

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: November 4, 2015

TO: Planning Commission

FROM: Planning Staff

SUBJECT: EXECUTIVE SUMMARY: Consideration of a Use Permit Amendment and Design Review Permit, pursuant to Sections 6267 and 6565.3 of the San Mateo County Zoning Regulations, respectively, to legalize unpermitted construction and use of two patios at a 189-seat restaurant located at 8150 Cabrillo Highway in the unincorporated Montara area of San Mateo County. The Coastal Development Permit for this project will be reviewed separately under the jurisdiction of the California Coastal Commission.

County File Number: PLN 2015-00297 (La Costanera Restaurant)

PROPOSAL

The La Costanera Restaurant is the tenant of the 11,332 sq. ft. restaurant with 189 seats, owned by A&G, LLC, at 8150 Cabrillo Highway. The restaurant is located adjacent to Montara State Beach on the west side of Cabrillo Highway. The applicant proposes to maintain the existing 189 total seats and requests to amend the current Use Permit (UP 20-77) to allow seating both inside the restaurant and on two outdoor patios.¹ Two patios were constructed in 2008 and have been used by the restaurant for table service since that date to the present, without the required amendment to the current Use Permit Use Permit. The applicant has made the subject application in response to violation notices from the County and the California Coastal Commission (CCC) regarding illegal use of the patios for restaurant use since 2008.

The lower patio is approximately 1,276 sq. ft., contains two fire pits, is accessible from the lower dining and bar area, and would seat 15 persons. The upper patio is approximately 740 sq. ft., is accessible from the main floor of the restaurant, and would seat 27 persons. The patios consist of grey and blue-toned, non-reflective tiling and natural wood. Building permits were issued to install the existing fire pits and tiling, but windbreaks were added to both patios without benefit of a permit.

¹ The current proposal is separate from a project reviewed and denied by the Planning Commission on September 24, 2014, which included the subject proposal, expansion of the hours of operation to allow brunch/lunch service on Fridays and weekends, and access, landscaping and drainage improvements on adjoining lands owned by the State of California Department of Parks and Recreation.

State Coastal Permit Required: The CCC has permit authority over the Coastal Development Permit (CDP) for this project due to the CCC's issuance of a CDP (P-77-579) for a remodel of a restaurant at this location in 1977. The CDP states that "Any change to the terms of P-77-579 will require an amendment to this permit approved by the Coastal Commission, preceded by local agency approval of the requested change." The CDP amendment for the project will be processed by the CCC separately from the Use Permit Amendment requested from the County. The applicant cannot act in reliance upon this Use Permit Amendment until the CDP amendment is granted by the Coastal Commission.

RECOMMENDATION

That the Planning Commission approve a Use Permit Amendment and a Design Review Permit, to legalize the unpermitted construction and use of two patios at 8150 Cabrillo Highway, County File Number PLN 2015-00297, for by making the required findings and adopting the conditions of approval in Attachment A of the staff report.

SUMMARY

Compliance with Conditions of the Current Use Permit (UP 20-77)

As discussed in detail in Section A.2 of the staff report, the property owner has not consistently complied with the conditions of the original Use Permit. In letters dated December 23, 2014 and July 10, 2015, the County issued two notices of violation. The current status of violations observed by the County is summarized below:

- Hours of Operations: In a letter dated July 22, 2015, the property owner acknowledges contracted reservation dates in 2015 (made prior to February 2015) for daytime events at the restaurant, including September 7, 2015, September 12, 2015, October 3, 2015 and October 10, 2015. Code compliance staff issued a citation on October 16, 2015, notifying the property owner that it has imposed a penalty of \$100 for unpermitted events at the property. Future violations of the Use Permit will result in additional penalties, as established by Chapter 1.40 (*Administrative Remedies*) of the San Mateo County Ordinance Code.
- Stormwater Discharges: Based on staff's observations and those from the public, restaurant wash down activities continue to occur in the south parking lot, whereby wash water enters an inlet which drains to the beach. Per Condition No. 10, the applicant shall ensure that wash water and any stormwater from the trash storage area drains to the sanitary sewer.

Based on past and current history of violations and in order to allow for closer monitoring of the project, staff recommends a Use Permit term of two years, whereby the applicant must demonstrate compliance with the approved conditions of approval for permit renewal. Staff also recommends annual administrative reviews of the project.

Planning staff will continue to work with Code Compliance staff, CCC staff, and interested members of the public to monitor the site for compliance.

Compliance with the General Plan

The restaurant use was approved subject to conformity with General Plan policies. Staff has determined that the project continues to comply with all applicable General Plan policies. Specifically, the project complies with Policy 4.21 (*Scenic Corridors*), which calls for the County to protect and enhance the visual quality of scenic corridors by managing the location and appearance of structural development. The General Plan designates the portion of the Cabrillo Highway adjoining the project site as a County-Designated Scenic Route. The two exterior patios would not be visible from Highway 1.

Compliance with the Regulations of the Coastside Commercial Recreation (CCR) Zoning District

Restaurants are permitted in the CCR Zoning District, subject to the issuance of a Use Permit. A Use Permit was first issued by the County for this use (indoor seating only) in 1950. The applicant proposes to amend the Use Permit to allow construction and outdoor seating on the two patios, while retaining the same total number of seats at the restaurant. Performance standards require all approved lighting, exterior and interior to be located so as to confine direct rays to the premises. No additional lighting is proposed. Use of the lantern lights that have been used along the windscreen in the past was not permitted and resulted in excessive light spillover. Condition No. 11 prohibits the use of lantern lights but allows the minimum amount of lighting necessary for nighttime dining, such as individual table lights.

Compliance with the Regulations of the Design Review (DR) Zoning District

Design standards call for structures to be set back from the edge of bluffs and cliffs to protect views from scenic areas below and for structures to be designed and situated so as to retain and blend with the natural vegetation and landforms of the site. Proposed patios will be visible from public lands (Montara State Beach) and a public water body (Pacific Ocean). Patios are attached to the restaurant building, blending in with the existing building in both color and materials. Patios are located on the west elevation of the structure behind the existing restaurant and, as such, do not add any mass to the structure as viewed from Highway 1. The clear plexi-glass windscreens allow for wind blocking without the appearance of bulk, as viewed from the beach.

Compliance with Use Permit Regulations of Chapter 24 of the County Zoning Regulations

The proposed use of the two existing patios would not result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in the neighborhood, as patio construction did not require significant alteration of topography or impact to surrounding neighborhood, beach, or

ocean environments. Use of the patios would not intensify the restaurant use and associated parking impacts. The patios are not visible from Cabrillo Highway. The patios are visible from the beach. As proposed and conditioned, patio lighting would be the minimum necessary for nighttime dining and would not result in significant light pollution or light spillover. The proposal benefits San Mateo County by providing a unique experience for visitors and residents to observe the beauty of the County coastline while dining outdoors.

Environmental Evaluation

The project qualifies for a Categorical Exemption under Class 1 of the California Environmental Quality Act, related to minor modification of an existing private structure, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

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SUBJECT: Consideration of a Use Permit Amendment and Design Review Permit, pursuant to Sections 6267 and 6565.3 of the San Mateo County Zoning Regulations, respectively, to legalize unpermitted construction and use of two patios at a 189-seat restaurant located at 8150 Cabrillo Highway in the unincorporated Montara area of San Mateo County. The Coastal Development Permit for this project will be reviewed separately under the jurisdiction of the California Coastal Commission.

County File Number: PLN 2015-00297 (La Costanera Restaurant)

PROPOSAL

The La Costanera Restaurant is the current tenant of a 11,332 sq. ft. restaurant with 189 seats, owned by A&G, LLC, at 8150 Cabrillo Highway. The restaurant is located adjacent to Montara State Beach on the west side of Cabrillo Highway. The applicant seeks permission to maintain the existing 189 total seats and requests to amend the current Use Permit (UP 20-77) to allow seating both inside the restaurant and on two outdoor patios. Two patios were constructed in 2008 and have been used by the restaurant for table service since that date to the present, without the required amendment to the current Use Permit. The lower patio is approximately 1,276 sq. ft., contains two fire pits, is accessible from the lower dining and bar area, and would seat 15 persons. The upper patio is approximately 740 sq. ft., is accessible from the main floor of the restaurant, and would seat 27 persons. Both patios have been legally tiled. Windbreaks were added to both patios without benefit of a building permit.

On-site parking consists of two on-site parking lots, Lots A and C, containing a total of 52 parking spaces contrary to the 53 parking spaces required by the Use Permit. Per Condition No. 3, the property shall provide all required parking on-site.

The applicant has made the subject application in response to violation notices from the County and the California Coastal Commission regarding illegal use of the patios for restaurant use since 2008.

The current proposal is separate from a project reviewed and denied by the Planning Commission on September 24, 2014, which included the subject proposal, as well as the property owner's request to (1) expand the hours of operation to allow brunch and lunch service on Fridays and weekends only (93 seats only), (2) legalize unpermitted

exterior lighting at the site, and (3) to allow access, landscaping and drainage improvements on adjoining parcels owned by the State of California Department of Parks and Recreation for a 21-space, gravel surface parking lot for beach users.

State Permit Required: The applicant has applied to the California Coastal Commission (CCC) to amend its Coastal Development Permit (CDP), permit number P-77-579, originally issued by the CCC in 1977. The CDP amendment for the project will be processed by the CCC separately from the Use Permit Amendment requested from the County. The applicant cannot act in reliance upon this Use Permit Amendment until the CDP amendment is granted by the California Coastal Commission.

RECOMMENDATION

That the Planning Commission approve a Use Permit Amendment and a Design Review Permit, to legalize the unpermitted construction and use of two patios at 8150 Cabrillo Highway, County File Number PLN 2015-00297, for by making the required findings and adopting the conditions of approval in Attachment A.

BACKGROUND

Report Prepared By: Camille Leung, Project Planner, Telephone 650/363-1826

Applicant: Hamid Rafiei, A&G, LLC

Property Owner: Rahim Amidi, A&G, LLC

Location: 8150 Cabrillo Highway, Montara

APN: 036-046-050

Sphere-of-Influence: City of Half Moon Bay

Existing Zoning: Coastside Commercial Recreation District/Design Review/Coastal Development District (CCR/DR/CD)

General Plan Designation: Coastside Commercial Recreation

Existing Land Uses: Restaurant and associated parking

Water Supply: Water is currently provided to the site via an existing connection with the Montara Water and Sanitary District (MWSD). No changes are proposed.

Sewage Disposal: Sewage disposal is provided to the site via an existing connection with Montara Water and Sanitary District (MWSD). No changes are proposed.

Flood Zone: Project sites are located within Zone X (Area of Minimal Flood Hazard) with the exception of bluff areas in Zone D (Undetermined Risk Areas) and the northeast corner of the State Parks lot in Zone A (Areas with a 1% Annual Chance of Flooding); Community Panel 06081CO117E, effective date October 16, 2012.

Environmental Evaluation: Class 1, of the California Environmental Quality Act, related to minor modification of an existing private structure, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Setting: The La Costanera Restaurant is located on the west side of Cabrillo Highway. The site consists of a restaurant and two on-site parking lots, Lots A and C. The site is bordered to the north by a 3,000 sq. ft. dirt lot used historically for beach user parking (Lot B) and the McNee Ranch State Park (pump station facilities separate the parking area from the State Park). A roughly 20-foot high cliff on the west side of the property separates the restaurant building and parking areas from the sandy beach and Pacific Ocean. An undeveloped portion of the Second Street public right-of-way borders the site to the south. Both properties are located along the Cabrillo Highway County-Designated Scenic Route.

Chronology:

<u>Date</u>	<u>Action</u>
1950	- The County approves a Use Permit for a 260-seat restaurant and eight unit motel at the site. While the County had no parking requirements or standards at that time, a parking arrangement (including 53 parking spaces in the current configuration) was agreed upon by the applicant, the County and the State Parks Department.
June 14, 1977	- The County Board of Supervisors approves a Use Permit (UP 20-77) and an Off-Street Parking Exception (Exception 1 77) for the Charthouse Restaurant to remodel the existing restaurant and motel into a 189-seat restaurant, within the Limited Highway Frontage District (H-1) Zoning District. The Off-Street Parking Exception permitted 53 parking spaces where 75 spaces were required for the proposed use, based on CCC parking requirements.

At the time, the property consisted of two parcels separated by the unimproved First Street public right-of-way. An agreement was made between the County and the property owner to provide for the current property configuration (with the abandonment of First Street and consolidation of the right-of-way with the restaurant property directly south) and to require the reciprocal use of the new parking lot. Reciprocal use called for the parking lot to be used during the day for beach user parking, when use is highest at the lot, and for the parking lot to be used for restaurant parking at night.¹

¹ The terms of the agreement are described in Coastal Commission records of a denied application made in 1981 by the restaurant to allow day use of the restaurant. Staff was not able to locate the agreement in County records.

- July 26, 1977

 - The California Coastal Commission (CCC) approved a CDP (P-77-579) authorizing a restaurant remodel which transformed the “boxy,” stucco structure into its current shingled architectural style. P-77-579 was approved with five conditions including limited hours of operation to ensure adequate parking accommodations for the restaurant and public beach. The CDP limited the hours of operation between 5:00 p.m. and “normal closing hours,” “in order to assure adequate parking accommodations both for the restaurant and adjacent public beach.”

- May 11, 1981

 - The CCC denied a proposed amendment to the CDP (P-77-579) that would have allowed day use of the restaurant on Sundays starting at 10:00 a.m., on the basis that the proposed use would reduce daytime beach user parking.

- February 27, 1984

 - The County Zoning Hearing Officer approved a CDP (CDP 83-67) and amendment to the Use Permit (UP 20-77, Attachment L), which allowed the restaurant owner 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. The condition of approval limiting the hours of operation to between 5:00 p.m. and normal closing hours was retained.

- 2002

 - A&G LLC purchases the property.

- November 21, 2006

 - Application for a Use Permit Amendment (PLN 2006-00494) is submitted to the County. Application includes a change in the hours of operation to include a lunch service. Subsequently, the application is deemed incomplete.

- 2006-2008

 - County issues a Coastal Permit Exemption (PLN 2006-00490) and a building permit (BLD 2005-01462) to perform interior remodel work and minor exterior work, including construction of an Americans with Disabilities Act (ADA) ramp, relocation of an exit door, and removal of fin-like architectural features on the building facade.

- January 28, 2008

 - County Building Inspection Section issues a Stop Work Notice (SWN 2008-00004) to the owner for exceeding the scope of a building permit (BLD 2005-01462), for the construction of patios and the installation of pavers within the patios. The applicant submitted, and the Building Inspection Section approved, a revision to the building permit showing the extent of exterior pavers. The Current Planning Section’s approval of the revision expressly prohibits outdoor seating until such time as the Use Permit is amended to allow such

use and a Coastal Development Permit is obtained. The existing windbreaks were not approved under this building permit.

- September 2009 - La Costanera Restaurant occupies property.
- 2011-2015 - Applicant is notified by the CCC of violations at the property. In letters dated April 25, 2011, April 28, 2011, November 30, 2011, March 23, 2012, December 5, 2012, June 24, 2013, April 25, 2014, January 28, 2015, March 12, 2015, and July 13, 2015. Jo Ginsberg, Enforcement Analyst at the CCC, describes violations related to outdoor lighting, signs in the parking lot, and new patios for additional restaurant seating (further discussion in Section C of this report).
- September 24, 2014 - Planning Commission denies the owner's request for a Use Permit Amendment, Design Review Permit, Planned Agricultural District Permit, and a Grading Permit (PLN 2006-00494) to (1) expand the hours of operation to allow brunch and lunch service on Fridays and weekends only (93 seats only), legalize unpermitted exterior lighting and patios, and formalize the historical beach access parking use on adjoining parcels owned by the State of California Department of Parks and Recreation, based on the violation history at the property.
- October 3, 2014 - Applicant files appeal of the Planning Commission's denial that will be the subject of a future Board of Supervisors hearing.
- December 23, 2014 - The County issues Notice of Violation (VIO 2014-00253), identifying on-going violations of the terms of the existing Use Permit (UP20-77), in the areas of outdoor lighting, hours of operation, unpermitted use of patios, A-frame signs, and stormwater discharge at the subject property. Letter is included an Attachment E.
- June 26, 2015 - The applicant obtained a Design Review Exemption (PLN 2015-00179), under the review of County and CCC staff, to permit trim, sign, and gutter painting to a beige color, in response to County and CCC violation notices regarding painting of portions of the restaurant and signage using bright white paint.
- July 10, 2015 - The County sends 2nd Notice regarding Notice of Violation (VIO 2014-00253). The County acknowledged that the property has addressed violations relating to outdoor lighting, A-frame signs, and unpermitted painting, but has not fully

resolved violations relating to hours of operation, unpermitted use of patios, and stormwater discharge at the subject property. Letter is included an Attachment E.

- July 21, 2015 - The applicant submits an application for the subject proposal.
- July 22, 2015 - A representative of the owner submits a letter dated July 22, 2015 (Attachment F) and supporting documents, in response to the County's letter dated July 10, 2015. The letter acknowledges reservation dates in 2015 for daytime events at the restaurant. These reservations were made prior to February 2015 and include September 7, 2015, September 12, 2015, October 3, 2015, and October 10, 2015.
- August 29, 2015 - County receives a complaint from a member of the public regarding a wedding event observed at the restaurant site and the beach at 3:15 p.m. However, staff was unable to confirm whether photos showed set up activities which are permitted, or event activities.
- September 28, 2015 - County receives a complaint from a member of the public regarding a wedding event observed at the restaurant site and the beach at 4:35 p.m. on September 26, 2015. However, staff was unable to confirm whether photos showed set up activities which are permitted, or event activities.
- October 16, 2015 - County issues citation for violations to hours of operation and stormwater regulations.
- October 21, 2015 - A representative of the owner submits a letter dated October 21, 2015 (Attachment F), as an updated response to the County's letter dated July 10, 2015.

DISCUSSION

A. COMPLIANCE WITH CONDITIONS OF CURRENT USE PERMIT (UP 20-77)

1. Evaluation of Compliance with Original Conditions of Approval

Listed below are the current conditions of approval for the operation of the restaurant, as approved in February 1984. Following each condition is staff's assessment of compliance and a discussion of any proposed modification to the condition.

Table 1
Status of Restaurant Compliance with Original Conditions of Approval

Original Condition	<u>Compliance with Condition?</u> UD = Undetermined		<u>Recommend to Retain Condition?</u>	New Condition No.^a
1. Any additional work on shoreline protection shall be approved in accordance with Geotechnical Consultant Approval form (County Geologist).	No	Riprap and cement grout have been installed improperly and illegally at the base of the bluff of the restaurant site. As discussed in Section D.3.a of this report, legalization and repair of riprap require a complex authorization and permitting process. Therefore, shoreline protection work is not a component of the subject permit.	Yes, retained as Condition No. 4. Condition No. 14 added to require the restaurant site owner to coordinate with State Parks and CCC staff to permit and repair riprap west of the restaurant site within one (1) year of the final approval date of this project.	Condition Nos. 4 and 14 of Att. A.
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.	Yes	The access ramp currently exists and is in adequate condition.	No, condition may be deleted as the ramp has been constructed. Maintenance of public access improvements is required by Condition No. 8 of Attachment A (original Condition No. 9).	N/A
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.	Yes	The walkway currently exists and is in adequate condition.	Yes, with modification to condition language to require recordation of an access easement to ensure public access to the walkway and public access to associated structures (e.g., ramp, stairs, railings) necessary for beach access for the life of the project. The access easement shall be recorded prior to the Current Planning Section's final approval of a building permit for the windscreens.	Condition No. 5 of Att. A.
4. Submit performance bond to guarantee installation of landscaping and maintenance for two growing seasons.	UD	Staff is uncertain whether existing landscaping matches the previously-approved landscaping. Existing vegetation at the site consists mainly of ice plant.	No, as no changes to landscaping are proposed. The pending application for expansion of hours of operation includes a landscaping plan and a bond requirement may be included as a condition of approval of that project.	N/A

Table 1
Status of Restaurant Compliance with Original Conditions of Approval

Original Condition	<u>Compliance with Condition?</u> UD = Undetermined		<u>Recommend to Retain Condition?</u>	New Condition No.^a
5. Submit revised parking plan that provides the required minimum dimensions and accurately delineates the property line.	Yes	The applicant has provided a survey and a parking plan, showing spaces that meet both standard and compact space dimensions.	No, as no changes to parking are proposed and no additional parking is required. Condition No. 7 requires the provision of 53 parking spaces where only 52 are provided currently.	N/A
6. Submit written approval of California Department of Parks and Recreation for all riprap and drainage facilities located on State land.	No	Riprap and cement grout were applied improperly and without permits. Due to the complexity of the permitting process for such work, State Parks and County staff, including Geotechnical Section staff, support the removal of the riprap from the project description and has added Condition No. 14 to require the property owner to work with State Parks and the CCC to draft a plan and submit the plan to the County within one (1) year of the project final approval date for resolving the permit status of the riprap and grout work. ^b	Yes, requirement combined with original Condition No. 1 (Condition No. 4 in Attachment A).	Condition No. 4 of Att. A.
7. Construct all improvements in accordance with approved plans.	Yes	<p>Project was constructed as approved. However, the property owner has performed unpermitted improvements to the building (including lighting and patio construction).</p> <p>Based on nighttime inspection by Planning staff on September 11, 2014, staff observed minimal light spillover to the beach, with the exception of lantern lighting placed along the windbreak. Such lighting is prohibited by Condition 11 in Attachment A. Excessive lighting from roof lighting at the front of the building was noted by the Planning Commission on September 24, 2014. These lights have been removed.</p> <p>Legalization of patio construction and use is included in this Use Permit Amendment proposal. The applicant is required to amend the CDP for the restaurant through the Coastal Commission application process.</p>	Yes, with modification to condition language for clarity regarding future unpermitted modifications or intensifications of use and to identify enforcement by the County and CCC.	Condition No. 6 of Att. A.

**Table 1
Status of Restaurant Compliance with Original Conditions of Approval**

Original Condition	<u>Compliance with Condition?</u> UD = Undetermined		<u>Recommend to Retain Condition?</u>	New Condition No.^a
8. Maintain 53 parking spaces.	No	The property owner currently provides 52 parking spaces in Lots A and C.	Yes, with modification to require compliance prior to the final approval of the building permit for the windscreens.	Condition No. 7 of Att. A.
9. Maintain free public access through the parcel to the beach.	Yes	The property owner has maintained free public access through the parcel to the beach.	Yes. Staff recommends additional language to require maintenance of access improvements necessary for beach access and associated structures (ramp, walkway, stairs, railings, etc.) for the life of the project through the recordation of a maintenance agreement with State Parks.	Condition No. 8 of Att. A.
10. Hours of operation of restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.	No	No. The County and CCC have received multiple reports and observed the restaurant operating prior to 5:00 p.m., most recently on September 28, 2015, where the restaurant operated during the daytime for a wedding event.	Yes.	Condition No. 9 of Att. A.

^a Changes to original conditions of approval are shown in strikeout and underline format in Attachment A.

^b A proposal to legalize and repair such work would require a CDP from the CCC and would require A&G LLC to obtain rights of trespass.

2. **Non-Compliance with Use Permit Conditions and Staff Recommendations for the Requested Use Permit Amendment**

As illustrated in Table 1, the property owner has not consistently complied with the conditions of the original Use Permit. In letters dated December 23, 2014 and July 10, 2015, the County issued two notices of violation (Attachment E). In Section C of this report, Planning staff describes ongoing enforcement action by the California Coastal Commission (CCC) regarding unpermitted development and use at the property. The current status of violations observed by the County is summarized below:

Lights: Patio and Roof

The County requested that the owner remove unpermitted light fixtures along the windscreen of the lower patio and on the roof at the front of the building. Lights have been removed.

Hours of Operations

The County requested that the property owner make changes to restaurant operations and the restaurant website to restrict all dining and events to after 5:00 p.m. every day. In a letter dated July 22, 2015, the property owner acknowledges reservation dates in 2015 for daytime events at the restaurant. These reservations were made prior to February 2015 and include September 7, 2015, September 12, 2015, October 3, 2015, and October 10, 2015. Photos of daytime events on August 29, 2015 and September 26, 2015 were submitted by members of the public. However, staff was unable to confirm whether photos showed set up activities which are permitted, or event activities.

Restaurant Use of Unpermitted Outdoor Patios

The subject application, along with the CDP Amendment application to the CCC, is intended to legalize this use.

Signs

The signs have been removed and, as stated by the owner, are no longer in use.

Stormwater Discharges

Based on staff observations and the Midcoast Community Council's letter included as Attachment H, restaurant wash down activities continue to occur in the south parking lot, whereby wash water enters an inlet which drains to the beach. Per Condition No. 10, the applicant shall modify trash storage areas with a building permit, subject to review and approval of the Department of Public Works, to ensure that wash water from the trash storage area drains to the sanitary sewer.

Based on past and current history of violations and in order to allow for closer monitoring of the project, staff recommends a Use Permit Amendment term of five years, whereby the applicant must demonstrate compliance with the approved conditions of approval for permit renewal. In addition to recommending a shorter permit term, staff recommends annual administrative reviews of the project (Condition No. 2). Planning staff will continue to work with Code Compliance staff, CCC staff, and interested members of the public to monitor the site and hold the property owner accountable for compliance with the approved conditions of approval.

3. Administrative Remedies

In January 2013, the Board of Supervisors amended Chapter 1.40 (Administrative Remedies) of the San Mateo County Ordinance Code to authorize the Planning and Building Department's Code Compliance Section

to issue administrative penalties to person(s) responsible for a violation and/or to order correction of the violation. It established an enforcement procedure which includes provision of a warning notice, administrative citation, and imposition of penalties in the amounts of \$100 for the first violation, \$200 for a second violation with 12 months, and \$500 for third and additional violations within 12 months. Code Compliance Section staff issued a citation on October 16, 2015, imposing a penalty of \$100 for unpermitted daytime events at the property on August 23, 2014; September 7, 2015; September 12, 2015; October 3, 2015; and October 10, 2015. Future violations of the Use Permit will result in additional penalties.

B. COMPLIANCE WITH CURRENT COUNTY REGULATIONS

1. Conformity with General Plan

The San Mateo County General Plan land use designation for this property is Coastside Commercial Recreation. The original Use Permit request required conformity with these General Plan policies and were approved subject to conformity with said policies. Staff has determined that the project continues to comply with all applicable General Plan policies, with specific discussion of the following:

a. Chapter 1 – Vegetative, Water, Fish and Wildlife Resources Policies

Policy 1.27 (*Regulate Development to Protect Sensitive Habitats*) calls for the County to regulate land uses and development activities within and adjacent to sensitive habitats in order to protect critical vegetative, water, fish and wildlife resources; protect rare, endangered, and unique plants and animals from reduction in their range or degradation of their environment; and protect and maintain the biological productivity of important plant and animal habitats. The project does not involve any land disturbance or removal of vegetation.

b. Chapter 4 – Visual Quality Policies

Policy 4.21 (*Scenic Corridors*) calls for the County to protect and enhance the visual quality of scenic corridors by managing the location and appearance of structural development. The General Plan designates the portion of the Cabrillo Highway adjoining the project site as a County-Designated Scenic Route. The project involves legalization of two exterior patios that are located at the rear of the existing restaurant structure and would not be visible from Highway 1.

c. Chapter 6 – Park and Recreation Resources Policies

Policy 6.11 b. (*Coastal Recreation and Access*) calls for the County to regulate development to increase public access to the shoreline and along the coast through measures which include, but are not limited

to, establishing criteria for when and where access will be provided and how the access will be developed and maintained. As proposed and conditioned, the project maintains the required 53 parking spaces, which will remain accessible to the public before 5 p.m. daily. Condition Nos. 5 and 8 require easements and maintenance of access improvements by the owner of the restaurant site for the life of the restaurant project.

d. Chapter 8 – Urban Land Use

Policy 8.31(b) (*Overcoming Constraints to Development*) encourages improvements which minimize the dangers of natural and man-made hazards to human safety and property. The project involves the formalization of historical, albeit unpermitted, parking at the State Parks property, through access, landscaping, and drainage improvements that will improve beach user safety and help minimize bluff erosion. The applicant has submitted geotechnical reports for the patio work in addition to proposed improvements associated with the separate application to formalize parking use at the adjoining State Parks property, which have been reviewed and approved by the Planning and Building Department’s Geotechnical Section, to ensure the safety of the proposed improvements to the State property.

2. Compliance with the Regulations of the Coastside Commercial Recreation (CCR) Zoning District

a. Use

The project involves a 189-seat restaurant and bar use. Restaurants, defined as “commercial establishments (which may include bars) which primarily serve prepared food to the general public for immediate consumption on the premises,” are permitted in the CCR Zoning District, subject to the issuance of a Use Permit. A Use Permit was first issued by the County for this use (indoor seating only) in 1950. Project compliance with current Use Permit conditions of approval is discussed in Section A of this report. Project compliance with the Use Permit finding is fully discussed in Section B.6 of this report (below). The applicant proposes to amend the Use Permit to allow construction and outdoor seating on the two patios, while retaining the same total number of seats at the restaurant.

b. Applicable Development and Performance Standards

Sections 6269 (*Development Standards*) and 6270 (*Performance Standards*) set forth the following requirements for all development within the CCR Zoning District (only those applicable to the project are listed below):

- (1) Yards Required: No front or rear setbacks are required, only minimum side yard setbacks of a combined total of 15 feet with a minimum of 5 feet on any side. There will be no change to the side yard setbacks.
- (2) Lighting: All approved lighting, exterior and interior, must be located so as to confine direct rays to the premises. No additional lighting is proposed. Use of the lantern lights that have been used along the windscreen in the past was not permitted, due to excessive light spillover. Condition No. 11 prohibits the use of lantern lights but allows the minimum amount of lighting necessary for nighttime dining, such as individual table lights.

3. Compliance with the Regulations of the Design Review (DR) Zoning District

As the project sites are located in the Design Review (DR) Zoning District, the design review standards, Section 6565.17 (Design Review Standards for Other Areas) of the County Zoning Regulations and the Community Design Manual (CDM) apply to the project. In the following section, the proposed patios are discussed in relation to applicable design review standards criteria:

- a. The applicant proposes to legalize unpermitted construction of two outdoor patios and associated windscreens. The patios consist of grey and blue-toned, non-reflective tiling and natural wood and plexi-glass windscreens.
 - (1) Open Space Preservation: The CDM calls for siting of structures to retain maximum open space and to reduce the visual impact in scenic open space areas. Similarly, DR standards call for structures to be set back from the edge of bluffs and cliffs to protect views from scenic areas below and for structures to be designed and situated so as to retain and blend with the natural vegetation and landforms of the site. Proposed patios will be visible from public lands (Montara State Beach) and a public water body (Pacific Ocean). Patios are attached to the restaurant building, blending in with the existing building in both color and materials. Patios are located on the west elevation of the structure behind the existing restaurant and, as such, do not add any mass to the structure as viewed from Highway 1. The clear plexi-glass windscreens allow for wind blocking without the appearance of bulk or massing in views of the restaurant from the beach.
 - (2) Color and Materials: The CDM calls for exterior colors and materials to blend with the natural setting and surrounding neighborhood. The patios consist of grey and blue-toned,

non-reflective tiling and natural wood and plexi-glass windscreens. Condition No. 3 requires that the natural wood windbreaks be painted to match the building. As constructed and conditioned, the patios blend well with the existing building and its beach environment.

4. Compliance with the Regulations of the Coastal Development (CD) Zoning District

This permit is subject to the issuance of a Coastal Development Permit (CDP) Amendment from the California Coastal Commission (CCC). See Section C of this report.

5. Compliance with Use Permit Regulations of Chapter 24 of the County Zoning Regulations

As previously discussed, restaurants are permitted to operate within the CCR Zoning District upon issuance of a Use Permit. The initial Use Permit for a restaurant at this location was issued by the County in 1950. For the Planning Commission to approve the Use Permit Amendment, the following finding must be made:

Find that the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The proposed use of the two existing patios would not result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in the neighborhood, as patio construction did not require significant alteration of topography or impact to surrounding neighborhood, beach, or ocean environments. Use of the patios would not intensify the restaurant use and associated parking impacts because the allowed number of restaurant seats remains the same. The patios are not visible from Cabrillo Highway. The patios are visible from the beach. As proposed and conditioned, patio lighting would be the minimum necessary for nighttime dining and would not result in significant light pollution or light spillover. The proposal benefits San Mateo County by providing a unique experience for visitors and residents to observe the beauty of the County coastline while dining outdoors.

C. REVIEW BY THE CALIFORNIA COASTAL COMMISSION (CCC)

1. Permit Jurisdiction for the Required Coastal Development Permit (CDP)

The CCC has permit authority over the CDP for this project due to the CCC's issuance of a CDP (P-77-579) for a remodel of a restaurant at this

location in 1977. CDP (P-77-579) states that “Any change to the terms of P-77-579 (e.g., change in the hours of operation) will require an amendment to this permit approved by the Coastal Commission, preceded by local agency approval of the requested change.”

During the CCC’s processing of the CDP Amendment application(s), which will follow after the County’s processing of the subject permits, the project will be reviewed for completeness and compliance with the State Coastal Act. As the project would be subject to the terms of the CDP Amendment, as stated in Condition No. 3, the applicant cannot act in reliance upon this Use Permit Amendment until the CDP Amendment is granted by the California Coastal Commission.

2. Past and Present Enforcement Actions by the CCC

The enforcement division of the CCC has notified the owner regarding violations at the restaurant property. Numerous letters sent from 2010 through 2015 (the most recent letter date of July 13, 2015 has been attached as Attachment M) from Jo Ginsberg, Enforcement Analyst at the California Coastal Commission, identify multiple alleged violations at the property, as described and listed below.² The applicant has provided a response to the CCC regarding the alleged violations of the most recent letter (Attachment M). The following is a summary of the alleged violations, followed by the staff’s response:

- a. Unpermitted Outdoor Lighting: CCC letters describe the unpermitted installation of new outdoor lighting, including spotlights illuminating the parking lots, beach, and ocean, and holiday “twinkle” lights on the roof of the restaurant. The property owner has since removed the spotlights and the “twinkle” lights.
- b. Unpermitted Extension of the Hours of Operation: CCC letters describe unpermitted restaurant use prior to 5:00 p.m., such as serving happy hour drinks beginning at 4:00 p.m. While the applicant states that no food or drink is served before 5:00 p.m., they allow patrons to wait at the restaurant prior to the start of food/drink service. The applicant acknowledges that the restaurant hosted five private parties on August 23, 2014; September 7, 2015; September 12, 2015; October 3, 2015; and October 10, 2015, where reservations were made prior to February 2015 and where reservation cancellation by the owner was not feasible.
- c. Unpermitted Patio Construction and Use: CCC letters describe installation of a new patio and addition of patio seating. The patio was

² Violations summarized here are described in detail in letters from Ms. Ginsberg dated April 25, 2011, April 28, 2011, November 30, 2011, March 23, 2012, December 5, 2012, June 24, 2013, April 25, 2014, January 28, 2015, March 12, 2015, and July 13, 2015.

constructed during a permitted remodel of the restaurant in 2008, where Planning staff approved the tiling of the patio but did not approve its use as restaurant seating due to concerns regarding intensification of parking demand. While the applicant acknowledges use of the patio for table service, the applicant insists that total indoor and outdoor seating does not exceed the approved 189 seats.

- d. Unpermitted Parking Lot and A-Frame Signage: CCC letters describe installation of unpermitted signs in the restaurant parking lots, restricting public use of the lots to restaurant customers and warning the public that any cars parked there after 5:00 p.m. will be towed. CCC staff has observed that the signs have been removed. Under the draft parking management plan included as Attachment J, the applicant proposes new signage to limit use of Lots A and C by restaurant patrons to the hours of operation.
- e. Unpermitted Exterior Painting of the Restaurant: CCC correspondence describes painting of portions of the restaurant and signage using bright white paint. The applicant obtained a Design Review Exemption to legalize unpermitted trim, sign, and gutter painting on June 26, 2015.

On December 29, 2011, the applicant applied for a CDP Amendment from the CCC to address violations regarding unpermitted lighting and patio improvements. In a letter dated April 1, 2014, the CCC states that the applicant's CDP application is incomplete and does not include all aspects of the project as submitted to the County, including requests to change the hours of operation of the restaurant and to construct a parking lot on State Parks property. The applicant cannot act in reliance upon this Use Permit Amendment until the CDP Amendment is granted by the California Coastal Commission. As of this date, the applicant's CCC application remains incomplete.

D. REVIEW BY THE MIDCOAST COMMUNITY COUNCIL (MCC)

In a letter dated August 26, 2015, the Midcoast Community Council (MCC) state that the County should require the property owner to fully address repeated code violations, prior to allowing use of the patios. The MCC references violations pertaining to ongoing wash down activities of the trash area whereby water drains to the beach; lighting violations; and trim/signs/gutter painting. As described in Section A of this report, painting and lighting violations have been resolved. Condition No. 11 restricts patio lighting to the minimum necessary for outdoor dining. Condition No. 10 requires the owner to perform drainage improvements to address stormwater violations, prior to Planning's final approval of the building permit for the windbreak. Per Condition No. 3, the patios shall not be used until the building permit has received final approval from the County.

The MCC recommends a condition that prohibits storage of items in the trash enclosure which extend above the screening wall and prohibits the permanent and visible use of tarp at the property. Planning staff has incorporated this as Condition No. 13.

The MCC also identified concerns with the construction of the windbreak and supporting retaining wall. Condition No. 3 requires the property owner to obtain a building permit for the windbreak, drainage systems, retaining wall and any other associated improvements.

E. ENVIRONMENTAL REVIEW

The project qualifies for a Categorical Exemption under Class 1 of the California Environmental Quality Act, related to minor modification of an existing private structure, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

It should be noted that, for the pending application for expansion of restaurant hours and formalization of parking on State property (PLN 2006-00494), an Initial Study was completed and a Mitigated Negative Declaration (IS/MND) was issued in conformance with CEQA Guidelines. The public review period for this document was December 21, 2012 to January 20, 2013. The IS/MND has not been certified. Certification of the IS/MND is not required for consideration of this proposal to amend the existing Use Permit.

F. REVIEWING AGENCIES

County Planning and Building Department's Building Inspection Section
County Planning and Building Department's Geotechnical Section
County Department of Public Works
County Environmental Health Services Division
City of Half Moon Bay
Coastside Fire Protection District
State of California Department of Parks and Recreation
California Department of Transportation (CalTrans)
California Coastal Commission
Midcoast Community Council
Committee for Green Foothills

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Seating and Plans and Windbreak Photos
- D. Letter of Decision for UP 20-77 and CDP 83-67, County of San Mateo, dated February 27, 1984
- E. Letters from the County, dated December 23, 2014 and July 10, 2015
- F. Letters from A&G, LLC, dated July 22, 2015 and October 21, 2015

- G. Letter from Jo Ginsberg, Enforcement Analyst at the California Coastal Commission, dated July 13, 2015
- H. Letter from the MidCoast Community Council, dated August 26, 2015
- I. Site photos

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2015-00297 Hearing Date: November 4, 2015

Prepared By: Camille Leung
Project Planner

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

Regarding the Environmental Review, Find:

1. That the project qualifies for a Categorical Exemption under Class 1 of the California Environmental Quality Act, related to minor modification of an existing private structure, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Regarding the Use Permit Amendment, Find:

2. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to property or improvements in said neighborhood. Patio construction did not require significant alteration of topography or impact to surrounding neighborhood, beach, or ocean environments. Use of the patios would not intensify the restaurant use and associated parking impacts. The patios are not visible from Cabrillo Highway. The patios are visible from the beach. As proposed and conditioned, patio lighting would be the minimum necessary for nighttime dining and would not result in significant light pollution or light spillover. The proposal benefits San Mateo County by providing a unique experience for visitors and residents to observe the beauty of the County coastline while dining outdoors.

Regarding the Design Review Permit, Find:

3. That the project, as proposed and conditioned, is found to be in compliance with the standards for review listed in Section 6565.17 (*Design Review Standards for Other Areas*) of the Design Review (DR) Zoning District Regulations and the design criteria of the Community Design Manual (CDM). As discussed in Section B.3 of the staff report, as proposed and conditioned, proposed windbreaks and tiling comply with applicable design review standards and CDM design criteria, including requirements pertaining to open space preservation and color and materials compatible to the surrounding environment. Condition No. 3

requires windbreaks to be painted to match the building. Proposed patios will be visible from public lands (Montara State Beach) and a public water body (Pacific Ocean). Patios are attached to the restaurant building, blending in with the existing building in both color and materials. Patios are located on the west elevation of the structure behind the existing restaurant and, as such, do not add any mass to the structure as viewed from Highway 1. The clear plexi-glass windscreens allow for wind blocking without the appearance of bulk or massing in views of the restaurant from the beach.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

Terms of this Permit:

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on November 4, 2015. The Community Development Director may approve minor revisions or modifications to the project, if they are consistent with the intent of and in substantial conformance with this approval. Any change in use or intensity shall require an amendment to the County-issued use permit and California Coastal Commission (CCC) issued Coastal Development Permit.
2. The use permit shall be valid for a period of **five (5) years**. Administrative Reviews shall be conducted **annually** from the approval date.
3. This permit is subject to the issuance of a Coastal Development Permit (CDP) Amendment from the CCC and is, therefore, subject to the terms of the CDP Amendment. **The applicant cannot act in reliance upon this Use Permit Amendment until the CDP amendment is granted by the Coastal Commission.**

Within 120 days after a CDP Amendment has been granted by the CCC, the property owner shall obtain and final County building permit(s) for:

- a. Legalization of retaining walls, drainage systems, wind screens, and any other improvements associated with the two outdoor patios.
- b. Drainage improvements associated with implementation of Condition No. 10.

Additional time to achieve compliance with this condition may be granted by the Community Development Director upon demonstration of the property owner's diligent pursuit of building permit final approval.

At the time of the Current Planning Section's final approval of the building permit(s), the property owner shall demonstrate that: (1) on-site parking complies with Condition No. 7 and with the parking requirements of the Americans with

Disabilities Act (ADA) (including providing a minimum of three (3) regular accessible parking spaces and one (1) van accessible space); (2) painting of the windbreaks shall match the building; and (3) painting of trash storage area door(s) shall match the structure. All exterior paint colors used shall be subject to review and approval by the Community Development Director, prior to application on the structure(s).

Modified Original Use Permit Conditions:

Changes to the original permit conditions are shown in strikeout and underline format.

4. Original Condition No. 1: Any ~~additional work on shoreline protection shall be approved in accordance with Geotechnical Consultant Approval form (County Geologist).~~ requires Coastal Development Permit approval by the California Coastal Commission and authorization from State Parks.
5. Original Condition No. 3: The property owner of the restaurant site shall maintain public access to the walkway on the west side of the 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. and public access to associated structures (e.g., ramp, stairs, railings) necessary for beach access for the life of the project through the recordation of an access easement. Proof of recordation of access easement is required prior to the Current Planning Section's final approval of any building permit for this project.
6. Original Condition No. 7: Construct and maintain all improvements in accordance with approved plans. Once confirmed, all unpermitted work, changes in the intensity of the use (e.g., hours of operation, number of seats), or other types of violations will be referred to the Planning and Building Department's Code Compliance Section and to the California Coastal Commission. Any and all violations of this permit shall be subject to authorized penalties, including but not limited to those established in Chapter 1.40 (Administrative Remedies).
7. Original Condition No. 8: The owner of the restaurant site shall Mmaintain 53-parking spaces.
8. Original Condition No. 9: Maintain free public access through the parcel to the beach. The property owner of the restaurant site shall maintain the access improvements necessary for beach access and all associated structures (ramp, walkway, stairs, railings, etc.) for the life of the project through the recordation of a maintenance agreement with the California Department of Parks and Recreation. The maintenance agreement shall be recorded prior to the Current Planning Section's final approval of any building permit for this project. All repair work or replacement of access structures shall be subject to the issuance of a Coastal Development Permit or Permit Exemption from the Coastal Commission.

9. Original Condition No. 10: Hours of operation of restaurant/bar shall be limited to that period between 5:00 p.m. and normal closing time.
10. Trash storage areas (including recycling or food compactor areas or similar areas) shall be covered (a built-in cover for each dumper is acceptable) and the grade modified so that spills, any stormwater and wash water flow to drains connected to the sanitary sewer system, subject to the local sanitary sewer agency's authority and standards and review and approval of the Department of Public Works. The owner shall obtain a building permit for drainage improvements and complete the work in compliance with Condition No. 3. All outdoor washing activities are prohibited, except in areas which drain directly to the sanitary sewer. Wash water is prohibited from entering parking or vegetation/landscaping areas.

Other Current Planning Section Conditions:

11. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed, shielded and downward directed so as to confine direct rays to the parcel where the lighting is located. Exterior lighting fixtures shall not be reflective. All exterior lighting shall employ warm colors where cool tones are prohibited. Any modification of approved lighting is subject to Coastal Development Permit and Design Review Permit requirements, prior to implementation. The use of lantern lights is prohibited. The property owner shall use the minimum amount of lighting necessary for outdoor nighttime dining, as determined by the Community Development Director, such as individual table lights.
12. The owner shall assign staff to monitor use of the State Parks property, prohibiting use of the site by restaurant patrons and employees, assuring that the State Parks property shall be used exclusively for public parking purposes and not by patrons or employees of the restaurant. The owner shall collect license plate numbers of all full-and part-time employees and shall encourage alternate means of transportation to the restaurant (e.g., carpools, bus, bike).
13. Tarps and storage of items in the trash enclosure which extend above the screening wall at the property are prohibited.
14. The property owner shall coordinate with State Parks and the California Coastal Commission to prepare a plan for how to permit the riprap and to perform necessary repairs. The applicant shall submit the plan to the Community Development Director within one (1) year of the project final approval date of this Use Permit Amendment.

National Pollutant Discharge Elimination System (NPDES) Stormwater Pollution Prevention Source Control Conditions (While restaurant operations must comply with these conditions at all times, demonstration of compliance with all of the following conditions is required at the time of building permit issuance):

15. Discharges from indoor/outdoor mat, equipment, and hood filter wash racks or covered outdoor wash racks for restaurants shall be plumbed to the sanitary sewer system, subject to the local sanitary sewer agency's authority and standards.
16. Outdoor patio floor drains shall be connected to the sanitary sewer system, subject to the local sanitary sewer agency's authority and standards. All wash water from outdoor patios shall be directed to the sanitary sewer system. Wash water is prohibited from concrete pathway and vegetation/landscaping areas.
17. On-site storm drain inlets shall be clearly marked with the words "No Dumping! Flows to Ocean," or equivalent using thermoplastic material or a plaque, meeting the requirements of the Department of Public Works.
18. Restaurants shall have a sink or other cleaning area large enough to clean the largest mat or piece of equipment. The cleaning area shall be indoors or in a roofed area outdoors, connected to a grease separator prior to discharging to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards.

Coastside Fire Protection District

19. **Building Classification:** Please indicate on the plans the following information:

Occupant Load Calculations with an exit analysis
20. **A 5-year certificate must be obtained before final.**
21. **Emergency Building Access:** The proposed project will require the installation of "Knox Boxes." These emergency key boxes are required when access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life saving or fire-fighting purposes. The Fire Chief will determine the location for the key box and provide an authorized order form. All security gate systems controlling vehicular access shall be equipped with a "Knox," key operated emergency entry device. Applicant shall contact the Fire Prevention Bureau for specifications and approvals prior to installation.
22. **Exit Doors:** Exit doors shall be of the pivoted type or side hinged swinging type. Exit doors shall swing in the direction of exit when serving an occupant load of 50 persons or more.

Special Doors: Revolving, sliding and overhead doors shall not be used as required exits. Power operated doors complying with California Building Code (CBC) Standard No. 10-1 may be used for exit purposes.

Additional Doors: When additional doors are provided for egress purposes, they shall conform to all the provisions of CBC Chapter 10.

23. **Exit Illumination:** Illumination: Signs shall be internally or externally illuminated by two electric lamps or shall be of an approved self-luminous type.

Power Supply: Current supply to one of the lamps for exit signs shall be provided by the premises wiring system. Power to the other lamp shall be from storage of batteries or an on-site generator set. Include exit illumination with electrical plans and submit to the San Mateo County Building Inspection Section or City of Half Moon Bay for review and approval.

24. **Exit Signage:** Where required: When more exits from a story are required by Section 1003 of the CBC, exit signs shall be installed at stair enclosures, horizontal exits and other required exits from the story. When two or more exits are required from a room or area, exit signs shall be installed at the required exits from the room or area and where otherwise necessary to clearly indicate the direction of egress. Exception: Main exit doors, which obviously are clearly identifiable as exits (glass door). Show exit plans on plans submitted to the San Mateo County Building Inspection Section or City of Half Moon Bay for review and approval.

When exit signs are required by Section 1013.1 of the CBC, additional approved low-level exit signs, which are internally or externally illuminated, photo luminescent or self-luminous, shall be provided in all interior rated exit corridors serving guest rooms of hotels in Group R, Division 1 Occupancies, and other occupancies as determined by the code.

25. **Occupancy Load Sign:** Any room having an occupant load of 50 or more where fixed seats are not installed, and which is used for classroom, assembly or similar purpose, shall have the capacity of the room posted in a conspicuous place.
26. **Fire Alarm System:** This project is required to have installed an approved NFPA 72 Fire Alarm System throughout. The system is to monitor any flow through the required automatic fire sprinkler system, any fire sprinkler valve tamper and all heat and smoke detectors. The system will also include an exterior bell and interior horn/strobes, which are required to be wired to the alarm system and the flow switch for the fire sprinkler system. The Fire Alarm Control Panel (FACP) shall be protected with a smoke detector as per NFPA 72, Section 1-5.6 and a manual pull station. A wiring inspection is required to be conducted by the Fire District prior to covering walls and ceiling areas. All systems and components must be tested per manufacturer's specifications and NFPA 72. Battery backup shall meet or exceed requirements for amp-hour rating and must be tested as per manufacturer's specification and NFPA 72.
27. **Fire Extinguishers:** There must be at least one 2A-10BC fire extinguisher for each 3,000 sq. ft., travel distance not to exceed 75 feet with at least one extinguisher per floor per Title 19, California Code of Regulations.

28. Contact the San Mateo County Fire Marshal to schedule a Final Inspection prior to occupancy and Final Inspection by a Building Inspector. Please allow for a minimum of 72 hours' notice to the Fire Department at 650/573-3846.

Department of Public Works

29. The applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed project and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the property shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the improvement plans and submitted to the Department of Public Works for review and approval.
30. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.
31. The applicant shall submit a permanent stormwater management plan in compliance with the County's Drainage Policy and NPDES requirements for review and approval by the Department of Public Works, including completion of a C.3, C.6 checklist. All proposed stormwater facilities including pervious pavement shall be approved by a professional geotechnical engineer.

Environmental Health Division

32. The applicant shall address the legality of the restroom located adjacent to the outside dumpster area.
33. At the building application stage, the applicant shall submit plans to install a ventilation hood for the new oven. Subject plans for the ventilation hood shall be approved by the Environmental Health Division.

California Department of Alcoholic Beverage Control (California ABC)

34. The property owner shall not serve alcohol in any outdoor areas of the subject property, including the patios, until California ABC's licensing requirements are met. Evidence of an active license shall be provided to the Current Planning Section.

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Attachment B

SELECTED PROPERTY

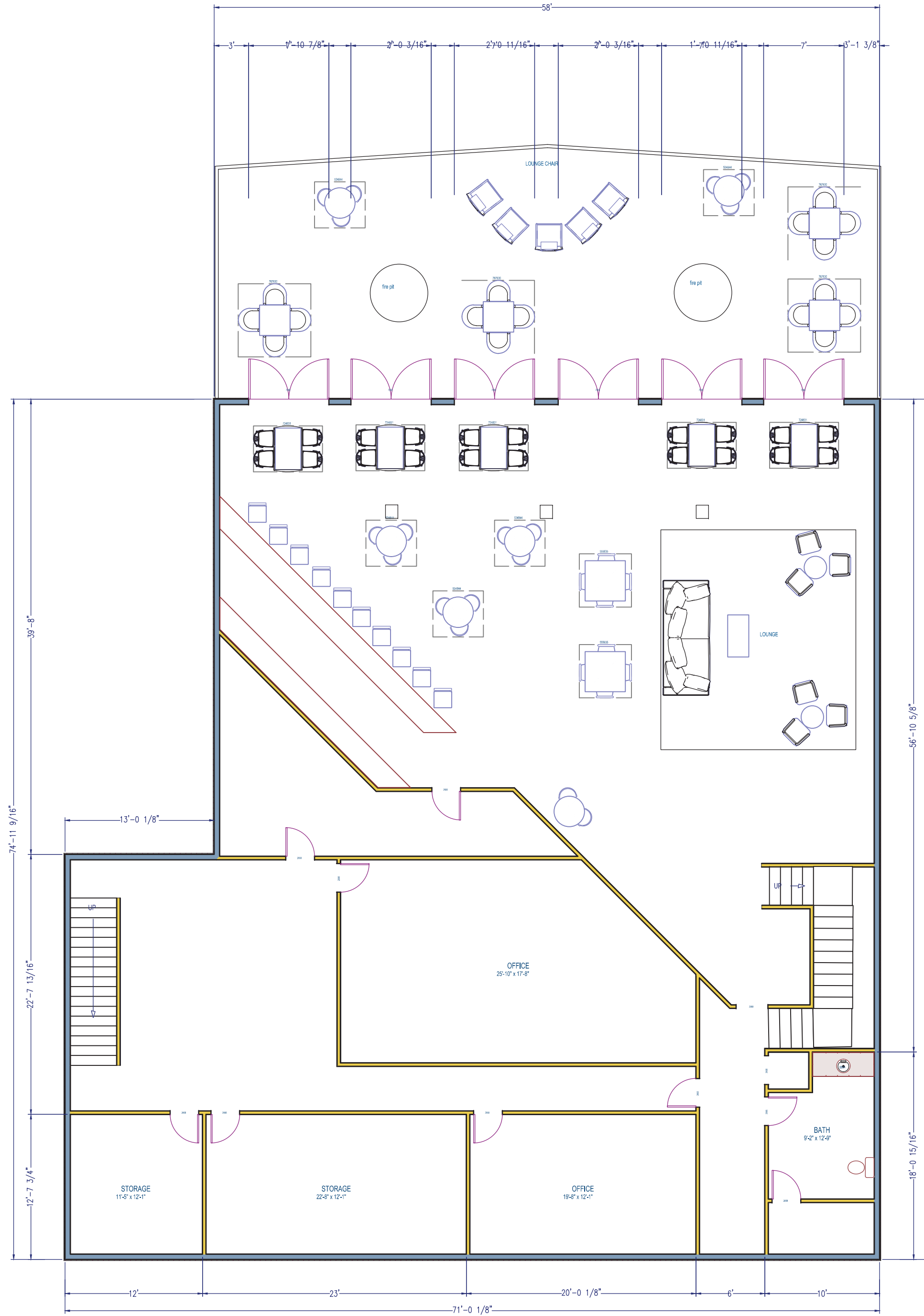
Situs: 8150 Cabrillo Hwy , Montara
Owner: A & G Llc, 370 Convention Way, Redwood City, CA, 94063-
APN: 036046050



Date Created: Thursday, December 20, 2012

Print

INDOOR SEATING : 49
 OUTDOOR SEATING : 27
 TOTAL SEATING : 76
 TOTAL NUMBER OF SEATING 189



REVISIONS	BY

OWNER:
 A&G LLC

LA COSTANERA RESTAURANT
 8150 CABRILLO HWY
 MONTARA, CALIFORNIA 94037

SHEET TITLE :
 PROPOSED
 LOWER FLOOR
 SEATING
 CONFIGURATION

DRAWN HAMID RAFIEI
 DATE JULY . 2010

SCALE:
 1/8" = 1'-0"
 JOB NO.

SHEET
 A-2.0



INDOOR SEATING : 78
 OUTDOOR SEATING : 15
 TOTAL SEATING : 93
 TOTAL NUMBER OF SEATING 189

REVISIONS	BY

OWNER:
A&G LLC

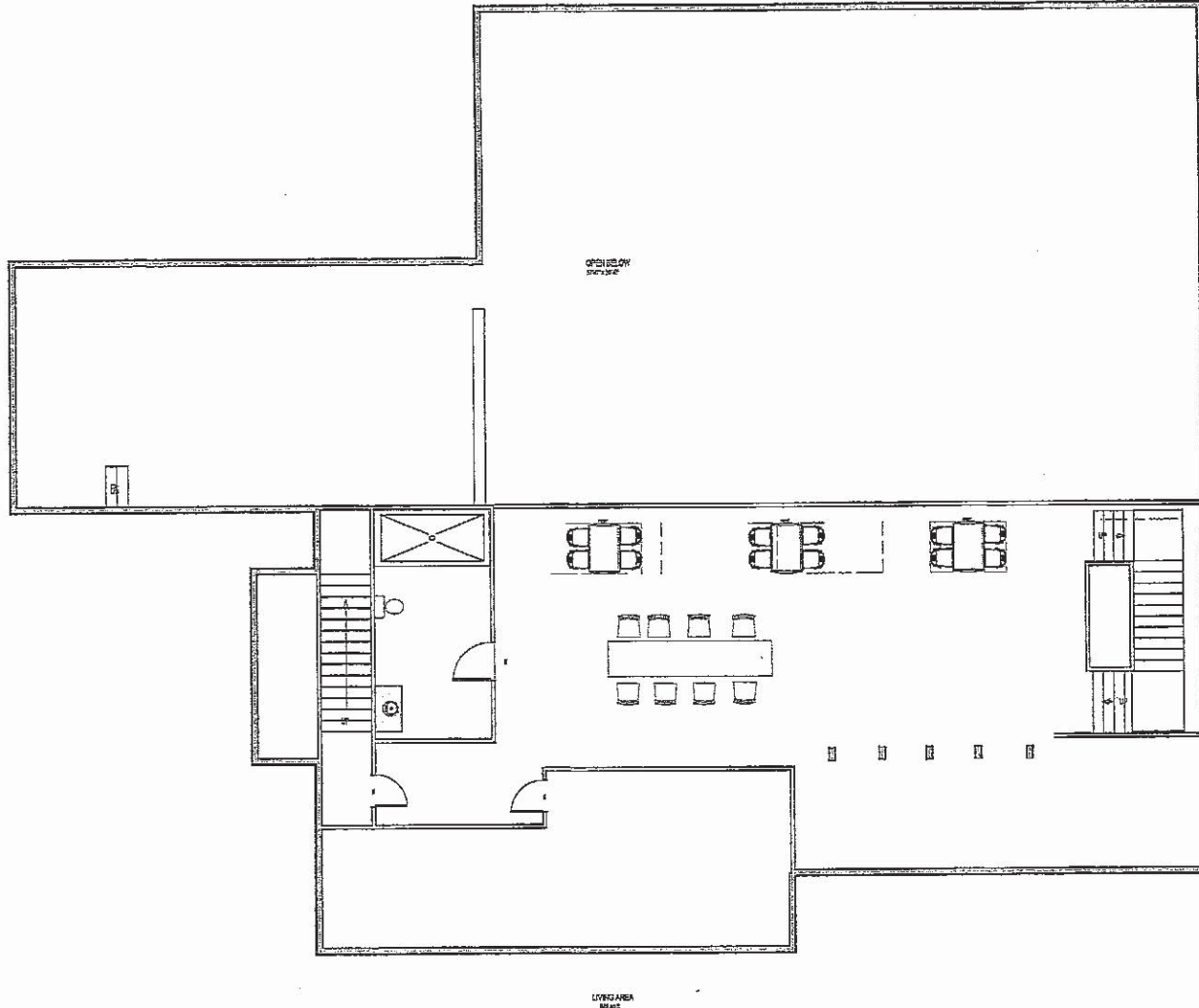
LA COSTANERA RESTAURANT
 8150 CABRILLO HWY
 MONTARA, CALIFORNIA 94037

SHEET TITLE :
 PROPOSED
 MAIN FLOOR
 SEATING
 CONFIGURATION
 FOR LUNCH
 HOURS

DRAWN HAMID RAFIEI
 DATE JULY . 2010

SCALE:
 1/8" = 1'-0"

SHEET
 A-2.1



REVISIONS	BY

OWNER:
A&G LLC

LA COSTANERA RESTAURANT
8150 CABRILLO HWY
MONTARA, CALIFORNIA 94037

SHEET TITLE :
PROPOSED
UPPER FLOOR
SEATING
CONFIGURATION

DRAWN HAMID RAFI
DATE JULY . 2010

SCALE:
1/8" = 1'-0"
JOB NO.

SHEET
A-2.2

TOTAL SEATING : 20
TOTAL NUMBER OF SEATING 189





Windscreen Height = 5' 5"



Photos of Lower Patio

San Mateo County Planning Commission Meeting

Owner/Applicant: A&G LLC

Attachment: C

File Numbers: PLN2015-00297



Windscreen Height = 5' 5"



Photos of Upper Patio

San Mateo County Planning Commission Meeting

Owner/Applicant: A&G LLC

Attachment: C

File Numbers: PLN2015-00297



COUNTY OF SAN MATEO

DAVID C. HALE
PLANNING-DIRECTOR

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

RECEIVED

APR 30 1987

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST DISTRICT

February 27, 1984

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

Dear Mr. Shaw:

SUBJECT: CDP 83-67 and UP 20-77 CHART 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: Blagden - Siders.~~ 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.

MLV requires use permit amendment to change hrs. per Kim Paulson

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

December 23, 2014

CERTIFIED AND REGULAR MAIL

A&G, LLC
c/o Hamid Rafiei
370 Convention Way
Redwood City, CA 94063

Dear Mr. Rafiei:

SUBJECT: 8150 Cabrillo Highway, Montara
La Costanera Restaurant
APNs 036-046-050, -310, -380, -390, and -400
Immediate Action Required to Resolve Violation Notice (VIO 2014-00253)

At its meeting of September 24, 2014, the Planning Commission denied your request for a Use Permit Amendment, Design Review Permit, Planned Agricultural District Permit, and a Grading Permit 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 located at 8150 Cabrillo Highway in the unincorporated Montara area of San Mateo County, and (3) to allow access, landscaping and drainage improvements, involving 246 cubic yards (c.y.) of fill placement and 5 c.y. of excavation, on adjoining parcels owned by the State of California Department of Parks and Recreation for a 21-space, gravel surface parking lot for beach users.

The County requires the following violations to be resolved at this time. I have outlined the required process for resolution below:

Lights: Patio and Roof

Within 14 days of the date of this letter, the property owner shall provide photographic evidence of the removal of unpermitted light fixtures along the wind screen of the lower patio and on the roof at the front of the building. Use of these lights is prohibited until such time as required permits are obtained.

Hours of Operations

Immediately, the property owner shall make changes to restaurant operations and the restaurant website to restrict all dining and events to after 5:00 p.m. every day. On a monthly basis starting this month and by the 30th of each month, the property owner shall submit to



the County a restaurant and event schedule, demonstrating compliance with approved hours of operation of "5:00 p.m. to closing."

Restaurant Use of Unpermitted Outdoor Patios

There shall be no use of the unpermitted patios until a Coastal Development Permit has been issued by the California Coastal Commission to allow their use.

Signs

A-frame signs are prohibited and will be cited.

Stormwater Discharges

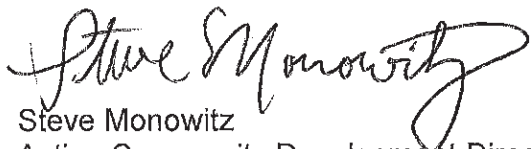
Washdown water is prohibited from pooling in on- or off-site areas which drain to the beach. All stormwater discharges to on- and off-site areas which do not drain to a sanitary sewer and/or areas which drain to the beach shall cease immediately. **Within 14 days of the date of this letter, the property owner shall submit a drainage plan for washdown and trash enclosure areas.** The drainage plan shall demonstrate that all washdown water will be directed to the sanitary sewer system. Once approved by the County, the plan shall be implemented within 30 days of the approval date.

Compliance with this requirement will be monitored via periodic inspections by Code Compliance Section staff. Any complaints or other correspondence from the public will be maintained in the project file and will be considered with any future use permit amendment application.

Staff notes that on September 23, 2014, the building permit for the fire pits and removal of gas lamps (BLD 2014-01470) was finalized.

If you have any questions, please contact Ana Santiago of the Code Compliance Section, at asantiago@smcgov.org or by phone at 650/363-7832.

Sincerely,



Steve Monowitz
Acting Community Development Director

SAM:AMS:CML:jlh – CMLY0943_WJN.DOCX

cc: Ana Santiago, Code Compliance Section
Camille Leung, Senior Planner
Farhad Mortazavi
Michael McCracken
Jo Ginsberg, California Coastal Commission
Nancy Cave, California Coastal Commission

COUNTY OF SAN MATEO
PLANNING AND BUILDING

County Government Center
455 County Center, 2nd Floor
Redwood City, CA 94063
650-363-4161 T
650-363-4849 F
www.planning.smcgov.org

July 10, 2015

CERTIFIED AND REGULAR MAIL

Rahim Amidi
A&G, LLC/Amidi Group
370 Convention Way
Redwood City, CA 94063

Dear Mr. Amidi:

SUBJECT: Second Notice to Resolve Violation Notice (VIO 2014-00253)
La Costanera Restaurant
8150 Cabrillo Highway, Montara
APNs 036-046-050, -310, -380, -390, and -400

In a letter dated December 23, 2014, the County identified violations of the terms of the existing Use Permit (UP20-77), in the areas of outdoor lighting, hours of operation, unpermitted usage of patios, A-frame signs, and stormwater discharge at the subject property. Subsequently, there have been several meetings between you and/or your representatives and County Staff, including a meeting on March 5, 2015, that involved your representatives, County staff, Coastal Commission staff, and State Parks staff. The purpose of this letter is to provide you with the status of each violation (in italics) and to communicate the County's second request to resolve these violations. While there have been areas of progress, many of the identified violations remain unresolved, as described below:

Lights: Patio and Roof

On December 23, 2014, the County stated that, within 14 days, the property owner shall provide photographic evidence of the removal of unpermitted light fixtures along the wind screen of the lower patio and on the roof at the front of the building. Use of these lights is prohibited until such time as required permits are obtained. *To date, the applicant has not submitted any documentation to resolve this violation.*

Hours of Operations

On December 23, 2014, the County stated that, immediately, the property owner shall make changes to restaurant operations and the restaurant website to restrict all dining and events



to after 5:00 p.m. every day. Specifically, the County requested that, on a monthly basis, the property owner shall submit to the County a restaurant and event schedule, demonstrating compliance with approved hours of operation of "5pm to closing". *To date, the applicant has not submitted any documentation to resolve this violation. In addition, on May 24, 2015, the Coastal Commission and County staff received photographic and written evidence documenting a wedding event at the subject property taking place at approximately 2:00 p.m. The timing of the party and the closure and private use of on-site parking lots were in violation of the terms UP20-77.*

Restaurant Use of Unpermitted Outdoor Patios

On December 23, 2014, the County stated that there shall be no use of the unpermitted patios until a Coastal Development Permit has been issued by the California Coastal Commission to allow their use. *To date, the applicant has not submitted any documentation to resolve this violation.*

Signs

On December 23, 2014, the County stated that A-frame signs are prohibited and will be cited. *The owner has stated that the restaurant is no longer using A-frame signs.*

Stormwater Discharges

On December 23, 2014, the County stated that washdown water is prohibited from pooling in on- or off-site areas which drain to the beach. All stormwater discharges to on- and off-site areas which do not drain to a sanitary sewer and/or areas which drain to the beach shall cease immediately. **Within 14 days of the date of this letter, the property owner shall submit a drainage plan for washdown and trash enclosure areas.** The drainage plan shall demonstrate that all washdown water will be directed to the sanitary sewer system. Once approved by the County, the plan shall be implemented within 30 days of the approval date. *To date, the applicant has not submitted any documentation to resolve this violation.*

Within 30 days of the date of this letter, or other timeframe approved by the County, please address the above identified violations by submitting to the County documentation as requested in this letter and the County's letter dated December 23, 2014. The County has the authority to revoke the use permit per Section 6505 (*Revocation of Use Permits*) of the County Zoning Regulations, which calls for the Planning Commission to revoke or suspend a use permit when "any person, firm, or corporation holding a use permit for any of the uses or purposes for which such permits are required or permitted by the terms of this Part, or any other law or ordinance, shall fail to make any use of said permit for a period of one year after the granting of said permit, or shall violate the terms of the use permit, or shall conduct or carry on said use in such a manner as to materially affect adversely the health, welfare, or safety of persons residing, or working in the neighborhood of the property of the said permittee, or shall conduct or carry on said use so that the said use is materially detrimental to the public welfare or injurious to property or improvements in the neighborhood."

The County acknowledges that you had requested an After-the-Fact Design Review Permit Amendment (PLN 2015-00179) for the re-painting of the building trim, gutters and skylight, as well as three signs, from brown to white. The County approved the application on June 26, 2015 on the condition that the paint for the building trim, gutters, and skylight utilize an earth-toned color and blend with the existing brown building. A photograph showing the implementation of the approved color scheme was requested by County staff but, to date, has not been submitted.

In a meeting on May 19, 2015, you stated your intent to apply for a Use Permit Amendment to allow the restaurant's use of the outdoor patios, which will require Planning Commission review and approval. As has been stated in the past, the history of permit compliance at the property will factor significantly in whether the County allows for expanded uses under this permit.

If you have any questions, please contact Ana Santiago of the Code Compliance Section at asantiago@smcgov.org or by phone at 650/363-7832.

Sincerely,



Lisa Aozasa
Acting Deputy Director

SAM:AMS:CML:jlh – CMLZ0492_WJN.DOCX

cc: Hamid Rafiei, A&G, LLC
Dave Holland, Conservation Connection
Nicholas Calderon, Supervisor Horsley's Office
Camille Leung, Senior Planner
County Counsel
Ana Santiago, Code Compliance Section
Jo Ginsberg, California Coastal Commission
Nancy Cave, California Coastal Commission
Chet Bardo, State Parks Department
Chris Spohrer, State Parks Department

RECEIVED

OCT 21 2015

San Mateo County
Planning and Building Department

A&G, LLC/Amidi Group

**370 Convention Way
Redwood City, CA 94063**

Tel: (650) 216-2317

Email: hamid@amidigroup.com

October 14, 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 an update to our July 22, 2015 letter responding to your July 10 letter, and 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. We have been diligent in addressing the issues that you (and the Coastal Commission) identified in the above referenced letters. Listed below is updated 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 the roof at front of building were removed in August 2015. All remaining approved outdoor lighting is directed downward as required.
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. In our July 22, 2015 letter to you we provided a list of 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

All other special event commitments have been scheduled within approved business hours of 5pm to closing.

Attachment F

As discussed, it is standard practice that wedding events require setup prior to the reception and before the restaurant is open for patrons. Typically the setup includes wedding coordinator, vendors and members of the wedding party. During this setup period the restaurant is not open for business.

3. **Unpermitted construction of a patio and addition of patio seating:** We have submitted 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. However, we are in the process of evaluating two options to meet the County request to have the parking lot runoff discharged into the sanitary system. The options are to connect the present storm drain to the sanitary system, or if not practical, place a sump pump in the lowest location in the parking lot connected to sanitary system. We are currently getting estimates on the most viable option.

Additionally, 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):** At your request, the repainting of the building trim and gutters was completed in early September 2015.
6. We will apply for an amendment to our liquor license to permit serving alcoholic beverages outside on the patios. However, prior to applying for the liquor license, we must have a permit to operate the patios from the County.

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, and in cooperation with the County and CA State Parks, we will have enhanced beach access with a trail and restroom facilities.

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

Very truly yours,

/s/ David G. Holland

for Rahim Amidi

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

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

Attachment G

Rahim Amidi
Dave Holland
Michael McCracken
Page No. 2

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.

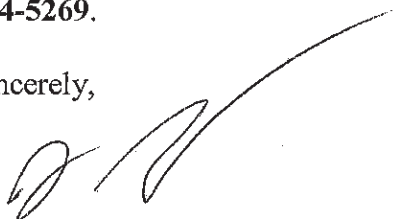
We remind you that Chapter 9 of the Coastal Act has a number of potential remedies to address violations of the Coastal Act including the following: Sections 30809(a) and 30810(a) of the Coastal Act provide that the Executive Director of the Coastal Commission and the Commission may issue an order to 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
Dave Holland
Michael McCracken
Page No. 3

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
Matt Christen, CCC, Staff Attorney
Steve Monowitz, San Mateo County Community Development Director
Ana Santiago, San Mateo County Senior Code Compliance Officer
Camille Leung, San Mateo County Senior 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 for County Supervisor Don Horsley

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*

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.

Attachment H



State Parks
Property (no work
proposed)

Project Site



San Mateo County Planning Commission Meeting

Owner/Applicant: A&G LLC

Attachment: I

File Numbers: PLN2015-00297



Photo of Trash Storage Area

San Mateo County Planning Commission Meeting

Owner/Applicant: A&G LLC

Attachment: I

File Numbers: PLN2015-00297



Photos of Outdoor Lighting

San Mateo County Planning Commission Meeting

Owner/Applicant: A&G LLC

Attachment: |

File Numbers: PLN2015-00297