Act or a certified LCP. Section 30811 authorizes the Commission to require restoration of a site if unpermitted development inconsistent with the Coastal Act has occurred and is causing ongoing damage to coastal resources. Additionally, Sections 30803 and 30805 authorize the Commission to initiate

Rahim Amidi
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litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any entity who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) provides that, in addition to any other penalties, any entity that "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 per violation for each day in which the violation persists. Section 30812 provides for the Executive Director to record a Notice of Violation on the property where an unresolved violation exists. Finally, as you have been previously informed, Section 30821 authorizes the Commission to impose administrative civil penalties in an amount of up to \$11,250 per day for each violation in cases involving violations of the public access provisions of the Coastal Act, which is the case here.

If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Shu Dai
Hamid Rafiei
Lisa Haage, CCC, Chief of Enforcement
Patrick Veesart, Supervisor, CCC Enforcement Program
Renée Ananda, CCC, Permit Analyst
Linda Locklin, CCC, Coastal Access Program Manager
Nancy Cave, Manager, CCC North Central District
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Steve Monowitz, San Mateo County Community Development Director
Ana Santiago, San Mateo County Senior Code Compliance Officer
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Chet Bardo, California State Parks, Santa Cruz District Superintendent
Chris Spohrer, California State Parks, Santa Cruz District Services Manager
Nicholas Calderón, Senior Legislative Aide for County Supervisor Don Horsley

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885

**VIA CERTIFIED MAIL AND REGULAR MAIL**

April 25, 2016

A&G LLC
Rahim Amidi, Amidi Group
370 Convention Way
Redwood City, CA 94063
Certified Mail No. 7015 1730 0000 9497 3114

Dave Holland
Conservation Connection
P.O. Box 3324
Half Moon Bay, CA 94019
Certified Mail No. 7015 1730 0000 9497 3107

Subject: Notice of Intent to Commence Cease and Desist Order and Administrative Civil Penalties Proceedings and Notification of Intent to Record a Notice of Violation of the Coastal Act

Violation No.: V-2-11-008

Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998); and adjacent, publicly owned parcels (APNs 036-046-060 and 036-046-410).

Violation Description: Unpermitted development and development inconsistent with a coastal development permit, including, but not limited to: Non-compliance with CDP P-77-579, including use of the restaurant prior to 5:00 PM; construction of a 1,276 sq. ft. and a 850 sq. ft. patio addition to the restaurant; construction of a retaining wall, three raised masonry firepits on the patios, and glass windscreens; and placement of fill; all of which provide an increase in the capacity of the restaurant for restaurant patrons.

Dear Mr. Amidi and Mr. Holland:

The purpose of this letter is to notify you of my intent, as the Acting Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order. This Cease and Desist Order will include measures necessary to resolve the violations of the California Coastal Act in the form of unpermitted development and development performed inconsistent with the requirements of Coastal Development Permit

("CDP") P-77-579. This letter also serves to notify you of my intent to record a Notice of Violation of the California Coastal Act against your property. Additionally, because the actions at issue violate the public access provisions of the Coastal Act, this letter also serves to provide further notification of my intent to commence proceedings for the Commission to impose an administrative civil penalty upon you.

The violations of the Coastal Act and CDP P-77-579, which are described further below, occurred on your property located at 8150 Cabrillo Highway, Montara, San Mateo County, (APNs 036-046-050, 036-046-310, 036-046-380, 036-046-390, 036-046-400, and 036-046-998), and adjacent, publicly owned parcels (APNs 036-046-060 and 036-046-410) (the "Property"). The unpermitted development and development inconsistent with a coastal development permit on the Property includes, but is not necessarily limited to: non-compliance with CDP P-77-579 including use of the restaurant prior to 5:00 PM; construction of a 1,276 sq. ft. and a 850 sq. ft. patio addition to the restaurant; construction of a retaining wall, three raised masonry firepits on the patios, and glass windscreens; and placement of fill; all of which provide an increase in the capacity of the restaurant for restaurant patrons; ("Unpermitted Development").

This letter is a required step in the ongoing enforcement process, designed to legally resolve the Coastal Act violations on the Property through an administrative hearing. However, please note that this letter in no way precludes our ability to resolve this matter amicably without the need of a contested hearing and potential litigation. We are open to discussing the consensual resolution of this matter through consent cease and desist orders ("Consent Orders"), which are similar to a settlement agreement, and provide you with an opportunity to resolve this matter consensually. Nonetheless, adoption of Consent Orders will still require a formal process and a Commission hearing, and the Commission's regulations provide for issuance of this formal notice letter as a first step in that process.

Background

As we have described in numerous previous letters, the California Coastal Act was enacted in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program that would manage conservation and development of coastal resources. The Coastal Act created the Commission to apply and enforce Coastal Act policies through its permit, enforcement, and other land use planning programs. These Coastal Act policies seek to provide maximum public access to the coastal zone, and to protect and restore scenic landscapes and coastal views, natural landforms, and sensitive habitats (such as riparian, coastal sage, oak woodlands, and chaparral habitats), among other things.

Permit History

As you know, in July 1977, the Commission approved, with five special conditions, Coastal Development Permit No. P-77-579 ("the CDP"), which authorized the remodel of an existing restaurant and motel to create a 189-seat restaurant/bar, parking lot improvements, and landscaping. In its approval, the Commission found that the 53-space parking area proposed on

the applicant's property was not sufficient to serve the approved seating capacity of the restaurant/bar, and specifically considered the issue of impacts that the restaurant would have on public access to the adjacent public beach. The Commission's approval of the CDP relied upon an agreement between the applicant, San Mateo County, and State Parks to allow restaurant patrons to park on State Parks property in the evenings, and for beach users to park on the restaurant's property during the day. The applicant proposed, and the Commission required, limited restaurant hours through Special Condition No. 2 of the CDP, which states: "In order to assure adequate parking accommodations both for the restaurant and adjacent public beach, the hours of operation of the restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time." The Commission found that only as conditioned to ensure that public access was not impacted by the proposed restaurant could the proposed restaurant be found consistent with the Coastal Act.

Subsequent to that, a prior owner of the restaurant again raised the issue of parking. In May of 1981, the Commission denied a request for an amendment to CDP P-77-579 to allow day use of the restaurant on Sundays, commencing at 10 a.m. In its denial of the amendment application, the Commission found that daytime use of the restaurant would reduce the parking available to the public for beach access, would directly conflict with the original parking agreement with the County, and would be inconsistent with Sections 30210 and 30252 of the Coastal Act.

Issues with parking have continued over time, and Commission staff has repeatedly contacted the owners of the restaurant in an effort to resolve parking issues and ensure compliance with the permit condition, and to ensure public access. In response to a violation letter issued by Commission staff (see more details in the next section of this letter), on December 29, 2011, you submitted to Commission staff a CDP amendment application requesting to amend the CDP to allow installation of new outdoor lighting and to authorize, after-the-fact, the construction of two patios with areas of 1,276 sq. ft. and 850 sq. ft., respectively, and to erect parking signs. The amendment application has remained "incomplete" as the information necessary to bring the application to hearing has not been submitted.

In September 2014, the San Mateo County Planning Commission denied an application for an amendment to the County Use Permit to: 1) expand the hours of operation to allow brunch and lunch service on Fridays and weekends; 2) authorize after-the-fact unpermitted exterior lighting and patios at the restaurant; and 3) grade and install gravel on an existing gravel parking lot owned by State Parks.

On January 13, 2016, the San Mateo County Planning Commission considered an application for an amendment to the County Use Permit to authorize after-the-fact construction and use of the two unpermitted patios, and unanimously denied the amendment. This denial is currently being appealed to the San Mateo County Board of Supervisors. Therefore, in addition to lacking Coastal Act authorization, the unpermitted patios continue to lack required local authorizations.

Violation History

In April 2011, Commission staff became aware of violations on the Property, and sent you a letter notifying you of the violation of the Coastal Act and the CDP on your property. Since that time, Commission staff has attempted on numerous occasions to work with you to resolve the violations of the Coastal Act on your property, including by sending additional letters in November 2011, March 2012, December 2012, June 2013, April 2014, March 2015, and July 2015. Throughout these letters, and in the many phone calls, e-mails, and meetings over the past five years, my staff has informed you that the Unpermitted Development has been performed without the required CDP in violation of the Coastal Act and inconsistent with the CDP, and requested that you remove the physical items of Unpermitted Development and cease operating the restaurant during restricted hours and cease performing future unpermitted development. Unfortunately, as of the date of this letter, you have not removed the unpermitted items and have continued to violate the CDP and the Coastal Act. This has led to significant, ongoing impacts to coastal resources, including to public access, in violation of the Coastal Act.

In response to numerous requests from Commission staff that you comply with the authorized hours for the restaurant set by the CDP, on February 12, 2015, your counsel informed Jo Ginsberg, the enforcement analyst for the North Central District, that you would “cease all future activity prior to 5 pm.” However, despite this assertion, on July 22, 2015 you wrote a letter to San Mateo County stating that you would perform additional violations by opening the restaurant prior to 5 pm on four specific dates: September 7, September 12, October 3, and October 10, 2015. In that letter you also asserted that no other violations besides those dates would occur. However, despite your promises to Commission and County staff that the owners would not open the restaurant prior to the 5:00 pm opening time, Commission staff later discovered that you continued to open the restaurant before 5:00 pm, for example on August 29, 2015, September 26, 2015, March 13, 2016, and March 26, 2016. This occurred despite the fact that we have been requesting through numerous communications over the last five years that you discontinue this practice.

The two unpermitted patios also remain on the property even after we notified you of the violation in 2011 and they continue to be used without authorization. Rather, since 2011, you have continued to benefit from the unauthorized patios while using them to serve restaurant patrons inconsistent with the CDP. Throughout this time, the patios have provided an expanded area for increased patron use of the restaurant, leading to impacts to public parking and public access.

Violations of the Coastal Act

Pursuant to Coastal Act Section 30600(a), any person wishing to perform or undertake development in the Coastal Zone must obtain a CDP in addition to any other permit required by law. The Coastal Act defines development in Section 30106, which states (in relevant parts):

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; ... grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land ...; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure ...

My staff has confirmed that activities constituting development were undertaken without a CDP and inconsistent with a previously issued CDP, on the Property, within the coastal zone, and subsequent to the enactment of the California Coastal Act. The development that occurred on the Property required authorization pursuant to the Coastal Act, but no such authorization was obtained. That development includes, but is not necessarily limited to: non-compliance with CDP P-77-579, including the use of the restaurant prior to 5:00 PM, in violation of Special Condition 2 of the permit; construction of a 1,276 sq. ft. and a 850 sq. ft. patio addition to the restaurant; construction of a retaining wall, three raised masonry firepits on the patios, and glass windscreens; and placement of fill; all of which provide an increase in the capacity of the restaurant for restaurant patrons.

Public Access Violations

In this case, the violations of the Coastal Act also include violations of the public access provisions of the Coastal Act. These provisions include, but are not necessarily limited to, Section 30210, which states in part that "maximum access ... and recreational opportunities shall be provided for all the people", Coastal Act Section 30211, which states in part, "Development shall not interfere with the public's right of access to the sea . . .", Coastal Act Section 30212, which states in part "Public access... shall be provided in new development projects..." and Coastal Act Section 30252, which states "The location and amount of new development should maintain and enhance public access to the coast by... providing adequate parking facilities...."

The Commission found, through the approval of CDP P-77-579 and the denial of the amendment to CDP P-77-579 that the limitation on restaurant hours, which was required by Special Condition 2 of CDP P-77-579, was necessary to ensure that the restaurant did not impact public access. However, the restaurant has repeatedly opened for business prior to the authorized hours, in violation of Special Condition 2, and inconsistent with the public access policies of the Coastal Act. This includes the opening of the restaurant at unauthorized hours on multiple dates.

Additionally, the restaurant has been expanded through the construction of a new 1,276 sq. ft. lower patio and a new 850 sq. ft. upper patio, increasing the total square footage of the restaurant by a total of 2,126 sq. ft. This expansion has increased the capacity of the restaurant for patrons of the restaurant and bar, including by increasing the area available for restaurant and bar use, by expanding the area for use as a waiting and lounge area and increasing the number of persons that can use those areas. Despite repeated requests from Commission and County staff to remove the unpermitted patios and cease their use, you have continued to regularly use the unpermitted patios for restaurant seating or as a waiting area, increasing the number of persons using the restaurant, and, correspondingly, increasing the parking demand and the resulting impacts to public access.

The Unpermitted Development has increased the parking demand for the restaurant without providing any additional parking facilities to meet the additional demand. Patrons of the restaurant share available parking spaces with members of the public using Montara State Beach. The additional parking demand for the restaurant caused by the Unpermitted Development has reduced the parking supply for public access to the beach. Access to the beach is very limited at this location and the impact from the Unpermitted Development has significantly impacted the public's ability to access the beach.

Thus, the violations of the Coastal Act are negatively impacting public access and are inconsistent with Coastal Act provisions that protect public access, including Sections 30210, 30211, 30212 and 30252.

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810 of the Coastal Act, which states, in part:

(a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances: (1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order....

The unpermitted development described in this letter required Coastal Act authorization because it clearly constitutes "development" within the definition of Coastal Act Section 30106 and was not otherwise exempt from Coastal Act permitting requirements, and that any such development would have needed a CDP amendment from the Commission. Additionally, these activities are inconsistent with a CDP previously issued by the Commission. The County has also requested that the Commission take the lead on enforcement regarding the Coastal Act violation. Thus, both criteria of Section 30810(a) of the Coastal Act have been satisfied.

Section 30810(b) of the Coastal Act also states that a Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development. The proposed Cease and Desist Order will therefore direct you to, among other potential actions: 1) remove unpermitted items of development; 2) cease and desist from maintaining any development on your property not authorized pursuant to the Coastal Act; 3) cease and desist from engaging in any further development on your property unless authorized pursuant to the Coastal Act; and 4) take all steps, as identified, necessary to comply with the Coastal Act, including the removal of

the unpermitted development from the Property, and necessary to ensure full compliance with CDP P-77-579.

The procedures for the issuance of these Cease and Desist Orders are described in Sections 13180 through 13188 of the Commission's regulations, which are codified in Title 14 of the California Code of Regulations.

Notification of Intent to Record a Notice of Violation of the Coastal Act

The Coastal Act contains a provision for recording notice against real property of the existence of a Coastal Act violation on the property. Such notice is important so that potential purchasers of the property are made aware that a violation of the Coastal Act has occurred on the property. In our letter dated July 13, 2015, in accordance with Coastal Act Section 30812(g), we notified you of the potential for the recordation of a Notice of Violation against your property.

The Executive Director of the Commission may record a Notice of Violation against the title to the property pursuant to Section 30812, after providing notice and the opportunity for a hearing. Section 30812 provides, in part:

(a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed...to the owner of the real property at issue...

(b)... The notification shall state that if, within 20 days of mailing of the notification, the owner of the real property at issue fails to inform the executive director of the owner's objection to recording the notice of violation, the executive director shall record the notice of violation in the office of each county recorder where all or part of the property is located.

(c) If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held . . . at which the owner may present evidence to the commission why the notice of violation should not be recorded. . . .

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on substantial evidence, a violation has occurred, the executive director shall record the notice of violation...

In many instances of cooperation, property owners have agreed to stipulate to the recordation of a Notice of Violation while working with the Commission to resolve the violations through mutual agreement. Should you choose to object to the recording of a Notice of Violation and wish to present evidence to the Coastal Commission at a public hearing on the issue of whether a violation has occurred, you must specifically object, in writing, within 20 calendar days of the postmarked mailing of this notification. The objection should be sent to the attention of John Del Arroz at the Commission's headquarters office (the address is provided above in the letterhead), and received

no later than May 15, 2016. Please include the evidence you wish to present to the Commission in your written response and identify any issues you would like us to consider. If recorded as provided for under Section 30812(b), the Notice of Violation will become part of the chain of title of the Property and will be subject to review by potential buyers. This notice is intended to put other parties on notice of the status of the property and to avoid unnecessary confusion. The Notice of Violation will be rescinded once the violations are resolved.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

Under Section 30821 of the Coastal Act, in cases involving violations of the public access provisions of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, as described above, there are multiple violations of the public access provisions of the Coastal Act; therefore the criteria triggering Section 30821 have been satisfied. The penalties imposed may be in an amount up to \$11,250, for each violation, for each day the violation has persisted or is persisting, for up to five (5) years. If a person fails to pay an administrative penalty imposed by the Commission, under 30821(e) the Commission may record a lien on that person's property in the amount of the assessed penalty. This lien shall be equal in force, effect, and priority to a judgment lien.

The Coastal Act also includes a number of other penalty provisions that may still be applicable. Section 30820(a)(1) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each instance of development that is in violation of the Coastal Act. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development. Civil liability under Section 30820(b) shall be imposed in an amount not less than \$1,000 per day and not more than \$15,000 per day, for each violation and for each day in which each violation persists. Section 30821.6 also provides that a violation of a Cease and Desist Order of the Commission can result in civil liabilities of up to \$6,000 for each day in which the violation persists. Lastly, Section 30822 provides for additional exemplary damages for intentional and knowing violations of the Coastal Act or a Commission Cease and Desist Order.

Response Procedure

In accordance with Sections 13181(a) of the Commission's Regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order proceedings and Administrative Civil Penalties Proceedings by completing the enclosed Statement of Defense (SOD) form. The completed SOD form, including identification of issues and materials for Commission consideration, and documents and issues that you would like the Commission to consider, must be returned to the Commission's San Francisco office, directed to the attention of John Del Arroz, no later than May 15, 2016. However, should this

matter be resolved via a Consent Order agreement, a statement of defense form would not be necessary.

Resolution

As discussed above, this notice letter does not preclude the parties from still reaching a cooperative resolution. We remain willing to resolve this matter amicably and without the need for a contested hearing and would like to work with you to achieve that end. The Consent Order process provides an opportunity to resolve these issues through mutual agreement. While requiring compliance with the Coastal Act and the CDP, Consent Orders give you additional input into the process and timing of the removal of the unpermitted development and could potentially allow you to negotiate a penalty amount with the Commission staff to resolve your civil liability. Consent Orders would provide for a permanent resolution of this matter and thereby resolve the complete violation without any further formal legal action.

If you are interested in discussing the possibility of agreeing to Consent Orders, please contact John Del Arroz, Statewide Enforcement Analyst, no later than May 2, 2016 at (415) 904-5220 or at the address of the Commission's San Francisco office on the letterhead above. Again, should we settle this matter, you do not need to expend the time and resources to fill out and return the SOD form mentioned above in this letter.

Sincerely,



John Ainsworth
Acting Executive Director

cc:

- Lisa Haage, Chief of Enforcement
- Aaron McLendon, Deputy Chief of Enforcement
- John Del Arroz, Statewide Enforcement Analyst
- Alex Helperin, Senior Staff Counsel
- Chris Spohrer, District Services Manager, California Department of Parks and Recreation
- Steve Monowitz, San Mateo County Planning

Enclosures:

Statement of Defense Form for Cease and Desist Order and Administrative Civil Penalties

Aerial Photograph of the Area



Montara State Beach

Cabrillo Hwy

1

2nd St