



AGENDA

CITY OF SEASIDE
PLANNING COMMISSION

MEETING
COUNCIL CHAMBER
440 Harcourt Avenue
Wednesday, December 9, 2015
7:00 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. **CALL TO ORDER**

2. **ROLL CALL - ESTABLISHMENT OF QUORUM**

John Owens	Chair
Michael Lechman	Vice Chair
Keith Dodson	Commissioner
Margaret Leighton	Commissioner
Denise Ross	Commissioner
Arlington LaMica	Commissioner

3. **REVIEW OF AGENDA**

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

4. **PUBLIC COMMENT**

5. **APPROVAL OF MINUTES**

A. **Use Permit Application No. UP-13-04:** Acceptance of periodic review of Use Permit Application No. UP-13-04 related to the monitoring of noise impacts associated with ancillary special entertainment acts within the Press Club café/coffee house located at 1123 Fremont Boulevard in the Community Commercial (CC) Zoning District (APN#: 011-364-027). The project is Categorically Exempt Class 1, Section 15301(a) from the California Environmental Quality Act (CEQA) Guidelines.

7. **BUSINESS ITEMS**

A. **Seaside Municipal Code Amendment No. SMA-15-03: The City of Seaside, applicant, is requesting approval of text amendments to amend Section 17.52.150 of the Municipal Code defining and prohibiting medical marijuana dispensaries, cultivation**

of marijuana and all commercial medical marijuana uses in the City.

PURPOSE:

The purpose of this agenda item is to provide the City Council with a recommendation on a proposed Ordinance to approve text amendments to Section 17.52.150 of the municipal code amendment defining and prohibiting medical marijuana dispensaries, cultivation of marijuana and all commercial medical marijuana uses in the City.

RECOMMENDATION:

It is recommended that the Planning Commission recommend approval to the City Council, of the draft Resolution provided as Attachment 1 defining and prohibiting medical marijuana dispensaries, cultivation of marijuana, and all commercial medical marijuana uses in the City.

- B. Use Permit Application No. UP-15-09. Seaside Hospitality LP, property owner, and Pacifica Companies, applicant, are requesting the approval of a use permit to allow the Holiday Inn Express motel to permit the off-sale of bottled beer and wine in accordance with a Type 20 Alcoholic Beverage License inside a retail marketplace within the motel lobby located at 1400 Del Monte Boulevard in the CRG (Regional Commercial) Zoning District. The proposed project would be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(a) of the CEQA Guidelines.**

PURPOSE:

In accordance with Section 17.14.030.B – Table 2-4 – of the Seaside Municipal Code (SMC), accessory alcoholic beverage sales for all land uses shall require the approval of a use permit by the Planning Commission in accordance with Section 17.62.070 of the SMC.

RECOMMENDATION:

Staff recommends approval of the proposed landscape plan subject to the conditions of approval and findings contained in the Draft Resolution provided as Attachment 1 and Project Plans provided as Exhibit “A” to Attachment 1.

- 8. REPORTS FROM COMMISSIONERS**
- 9. REPORTS FROM STAFF**
- 10. ADJOURNMENT**

Next Regularly Scheduled Meeting:

Seaside City Hall

The City of Seaside is an ADA accessible facility and is committed to include the disabled in all of its services, programs and activities. Any person who requires accommodation to be able to participate in this meeting is asked to contact the office of the City Clerk at 899-6707, no fewer than two business days prior to the meeting to allow for reasonable arrangements.

The City Council Chambers is equipped with a portable microphone for anyone unable to come to the podium. Assisted
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listening devices are also available.

Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Meetings are also available through live streaming at: <http://cvp.telvue.com/player?id=T01629&video=52314&noplaylists=1&width=400&height=300> Videos of past meetings are available on demand through the City's website: <http://www.ci.seaside.ca.us>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 6.A.

TO: Planning Commission

BY: Lisa Brinton, Community and Economic Development Services Manager
Diana Ingersoll, Deputy City Manager Resource Management Services
Rick Medina, Senior Planner

DATE: December 9, 2015

SUBJECT: **Use Permit Application No. UP-13-04: Acceptance of periodic review of Use Permit Application No. UP-13-04 related to the monitoring of noise impacts associated with ancillary special entertainment acts within the Press Club café/coffee house located at 1123 Fremont Boulevard in the Community Commercial (CC) Zoning District (APN#: 011-364-027). The project is Categorically Exempt Class 1, Section 15301(a) from the California Environmental Quality Act (CEQA) Guidelines.**

PURPOSE

City staff will provide a report to the Planning Commission on the monitoring of noise impacts associated with the use of amplified sound occurring as part of music acts and other special entertainment events within the Press Club café/coffee house located at 1123 Fremont Boulevard.

RECOMMENDATION

City staff recommends that the Planning Commission receive staff's report, accept public comments on any noise related issues that have occurred as part of a music act or special entertainment event, and make a finding of no significant impact associated with noise from resulting from special entertainment events at the Press Club located at 1123 Fremont Boulevard.

BACKGROUND

On April 22, 2015, the applicant/business proprietor re-opened Use Permit Application No. 13-04 seeking to amend the condition on live music to allow for live music to occur as a separate entertainment use other than being tied to a designated lecture/talk and to allow for the use of amplified sound. The Planning Commission acted to approve the requested amendment subject to City staff providing the Planning Commission with a report within six months to include details and findings of any documented noise complaints and how the noise aspects of a live

music event were confined to the building. The amended Resolution (15-06) for Use Permit No. UP-13-04 is provided as Attachment 1.

A report was made by City staff to the Planning Commission on September 23, 2015 on the noise that had been generated by any musical acts/performance since the use permit was amended in April of 2015. City staff reported that only a single musical act had taken place which occurred on Friday, July 11, 2015 between the hours of 7 PM and 11 PM. This event included the use of electric guitars, an electric bass and drum set. It was reported that the sound from the amplified music was adequately contained within the building and that no complaints were received from the adjoining residential community to the west of the site or the two motels to south of the site. Given that only a single musical act had taken place since the use permit was amended the Planning Commission directed City staff to continue monitoring noise from musical acts to provide the Commission with a broader sample size on the use of amplified sound.

Beginning in month of October the applicant/business proprietor has included additional entertainment venues consisting of open mic nights on the first Friday of each month. These events have taken place between the hours of 6 PM and midnight, or as the musical acts permit. The open mic format has involved various local musicians and general public being able to use electrical instruments and drum set that is provided on site to perform musical acts. Thus far, open mic nights have taken place on October 2nd and November 6th with another event planned for Friday, December 4, 2015. City staff will provide the Planning Commission with a video of the December 4th event to provide the Commission with an actual sample of the sound level heard from both inside and outside the building. To date, City staff has not received any comments or noise complaints from the adjoining residential uses and/or commercial businesses on these open mic venues.

SITE LOCATION AND DESCRIPTION

The project site is 12,526 square-feet in area and is developed with a two-story 9,557 square-foot multi-tenant commercial building. The multi-tenant commercial building currently contains a total of three lease areas. A breakdown of the commercial tenants within the multi-tenant commercial building are listed in Table 1.

Table 1

Address	Tenant	Sq. ft.
668 Williams Avenue	Monterey	3,580
Lower Floor	County	3,015
Upper Floor	Weekly	45
Cat Walk	(Newspaper)	Total: 6,640 sq. ft.
1123 Fremont Boulevard, Ste: A	The Etc.,	1,753 sq. ft.
café//coffee bar	Café and Art Gallery	(1,527 sq. ft., excluding bathrooms and non-useable space)

1123 Fremont Boulevard, Ste: B	Building	656
Lower Floor	Wise	<u>508</u>
Upper Floor	(Professional Office)	Total: 1,164 sq. ft.
Total:		9,557 sq. ft.

The site is developed with twelve off-street parking spaces; nine within a carport located under the second floor of 1123 Fremont Boulevard between 668 Williams and 1123 Fremont Boulevard and three uncovered parallel spaces located adjacent to the public alley at the southwest side of 668 Williams Avenue.

The adjoining land uses consist of an eight unit multi-family apartment building to the west, single family dwellings and a motel to the north, a commercial shopping center to the east, and a small restaurant and single family dwelling to the south (See Figure 1). Location map is provided as Attachment 2. Photographs of the project site are provided as Attachment 3. An aerial photo of the project vicinity is provided as Attachment 4.

Figure 1: Project Site Adjacent Land Uses

NW		N	NE	
W	Single Family Dwelling	Motel	Commercial Shopping Center	E
	Residential Apartments	Project Site	Commercial Shopping Center	
	Single Family Dwelling	Restaurant	Commercial Shopping Center	

PROJECT DESCRIPTION

The primary function of the café/coffee house as approved under Use Permit Application No. UP-13-04 is for the retail sale of beverages and pre-prepared foods with counter service from 7 AM to 3 PM daily and with evening hours up to 10 PM, as business demands. As an accessory use to the café/coffee house, the Use Permit allows the business owner to conduct ancillary entertainment events and special entertainment venues during the evening from 6 PM to 12 AM. Since the opening the business in the summer of 2014, the ancillary events and special entertainment venues have primarily consisted primarily of community lectures/talks/presentations featuring speakers, visiting artists, photographers, filmmakers and musicians. These presenters have covered a wide range of interests from cultural and artistic people, to events more focused on public interest issues in the news and current social media topics. Thus far, the musical entertainment has taken place on a limited basis as discussed in the

background section of the staff report. The applicant has informed City staff that with the business now having been open for over one year that they are now receiving greater interest from both local and national musical performers wishing to play in a smaller, intimate venue as well as the participation of the local community with the recent introduction of open mic nights on the first Friday of each month.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act pursuant to Class 1, Section 15301 (Existing Facilities). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures.

STAFF ANALYSIS AND FINDINGS

UP-13-04 FINDINGS

- 1) Granting the live music with amplified sound is not detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.**

As of April 2015, the applicant business proprietor has held the following musical events which have include the use of amplified sound:

1. Friday, July 11, 2015, single musical act was held between 6 p.m. and 11 p.m.
2. Friday, October 2, 2015, open mic night was held between 6 p.m. and 11 p.m. which consisted of various artists and general public performing musical acts.
3. Friday, November, 6, 2015 open mic night was held between 6 p.m. and 11 p.m. which consisted of various artists and general public performing musical acts

City staff was on-site at the July 11, 2015 musical act and determined that all sound from the event was contained within the interior of the building. To date, City staff has not received any comments or complaints from the public regarding noise generated by any of these events. Public notice of report provide to the Planning Commission on noise impacts related to the project site and the current report that will be presented to the Planning Commission on December 9, 2015 has been mailed to all property owners within 300 feet of the project site in accordance with the City's noticing requirements. As of the writing of this report, no comments have been received.

CONCLUSION

Based on the analysis, staff finds that the special entertainment events held with amplified sound

have complied with the intent of the Seaside General Plan and the requirements of Title 17 of the Seaside Municipal Code as an ancillary entertainment use within a café/coffee house. Furthermore, the granting of the amended Use Permit to allow musical entertainment uses with the use of amplified sound has enhanced the commercial aspects of the city and fits into the context of the built environment in a manner that is not objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City. City staff finds that at the present time there is no need for any additional monitoring of the sound levels associated with the business.

As with all use permits, any noise complaints that occur in the future at this business will be investigated by City staff to verify the validity of the noise source and to determine what steps must be taken, if necessary, to correct any issues/violations. The continuance of an identified detrimental noise impact after failure to achieve abatement of said noise impact through code compliance would be brought back to the Planning Commission for possible removal of the amplified sound as an allowed use and/or revocation of the use permit.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ATTACHMENTS

1. Attachment 1 - Resolution NO. 15-06
 2. Attachment 2 - Location Map
 3. Attachment 3 - Site Photographs
 4. Attachment 4 - Aerial Photo
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RESOLUTION NO. 15-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING AN AMENDMENT TO UP-13-04 TO ALLOW FOR SEPARATE MUSICAL ACTS WITH AMPLIFIED SOUND TO OCCUR AS AN ANCILLARY SPECIAL ENTERTAINMENT USE IN CONJUNCTION WITH THE APPROVED LECTURES AND TALKS WITHIN A CAFÉ/COFFEE HOUSE LOCATED AT 1123 FREMONT BOULEVARD IN THE CC (COMMUNITY COMMERCIAL) ZONING DISTRICT.

WHEREAS, Brad Zeve (Applicant) has applied for an amendment to UP-13-04 to allow for:

- A. The inclusion of separate live musical uses with the use of amplified sound as an approved ancillary special entertainment use in conjunction with approved lectures and talks within a café/coffee house which includes the on-sale of beer and wine under a Class 41 Alcohol License located at 1123 Fremont Boulevard in the Community Commercial (CC) Zoning District. (APN 011-364-027)

WHEREAS, the proposed project requires discretionary approval, and it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed amendment to File No. UP-13-04 at a duly noticed public hearing at public meeting held on April 22, 20015; and

WHEREAS, the project is a Categorical Exempt, Class 1, Section 15301 meeting the following conditions:

Evidence: Approval of the proposed amendment to the existing business operations would allow for musical performances to occur with amplified sound within a 1,527 square foot café/coffee house.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings for Use Permit Application No. UP-13-04.

- 1. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.**

Evidence: The proposed project is a permitted use in CC (Community Commercial) Zoning District as a café/coffee bar with counter service, subject to a Use Permit under Seaside Municipal Code Section (SMCS) 17.24.030, Table 2-4: Allowed Land Uses and Permit Requirements.

Evidence: *The proposed development would be subject to the regulations set forth in the Seaside General Plan and Zoning Ordinance and would result in an amenity that would improve the service and attractiveness the site as establishment of public interest for visitors and local residents that would enhance the character of the community and foster a positive image for the community.*

2. The proposed project will be consistent with the Seaside General Plan

Seaside General Plan Conformance

The Seaside General Plan Land Use Designation for the project site is CC (Community Commercial). The land use designation is intended to include retail and service oriented businesses that primarily serve the local community. The proposed project is consistent with the CC designation in that it proposes a use that is intended to serve the local community by providing coffee as an amenity to attract patrons to a local retail art gallery.

Land Use Element

Goal LU-1: Promote a mixture of land uses and a balance of jobs and housing to support a community in which people can live, work, shop, and play.

Policy LU-1.3: Encourage regional commercial and visitor-serving commercial development that will enhance the identity of Seaside and attract visitors to the community.

Evidence: *The applicant is proposing to enhance attractiveness of the café/coffee house business by offering ancillary musical entertainment as an evening entertainment activity focusing on cultural and current events. Live musical uses when conducted as ancillary uses to a retail business have the potential to attract both locals and visitors to the City's business district. Amenities, such as the sale of food, coffee drinks, and art sales, in association with the entertainment uses tend to create an attractive and inviting environment that foster a positive experience and image for both the business and the City.*

Policy LU-2.4: During redevelopment and revitalization activities, ensure quality architectural and design features.

Evidence: *The front façade has been renovated to provide new storefront windows and doors and new wall sign on the Fremont Boulevard façade. The renovation has enhanced not the only the appearance of building and highlights the use of the space for a café/coffee bar, but has provided an acoustical buffer to dampen noise sources*

within the building from having a significant impact on the residential neighborhood to the west.

Economic Development Element

Goal ED-1 Establish a diverse and balanced mix of businesses that will generate a stable, long-term stream of revenue to fund city services

Policy ED-1 Encourage the full and efficient use of vacant and underutilized parcels in appropriately design areas to support the development and expansion of targeted industrial and commercial facilities.

Evidence: *The proposed development would be subject to the regulations set forth in the Seaside General Plan and Zoning Ordinance and would result in an amenity that would improve the service and attractiveness of the use of the site and thereby would enhance the character of the community and protect the community from intrusive noise sources.*

Policy ED-5.2 Highlight cultural events and attractions in Seaside to help project a high quality of life image to potential visitors and business prospects.

Evidence: *The inclusion of weekly entertainment consisting of occasional live musical uses in conjunction with lectures/talks on cultural and current events will provide an entertainment activity which does not exist in the city and will provide an attraction to visitors.*

Circulation Element

Goal C-4: Ensure adequate parking is provided throughout Seaside.

Policy C-4.1: Require off-street parking in new development and redevelopment projects.

Evidence: *Zoning Code Section 17.34.040.L requires that a nonconforming use provide parking for any increase in floor area or the increase in intensity use above the parking demand that was previously in place. The proposed project will not result in the increase of floor area or an increase in intensity above that which the Planning Commission considered under its approval of UP-13-04.*

Noise Element

Goal N-1: Provide consistent and effective noise control through proper land use planning.

Policy N-1.1 Ensure that new development and reuse/revitalization projects can be made with the noise environment and existing development.

Evidence: *The front façade has been renovated to provide new storefront windows and doors. The renovation has enhanced not only the appearance of building and highlights the use of the space for a café/coffee bar, but has provided an acoustical buffer to dampen noise sources within the building from having a significant impact on the residential neighborhood to the west.*

Evidence: *As a result of musical acts with acoustical arrangements, no complaints have been received from the neighboring residential properties to the west. City staff will continue to monitor noise levels created by any special entertainment that occurs on-site and will retain the right, based on documented complaints, to call up the use permit for review to determine if the additional noise mitigation, including, but not limited to a reduction of hours, lowering of sound volume on the amplified noise source, or the elimination of any electric and/or amplified noise source.*

- 3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.**

Evidence: *The location, size, and operating characteristics of the project will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the Seaside General Plan.*

- 4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.**

Evidence: *The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project.*

- 5. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.**

Evidence: *The granting of a Use Permit will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.*

BE IT FURTHER RESOLVED, that the Planning Commission approves Use Permit Application No. UP-13-04 subject to the following conditions:

Project Specific

Planning:

1. Except as modified by the conditions of approval, the plans submitted for a Building Permit must be in compliance with the plans stamped "Received Seaside Community Development Department March 27, 2015" provided as Attachment 1.
2. All special entertainment activities shall consist of lectures, talks, performance art, and musical acts. The maximum noise level for a musical event or lecture/talk shall not exceed a maximum 65 db as measured from outside the building at the nearest residential property.
3. The business proprietor shall be limited to holding no more than four special entertainment events (e.g. lectures/talks/musical acts/performance art) per week, of which the business would be limited to a maximum of two musical acts in a single week. Special entertainment events shall not occur on three consecutive days.
4. Musical acts may occur between the hours of 6 PM and 10 PM between Sunday and Thursday, and between the hours of 6 PM and 12 AM on Friday and Saturday. Any musical act occurring earlier than 6 PM on a Friday, Saturday or Sunday must be approved in accordance with a limited-term issued by the Zoning Administrator. The limited-term permit shall be subject to providing notice to all property owners and residents within a 300-foot radius at least 20-days prior to the event. The Zoning Administrator shall conduct a Zoning Administrator Hearing on a limited-term permit if requested by a person receiving notice or by a member of the public.
5. The full food and beverage menu for the café/coffee house must be made available during a special entertainment event in order for beer and wine to be served as part of a special entertainment event.
6. The on-sale of beer and wine must occur in compliance with a Type 41 Alcoholic Beverage License issued by the State Department of Alcoholic Beverage Control.
7. The Planning Division shall retain the authority, based on documented complaints and written correspondence, to call up for review by the Planning Commission issues related to on-street parking within the residential neighborhoods on Williams Avenue to the north and Charles Avenue to the south and noise impacts on the surrounding commercial and residential uses.

8. The Planning Division must return to the Planning Commission within six-months of the issuance of the amended use permit with a report providing details and findings of any documented noise complaints resulting from the use of amplified sound for a special entertainment event and the observance by City staff on how the noise impacts from the use of amplified sound are sufficiently being confined to the interior of the building based on the staff report presented by City staff and information provided by the applicant in the absence of an acoustic study.

Fire Department:

1. The café/coffee house must operate in compliance with all the requirements of the 2013 California Fire Code and obtain Clearance from the City of Seaside Fire Department.

Building Department:

1. Prior to conducting a musical act on the premise, the applicant must submit a floor plan identifying the seating arrangement and location of the musical entertainment area to confirm that the venue will be in compliance with the maximum occupancy of 130 persons and will maintain access to required exits and bathrooms.

Police Department

1. The Seaside Police Department shall have the ability to call up for review the on-sale of beer and wine based on calls for service.

Standard:

1. Use Permit approval is subject to revocation procedures contained in S.M.C.S. 17.69.060 in the event any of the conditions of this approval are violated, this discretionary permit was granted on the basis of false or misleading information, written or oral, given willingly or negligently by the applicant or property owner, and/or there has been a discontinuance of the use, or purposed for which the permit was issued, for a period of 180 days or more.
2. This Use Permit is subject to procedures and requirements of Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Zoning Ordinance Administration) of Title 17 of the Municipal.
3. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that they will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The

applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of City Counsel or concurrent with the issuance of permits, use of the property, whichever occurs first and as applicable. The City shall promptly notify the applicant of any such claim, action, or proceeding and the City shall cooperate fully in the defense thereof. If the City fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the applicant shall not thereafter be responsible to defend, indemnify or hold the City harmless.

4. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD) for the operation of Group II water use.
5. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.
6. This Use Permit shall expire and become void 12 months from the date of approval, or upon the expiration of another time limit established by the review authority, unless project construction has commenced within the required time limit, and construction continues thereafter under a valid Building Permit, or the Zoning Administrator has granted an extension of time.
7. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

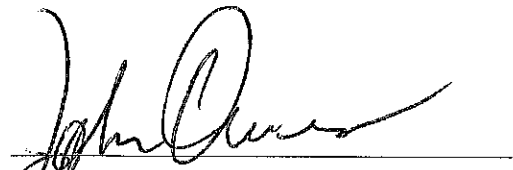
PASSED AND ADOPTED at the regular meeting of the Planning Commission of the City of Seaside, State of California, on the 22nd day of April 2015, by the following vote:

AYES: K. Dodson, M. Lechman, J. Owens, P. Mugan, D. Ross

NOES: None

ABSENT: M. Leighton

ABSTAIN: None


John Owens, Chairperson

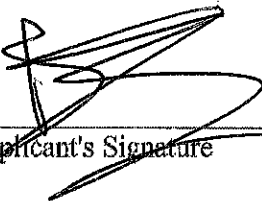
ATTEST:


Planning Commission Secretary

USE PERMIT APPLICATION NO. UP-13-04

These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

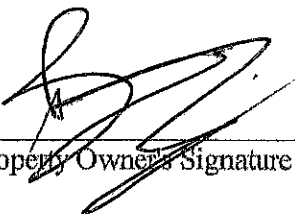
The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside Planning Commission.



Applicant's Signature

4/25/15

Date

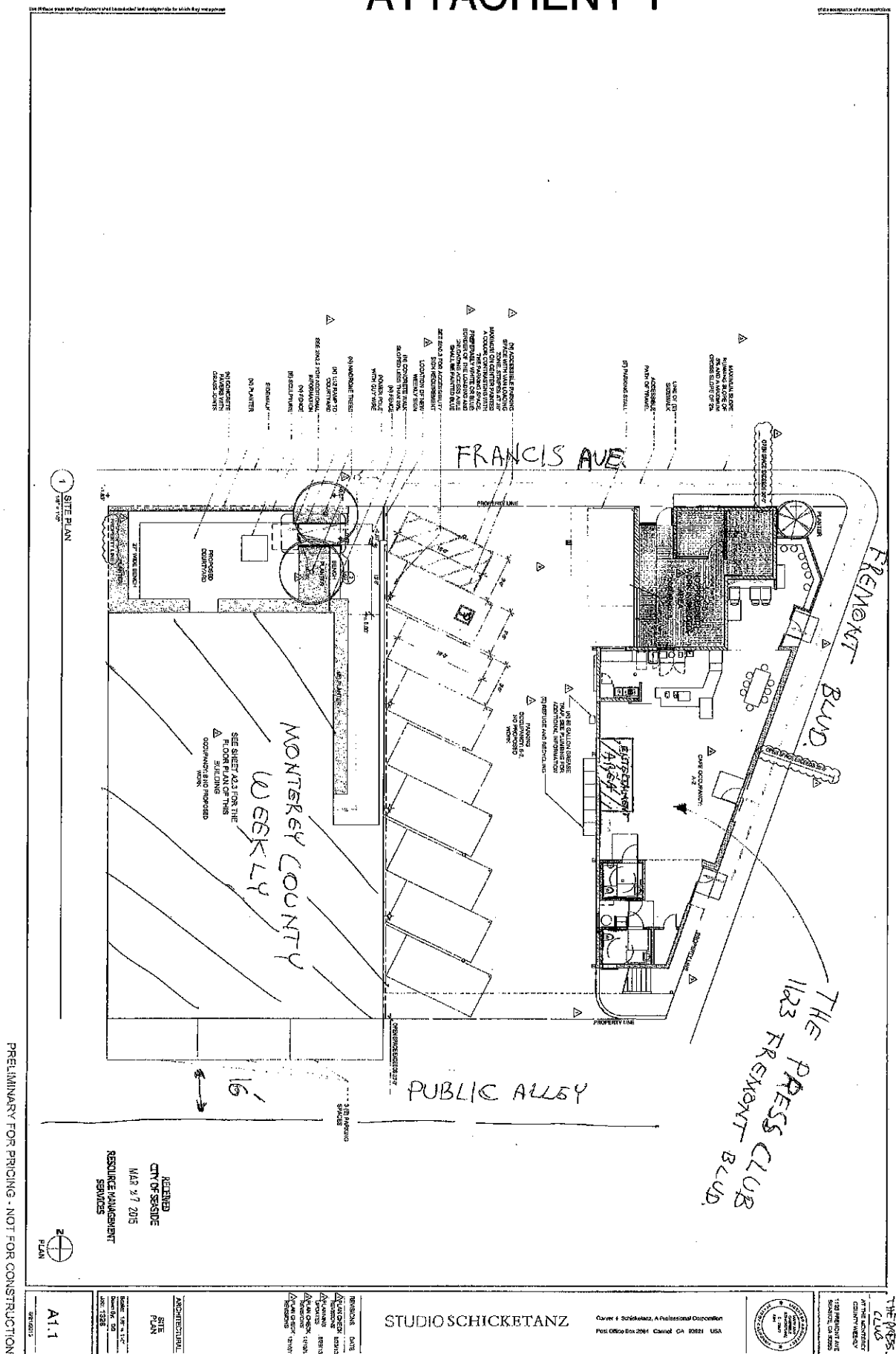


Property Owner's Signature

4/28/15

Date

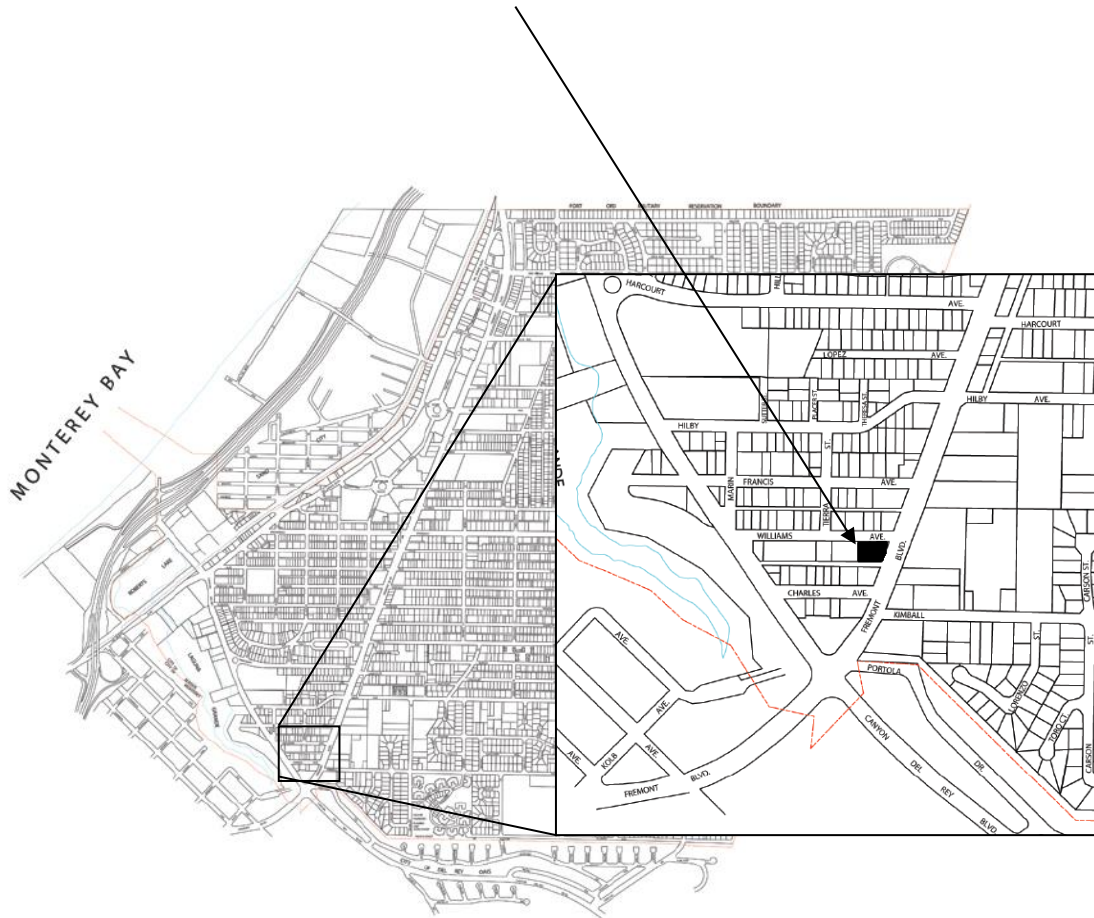
ATTACHENT 1



11237umont A-B UP-13-04

Location Map

Project Site: 1123 Fremont Boulevard





View of front façade of project site from Fremont Boulevard



View of the Monterey Weekly Offices from Francis Avenue



View of the north façade of 1123 Fremont Boulevard as seen from Williams Avenue



View of parking area under 1123 Fremont Boulevard



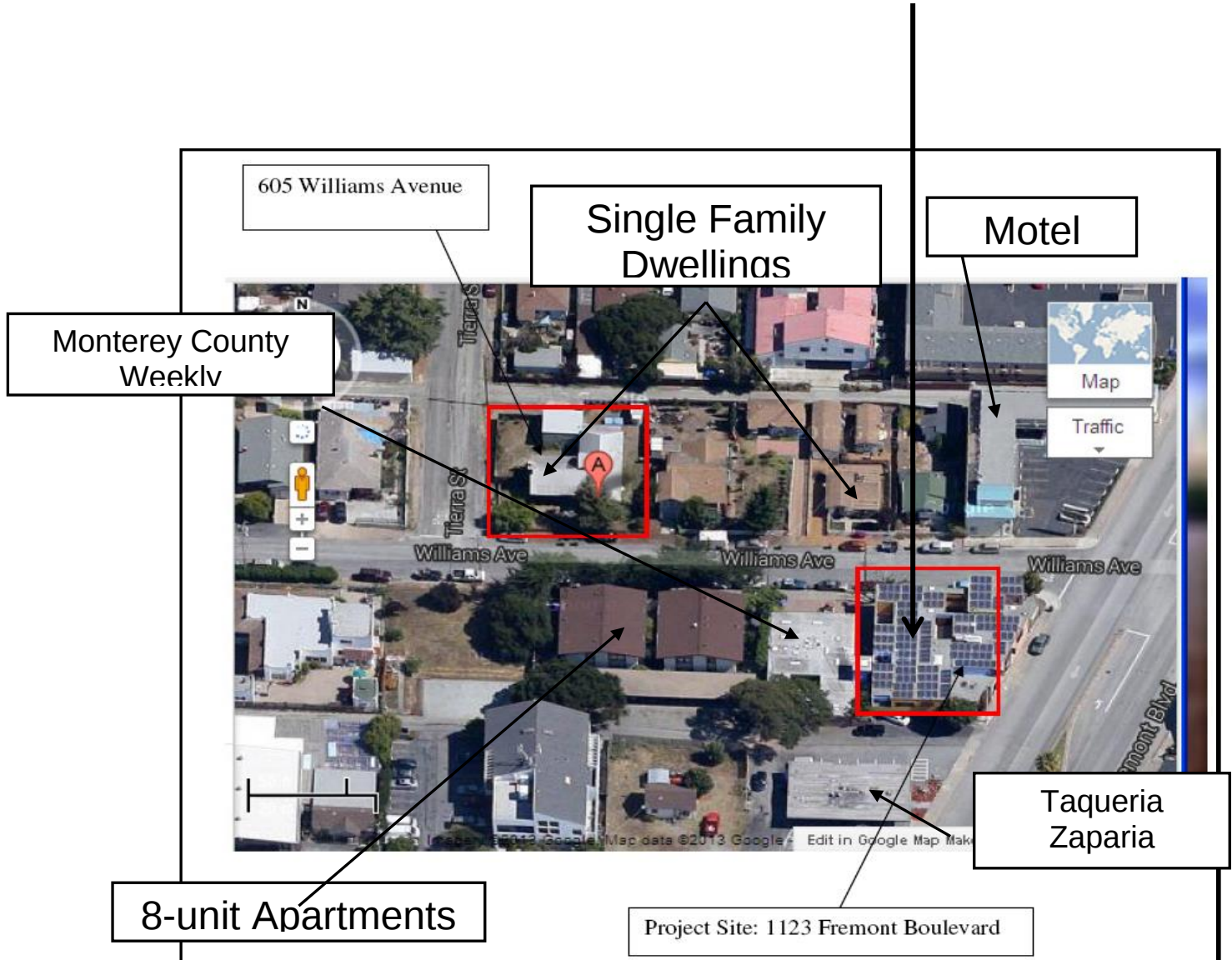
View of public alley bordering the southern property line
as seen from Fremont Boulevard



View of Williams Avenue looking west from the southwest corner of Fremont Boulevard
and Williams Avenue

Aerial Photo of Project Vicinity

Project Location: 1123 Fremont Boulevard



RESOLUTION No. 15-XX.

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF SEASIDE ADOPT AN ORDINANCE AMENDING SECTION 17.52.150 OF THE SEASIDE MUNICIPAL CODE DEFINING AND PROHIBITING MEDICAL MARIJUANA DISPENSARIES, CULTIVATION OF MARIJUANA AND ALL COMMERCIAL MEDICAL MARIJUANA USES IN THE CITY.

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”).

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere.”

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code §11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances.

WHEREAS, in City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land...” Additionally, in Maral v. City of Live Oak (2013) 221 Cal.App.4th 975, the Court of Appeal held that “there is no right – and certainly no constitutional right – to cultivate medical marijuana...” The Court in Maral affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for medical purposes,

although there is recent case law that raises a question as to whether the Federal Government may enforce the Act where medical marijuana is allowed.

WHEREAS, on October 9, 2015 Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereafter “MMRSA”). The MMRSA set up a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities.

WHEREAS, the City Council finds that commercial medical marijuana activities, as well as cultivation for personal medical use as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. Citywide prohibition is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, high water usage, malodorous smells and indoor electrical fire hazards that may result from such activities. Further, as recognized by the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

WHEREAS, the limited immunity from specified state marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer a land use right or the right to create or maintain a public nuisance.

WHEREAS, on August 16, 2007, the Seaside City Council unanimously adopted Ordinance No. 963, to prohibit the location and operation of medical marijuana dispensaries/distribution facilities within any zone within the corporate boundaries of the City of Seaside.

WHEREAS, the MMRSA contains language that requires the city to prohibit cultivation uses by March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana activities.

WHEREAS, while the City Council believes that cultivation and all commercial medical marijuana uses are already prohibited under the City’s permissive zoning regulations, it desires to enact this ordinance to expressly make clear that all such uses are prohibited in all zones throughout the City.

WHEREAS, the Planning Commission held a duly noticed public hearing on December 9, 2015 at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to adopt a resolution recommending that the City Council adopt this Ordinance.

Section 1. Recitals. The Planning Commission hereby finds that the foregoing recitals are true and correct.

Section 2. CEQA Findings. This Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061 (b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning ordinance already prohibits all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

Section 3. Planning Commission Review and Recommendation. Pursuant to Zoning Code Chapter 17.74.040, the Planning Commission has reviewed the proposed Zoning Code amendments set forth in Exhibit A. The Planning Commission hereby recommends their adoption by the City Council.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SEASIDE this 9th day of December 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Owens, Planning Commission Chair

ATTEST

Planning Commission Secretary

Exhibit A

1. Section 17.52.040 is amended as follows:

Section 17.52.150 Medical Marijuana

A. Purpose

1. To comply with federal law regulating the production and distribution of marijuana, including but not limited to the Controlled Substances Act; and
2. To prevent and abate land use compatibilities, public nuisances, and threats to the general welfare generated by land uses not in compliance with federal law regarding the production, storage, and/or distribution of a Schedule I drug under the federal Controlled Substance Act.

B. Definitions.

1. Medical Marijuana. Marijuana authorized in strict compliance with and as set forth in California Health and Safety Code Section 11362.5 et. sq.
2. ~~Medical marijuana dispensary. Any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following: a qualified patient, a person with an identification card, or a primary caregiver. All three of these terms are identified in strict accord with California Health and Safety Code Section 11362.5 et seq. A medical marijuana dispensary shall not include the following uses, as long as the location of such use is otherwise in accord with this Code and other applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code; as long as any such use complies strictly with applicable law including but not limited to, Health and Safety Code Section 11362.5 et seq.~~
3. ~~Person with an identification card. Shall have the meaning given that term by Health and Safety Code Section 11362.7.~~
4. ~~Primary caregiver. Shall have the meaning given that term by Health and Safety Code Section 11362.7.~~
5. ~~Qualified patient. Shall have the meaning given that term by Health and Safety Code Section 11362.7.~~
2. Medical Marijuana Dispensary. Any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or

distributed to one or more of the following: a qualified patient, a person with an identification card, or a primary caregiver. All three of these terms are identified in strict accord with California Health and Safety Code Section 11362.5 et seq.

3. Person with an identification card. Shall have the meaning given that term by Health and Safety Code Section 11362.5 et seq.
4. Primary caregiver: Shall have the meaning given that term by Health and Safety Code Section 11362.7.
5. Qualified patient. Shall have the meaning given that term by Health and Safety Code Section 11362.7.

C. Dispensaries prohibited.

No medical marijuana or cannabis dispensary or distribution facility as defined in Section 7.52.150 A. of the Seaside Municipal Code or in Business & Professions Code § 19300.5(n), as the same may be amended from time to time, shall be permitted in any zone within the City of Seaside. For purposes of this Section, "Dispensary" shall also include a cooperative or a mobile distribution facility.

D. Commercial marijuana activities prohibited.

Commercial marijuana or cannabis activities of all types, including the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transport, delivery, dispensing, transfer, distribution, or sale of medical cannabis or medical cannabis products all as defined under Business & Professions Code Sec. 19300.5, as the same may be amended from time to time, are expressly prohibited in all zones and all specific plan areas in the City of Seaside. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City.

E. Deliveries of medical marijuana prohibited.

All deliveries of medical cannabis as defined under Business & Professions Code Sec. 19300.5, as the same may be amended from time to time, are expressly prohibited within the City of Seaside, including the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products. No person shall conduct any deliveries that either originate or terminate within the City.

F. Cultivation of Marijuana prohibited.

Cultivation of marijuana or cannabis for commercial or non-commercial purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones and all specific plan areas in the City of Seaside. No person, including a

qualified patient or primary caregiver, shall cultivate any amount of cannabis in the City, even for medical purposes. Cultivation shall include planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

G. Intent

This Chapter is meant to prohibit all medical marijuana or commercial cannabis activities, including but not limited to those for which a State license is required. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a State license is required under the Medical Marijuana Regulation and Safety Act.

H. Unlawful Uses.

Uses that are unlawful under federal or state law shall not be treated as permitted uses, and shall not be determined to be similar to any uses permitted pursuant to this Title.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.B.

TO: Planning Commission

BY: Lisa Brinton, Community and Economic Development Services Manager
Diana Ingersoll, Deputy City Manager Resource Management Services
Rick Medina, Senior Planner

DATE: December 9, 2015

SUBJECT: **Use Permit Application No. UP-15-09.** Seaside Hospitality LP, property owner, and Pacifica Companies, applicant, are requesting the approval of a use permit to allow the Holiday Inn Express motel to permit the off-sale of bottled beer and wine in accordance with a Type 20 Alcoholic Beverage License inside a retail marketplace within the motel lobby located at 1400 Del Monte Boulevard in the CRG (Regional Commercial) Zoning District. The proposed project would be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(a) of the CEQA Guidelines.

PURPOSE

In accordance with Section 17.14.030.B – Table 2-4 – of the Seaside Municipal Code (SMC), accessory alcoholic beverage sales for all land uses shall require the approval of a use permit by the Planning Commission in accordance with Section 17.62.070 of the SMC.

RECOMMENDATION

Staff recommends approval of the proposed landscape plan subject to the conditions of approval and findings contained in the Draft Resolution provided as Attachment 1 and Project Plans provided as Exhibit “A” to Attachment 1.

BACKGROUND

SITE LOCATION AND DESCRIPTION

The subject parcel is approximately 3 acres in area and is developed with a four-story, 143-room Holiday Inn Express motel. The parcel is located on one of the City’s primary commercial gateway corridors, Del Monte Boulevard, between the Embassy Suites hotel to the north, an In-Out Burger Restaurant to the south (currently under development), Roberts Lake to the west and Laguna Grande Lake to the east (See Figure 1 for location of adjacent uses). Location map

is provided as Attachment 2. An aerial photo is provided as Attachment 3. Site photographs are provided as Attachment 4.

Figure 1: Project Site Adjacent Land Uses				
NW	N			NE
W	Roberts Lake	Embassy Suites	Laguna Grande	
	Roberts Lake	Project Site	Laguna Grande	E
	Roberts Lake	In-N-Out Burger	Laguna Grande	
SW	S			SE

PROJECT DESCRIPTION

Proposed Use

The applicant is proposing to include the off-sale of beer and wine as an additional ancillary retail sale within an existing 76 square-foot retail marketplace located inside the main lobby of the motel. The interior of the marketplace is comprised of shelving for the display of convenience food items (e.g. Chips, Candy, Energy Bars, Pastries, etc...) and two refrigerated coolers. The coolers consist of a freezer for the display of frozen food items and ice cream products and a refrigerator for the display of drinks (e.g. sodas, juices, water, etc.) and refrigerated food items (e.g. yogurt). A photograph of the coolers is provided as Attachment 5. The marketplace is intended to serve the occupants of the motel and is not advertised as a convenience food store for the general public.

The beer and wine products will consist of single bottles and will be stored within the upper two shelves of the refrigerator. The lower two shelves would contain non-alcoholic drinks. There will not be any six-packs or larger containers of alcohol products for sale. No other structural changes or modifications to the interior of the marketplace will occur. The purchase of all products by customers of the marketplace will take place at the service desk located adjacent to the entry of the marketplace.

ENVIRONMENTAL REVIEW

The proposed project qualifies as categorical exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities. This class consists of the

operation of existing public or private structures with negligible or no expansion of an existing use.

Evidence: The proposed project will consist of the off-sale of beer and wine within an existing retail marketplace inside the Holiday Inn Express motel. Negligible or no expansion of the existing improvements is required for the off-sale of beer and wine in addition to the existing retail sales within the existing marketplace.

STAFF ANALYSIS AND FINDINGS

USE PERMIT FINDINGS

In accordance with S.M.C. Section 17.14.030.B – Table 2-4 – of the SMC, an application for the ancillary sale of alcohol shall be filed under the use permit process to determine whether the following findings can be made concerning the proposed project:

1. **The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.**

Zoning Ordinance Conformance

This project is located within the Regional Commercial (CRG) Zoning District in which the motel is permitted as the primary land use. In accordance with Section 17.10.030.1 of the SMC, where a single use includes multiple land uses, the project shall be subject to the highest permit level. In accordance with Section 17.14.030.B, Table 2-4, the sale of beer and wine will consist of an accessory sale within an existing retail marketplace located inside the lobby of the motel that would be permitted subject to the review and approval of a use permit by the Planning Commission. In addition to compliance requirements with the SMC, the proposed off-sale alcohol license must also receive a finding of public convenience and necessity by the City per State Alcoholic Beverage Control Agency regulations due to the existing overconcentration of off-sale establishments located within Census Tract 133.

Staff Analysis

The Zoning Ordinance includes the following definitions that are relevant to this use permit application.

17.70 Definitions

Alcoholic Beverage Sales. The retail sale of beer, wine, and/or spirits for off-premise consumptions, in conjunction with a convenience store, grocery store, drug store, and/or primary retail use or land use. Where Article 2 (Zones, Allowed Uses, and Zoning Standards) provides that the primary retail use or land use is otherwise permitted (a “P”

use in the Article 2 land use tables), the inclusion or addition of alcoholic beverage sales will require the approval of the planning permit required by Article 2 (i.e., Use Permit or Minor Use Permit) for the entire combination of land uses.

The proposed project will consist of including the off-sale of beer and wine as retail sales item within the existing marketplace inside the interior of the motel lobby. The marketplace is considered to be an ancillary retail sales component of the motel. The alcohol sales will be stored within the upper two shelves of the existing refrigerator. The sale of beer and wine would be monitored by the service desk that is located immediately adjacent to entrance of the marketplace area. The marketplace is intended to serve the motel guests for consumption in the motel rooms. The sale of beer and wine products would not advertised to the general public as a convenience store.

Based on the limited area of display that would be provided for the alcoholic beverages and the lack of any supermarkets/convenience stores within a reasonable walking distance to the motel, City staff finds that the proposed use would provide a convenience and necessity for the provision of basic amenities and services for the motel guests and would not establish a convenience food store land use.

Public Convenience and Necessity

The applicants have filed an application with the State of California Department of Alcoholic Beverage Control (ABC) for a Type 20 License (Off Sale General). ABC licensing regulations contain provisions for community input with regard to the geographic distribution and concentration of the sale of alcoholic beverages. This enables communities to limit the number of new licenses that are issued in geographic areas defined as either high crime areas (an area that exceeds the city's average crime rate by 20 percent), or that are areas of "undue concentration." According to the Seaside Police Department, the subject property is not within a high crime area or an area of increased law enforcement activity. "Undue concentration" is determined by the number of licenses in relation to the population within a geographic area.

According to the California Alcohol Beverage Control (ABC) Salinas district office, there are currently 11 off-sale retail alcohol licenses within Census Tract 133, on which the motel is located. Based on the ratio of off-sale retail alcohol licenses per total population in all of Monterey County, the maximum concentration of off-sale retail alcohol licenses is 5 licenses before licenses are considered "over concentrated." A map showing the number of licenses by type and location within a 300-foot radius of the project site is provided as Attachment 6.

According to information from the ABC, "public convenience or necessity" is established when it is determined that the business provides a benefit to the community. State law does not mandate the criteria used to determine PCN; determination is the responsibility of local jurisdictions. A public convenience or necessity determination allows local jurisdictions to influence alcohol-outlet density to improve and maintain the quality of neighborhoods. The applicant states that due to the lack shopping facilities

located within a reasonable walking distance to the motel that they would like to provide their guests with a way to purchase beer and wine products on a limited basis. Many people prefer not to shop at liquor stores – choosing instead to shop for alcoholic beverages inside the motel which provides for a safe, friendly shopping experience. The proposed use will continue to further the city's economic development goals and provide an increase in tax revenues to the city by establishing a quality lodging experience.

The use permit application was forwarded to the Seaside Police Department for review and comment. The Police Department has confirmed that the subject property is not in a high crime area and is not an area that is the target of law enforcement activity. The Police Department has recommended that the applicant consider installing security cameras within the interior of the lobby to monitor customers entering and exiting the marketplace and require that the refrigerator be locked between the hours of 2 AM and 7 AM.

By making a determination of Public Convenience or Necessity (PCN) for the establishment of the retail alcohol license for off-site sale consumption as part of the motel business operation, the City acknowledges and supports the applicants request for an off-sale retail alcohol (Type 20) license from the ABC despite the Tract's "overconcentration" of alcohol-outlet licenses because:

1. The sale of beer and wine clearly represents an ancillary sales item within the marketplace and would not result in a convenience food store land use; and
2. The sale of beer and wine within the existing marketplace of the hotel lobby would not result in a significant traffic issue or change in the character of the primary motel land use.

1. **The proposed use is consistent with the General Plan and any applicable specific plan.**

Seaside General Plan Conformance

The Seaside General Plan Land Use Designation for the project site is Regional Commercial (RC). According to the Seaside General Plan, the RC land designation is intended to promote the large scale commercial development with retail, entertainment, and/or service uses of a scape and function to serve the regional market. The land use classification is intended to include hotels/motels, and related big box retail uses. The City's General Plan contains the following Implementation Plan regarding the sale of alcoholic beverages.

Implementation Plan LU-2.2.2 Alcoholic Beverage Control. Work with Alcoholic Beverage Control (ABC) to regulate the on-sale and off-sale of packaged alcoholic beverages.

The City's General Plan also includes a policy, LU-2-3, that discourages certain over-represented uses in the community including liquor and convenience stores, and mini-

markets among other uses. Since the alcoholic beverage sales are considered to be an ancillary retail sale that would not be considered to be a liquor or convenience store as defined in the City's Zoning Ordinance, this policy is not applicable and is provided for information purposes. The proposed project will be consistent with the following General Plan Goal and Policy:

Economic Element

Goal LU-4: Ensure that new development complements existing land uses and enhances the character of the community and its neighborhoods

Policy LU-4-1.1: Require all new development to be compatible with surrounding uses, the site and available infrastructure.

***Evidence:** The limited amount of bottled beer and wine that would be made available for sale within the retail marketplace of the Holiday Inn Express will represent an ancillary retail sale that would not result in any significant change to the operational characteristics of the motel and/or establish a convenience food store type of land use which would be inconsistent with Land Use Policy LU-2.3 of the Seaside General Plan.*

1. **The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.**

The proposed off-sale of beer and wine sales within the existing refrigerator located within the existing retail marketplace will be compatible with the primary motel land use and will not result in a detrimental impact to the general health, safety, and welfare of the existing and planned regional commercial land uses within the vicinity of the project site.

2. **The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.**

The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project. No expansion of the existing retail marketplace will occur with the proposed sale of beer and wine within an existing refrigerator.

3. **Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.**

The granting of a use permit will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.

CONCLUSION

Based on the analysis, staff recommends approval of the use permit. The proposed off-sale of beer and wine in accordance with a Type 20 Alcoholic Beverage License complies with the intent of the Seaside General Plan and the requirements of Title 17 of the Seaside Municipal Code.

FISCAL IMPACT

There will be no fiscal impact.

ATTACHMENTS

1. Attachment 1 - Draft Resolution
 2. Attachment 1 - Exhibit A - Project Plans
 3. Attachment 2 - Location Map
 4. Attachment 3 - Aerial Photo
 5. Attachment 4 - Site Photographs
 6. Attachment 5 - Photograph of freezer and refrigerator
 7. Attachment 6 - Vicinity Map of alcohol outlets within 300 feet
-

DRAFT RESOLUTION NO. 15-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, APPROVING USE PERMIT NO. UP-15-09 TO ALLOW THE RETAIL SALE OF BEER AND WINE IN ACCORDANCE WITH A TYPE 20 ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE FOR OFF-SITE CONSUMPTION IN CONJUNCTION WITH AN EXISTING RETAIL MARKETPLACE INSIDE THE LOBBY OF THE HOLIDAY INN EXPRESS MOTEL IN THE REGIONAL COMMERCIAL (CRG) ZONING DISTRICT LOCATED AT 1400 DEL MONTE BOULEVARD (APN 011-401-025).

WHEREAS, Seaside Hospitality, Property Owner, and Pacifica Host, Applicant, have filed an application for Use Permit approval, UP-15-09, to allow the retail sale of beer and wine with a Type 20 ABC license for off-site consumption in conjunction with an existing retail marketplace inside the lobby of the Holiday Inn Express motel; and

WHEREAS, Section 17.14.030.B, Table 2-4 of the Seaside Municipal Code allows the sale of alcoholic beverages in the CRG zoning district subject to use permit approval; and,

WHEREAS, a duly noticed public hearing has been held on December 9, 2015; and,

WHEREAS, the Planning Commission reviewed the staff report, received and considered oral comments at the public hearing concerning the proposed use and acted to grant approval of Use Permit Application No. UP-15-09 on December 9, 2015 in accordance with Section 17.14.030.B, Table 2-4 of the Seaside Municipal Code; and

WHEREAS, the proposed use is Categorically Exempt by Class 1, Section 15301 of the California Environmental Quality Act (CEQA); therefore,

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission adopts the following findings approving Use Permit Application No. UP-15-09:

1. The proposed use is allowed within the zone district and complies with all other applicable provisions of the Zoning Ordinance and Municipal Code.

Evidence: The property is located in the CRG zone district. Alcoholic beverage sales are permitted in the CRG zoning district subject to use permit approval (SMCS 17.14.030; Table 2-4) demonstrating that the sale of the alcoholic beverages would be an ancillary use to the existing retail sales. Based on the plans stamped as "Received November 4, 2015, Seaside Resource Management Services", the location of the bottled beer and wine sales and the amount of beer and wine sold would clearly represent an ancillary retail sale of the retail marketplace and to the primary motel land use.

2. The proposed use is consistent with the General Plan and any applicable Specific Plan

Evidence: The proposed use is consistent with the City's General Plan Implementation Plan LU-2.2.2 Alcoholic Beverage Control. The proposed use requires approval of a license from the State of California Department of Alcoholic Beverage Control (ABC). In accordance with ABC requirements, the City will make a determination of public convenience or necessity as part of this use permit application. The general retail sale of bottled beer and wine will enhance the operational services of the motel and economic viability of the motel business.

3. The design, location, size and operating characteristics of the activity in the use permit are compatible with the existing and planned future land uses in the vicinity.

Evidence: Subject to the recommended Conditions of Approval, the sale of bottled beer and wine in conjunction with the retail marketplace is compatible with the regional commercial character of Del Monte Boulevard and provides an ancillary amenity to enhance the operational aspects of the motel.

4. Subject to compliance with the Conditions of Approval, granting the use permit will not be detrimental to the public interest, health safety, convenience, or welfare, or materially injurious to persons, property or improvements in the vicinity and zone district in which the property is located.

Evidence: Subject to the recommended conditions of approval, the sale of bottled beer and wine in conjunction with a retail marketplace within the lobby of the motel will not result in a detrimental impact on the property or in the vicinity of the property because the character of the retail marketplace will remain as an ancillary retail sale of the motel that will not create the establishment of a convenience food store.

BE IT FURTHER RESOLVED, that the Planning Commission makes a determination of public convenience or necessity in conjunction with the approval of Use Permit Application No. UP-15-09:

1. According to information received from the Seaside Police Department, the subject property is not located in an area that has excessive crime rates nor is it in an area of targeted law enforcement activities.

2. The motel property is located in a commercial area and the primary motel use and ancillary retail marketplace is compatible with existing and planned land uses.
3. Retail alcoholic beverage sales are limited to less than 1 percent of the floor area of the motel and recommended Conditions of Approval will regulate the sale of beer and wine during permitted hours in compliance with State Law.
4. Retail sale of beer and wine is a typical component of retail marketplace within a motel and the proposed use is compatible with the local land uses to ensure that the sale of beer and wine will remain as an ancillary use to the motel.

BE IT FURTHER RESOLVED, the Planning Commission hereby grants Use Permit Application No. UP-15-09 subject to the following terms and conditions:

Project Specific:

1. Except as modified by the conditions of approval, the plans submitted for a Building Permit must be in compliance with the plans stamped "Received Seaside Resource Management November 4, 2015" provided as Exhibit "A".
2. No exterior signs or other forms of advertising promoting or indicating availability of alcoholic beverage products are permitted.
3. Days and hours of beer and wine sales are limited to 7:00 a.m. – 2:00 a.m. daily unless otherwise approved by the City of Seaside, Resource Management Services Department.
4. The refrigerator must be locked between the hours of 2:00 a.m. and 7:00 a.m. daily.
5. At the request of the Police Department, the sale of beer and wine within the retail marketplace can be called up for review by the Planning Commission based on security related issues and/or documented sales to underage persons.

Standard:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the plans approved for discretionary permits for this project.
2. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but

such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.

3. Any proposed future development or change in use shall comply with the requirements of the Fire, Health, Planning, Code Enforcement, Building and Public Works Departments.
4. The proposed project shall comply with the applicable requirements of the Monterey Peninsula Water Management District for the installation of any new water fixtures and landscape irrigation equipment.
5. The issuance of building permits involving the installation of new water shall be subject to the availability of an adequate supply of water and sewer capacity to serve the project.
6. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.
7. Use permit approval will become null and void if any required building permit is not obtained within one (1) year from the date of approval.
8. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the City of Seaside, State of California, on the 9th day of December, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Owens, Chairperson

ATTEST:

Planning Commission Secretary

Resolution No.

USE PERMIT APPLICATION NO. UP-15-09

These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside Planning Commission.

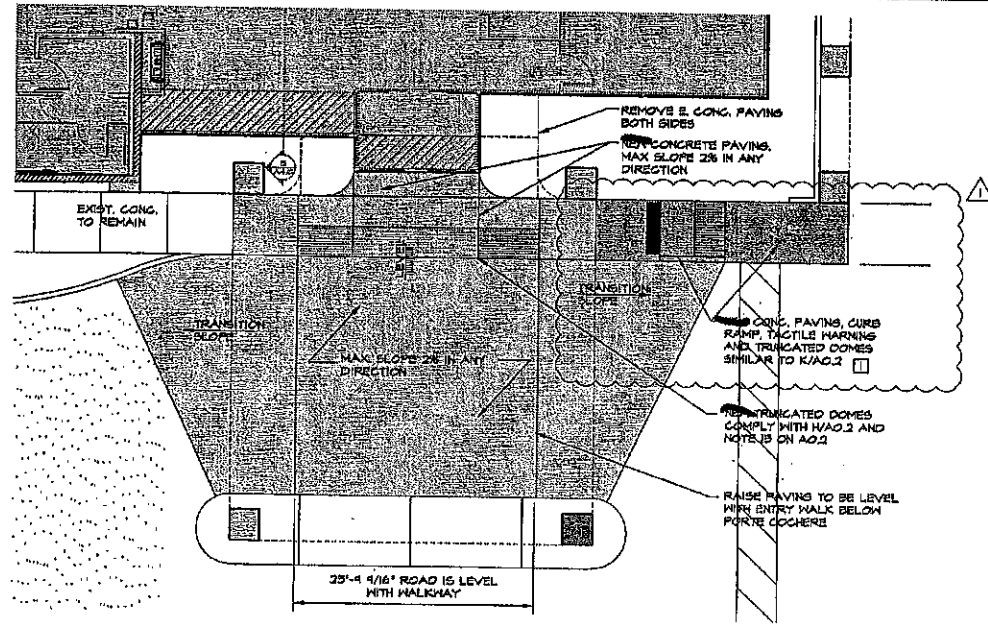
Applicant's Signature

Date

Property Owner's Signature

Date

PLOT DATE 1/4/2015 9:24:37 AM

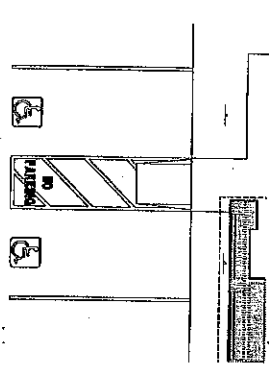


(E) ENTRY PAVING

NO WORK TO THESE SPACES

NO WORK TO THESE SPACES

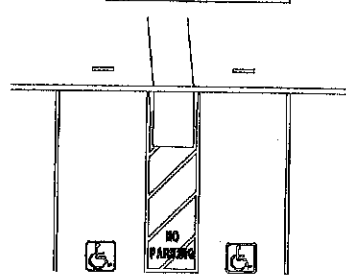
1/8" = 1'-0"



(D) ACCESS. PARKING

NO WORK TO THESE SPACES

1/8" = 1'-0"

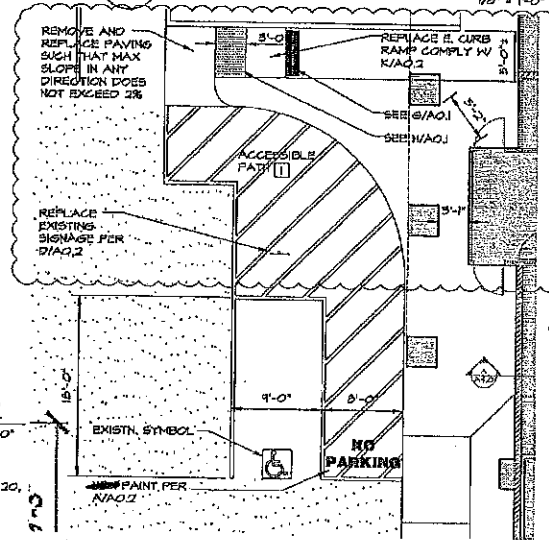


(B) ACCESS. PARKING

1/8" = 1'-0"

(C) ACCESS. PARKING

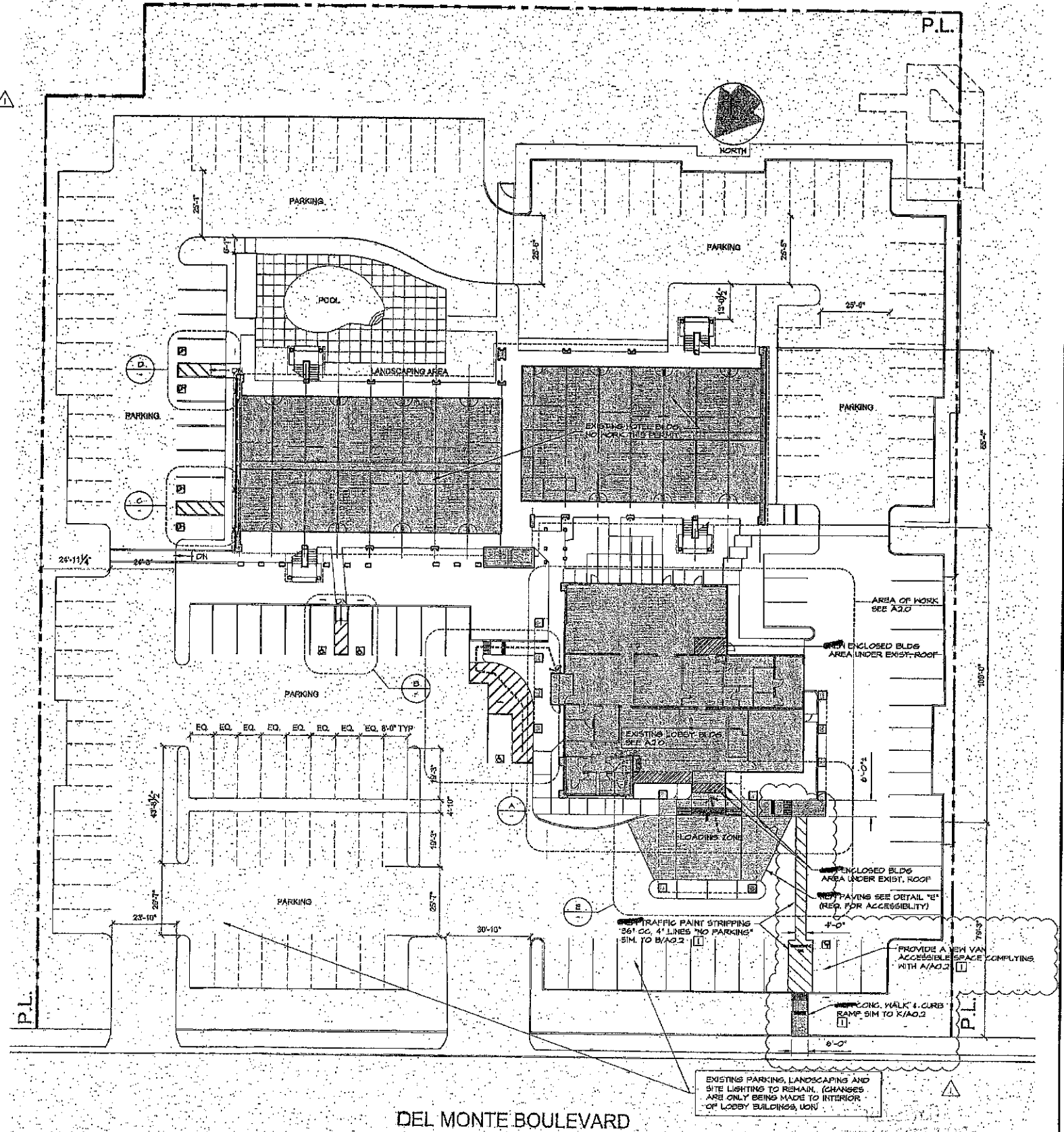
1/8" = 1'-0"



(A) ACCESS. PARKING

1/8" = 1'-0"

GENERAL NOTES
1. ALL ACCESSIBLE ROUTES SHALL HAVE A MAX SLOPE OF 1:20, A MAX CROSS SLOPE OF 1:48 AND A MIN WIDTH OF 48"



SITE PLAN

REVISIONS		BY
1	1/4/15	R.B.

**ADR**
Architectural Design & Research, Inc.
1115 Hancock Street
San Diego, CA 92110
PHONE (619) 417-4992

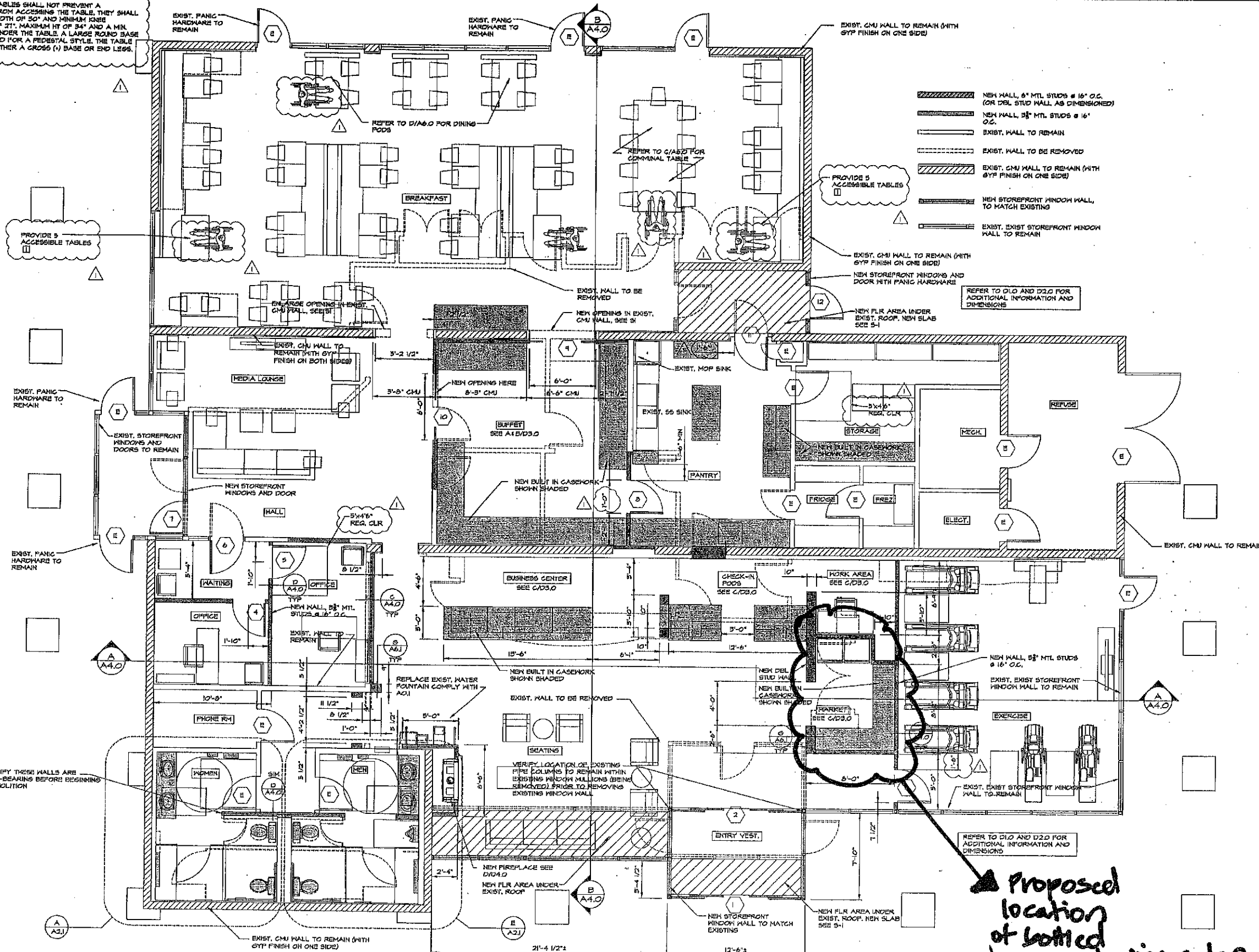
Holiday Inn Express: Seaside
1400 Del Monte Blvd.
Seaside, CA 95553
APN 011-401-025
OWNER: Pacifica Host Hotels, Altin Guen
1115 Hancock Street
San Diego, CA 92110
PHONE (619) 417-4992

SITE PLAN
Richard L. Brenerton
No. C-1004
04/15
Professional Seal
Date: 1/11/14
Scale: 1/8" = 1'-0"
Drawn: R.B.
Sheet: A1.0

VP-15-09 1400 Del Monte

PLT DATE 11/10/14 9:25:23 AM

GENERAL NOTES
1. ACCESSIBLE TABLES SHALL NOT PREVENT A WHEEL CHAIR FROM ACCESSING THE TABLE. THEY SHALL HAVE A MIN. WIDTH OF 30" AND MINIMUM KNEE CLEARANCE OF 27". MAXIMUM HT. OF 34" AND A MIN. DEPTH OF 14" UNDER THE TABLE. A LARGE ROUND BASE IS NOT ALLOWED FOR A PEDESTAL STYLE. THE TABLE SHALL HAVE EITHER A CROSS (X) BASE OR END LEGS.



FIRST FLOOR LOBBY PLAN

Proposed location of bottled beer and wine sales located in existing market

REVISIONS		BY
1	11-11-13	R.B.

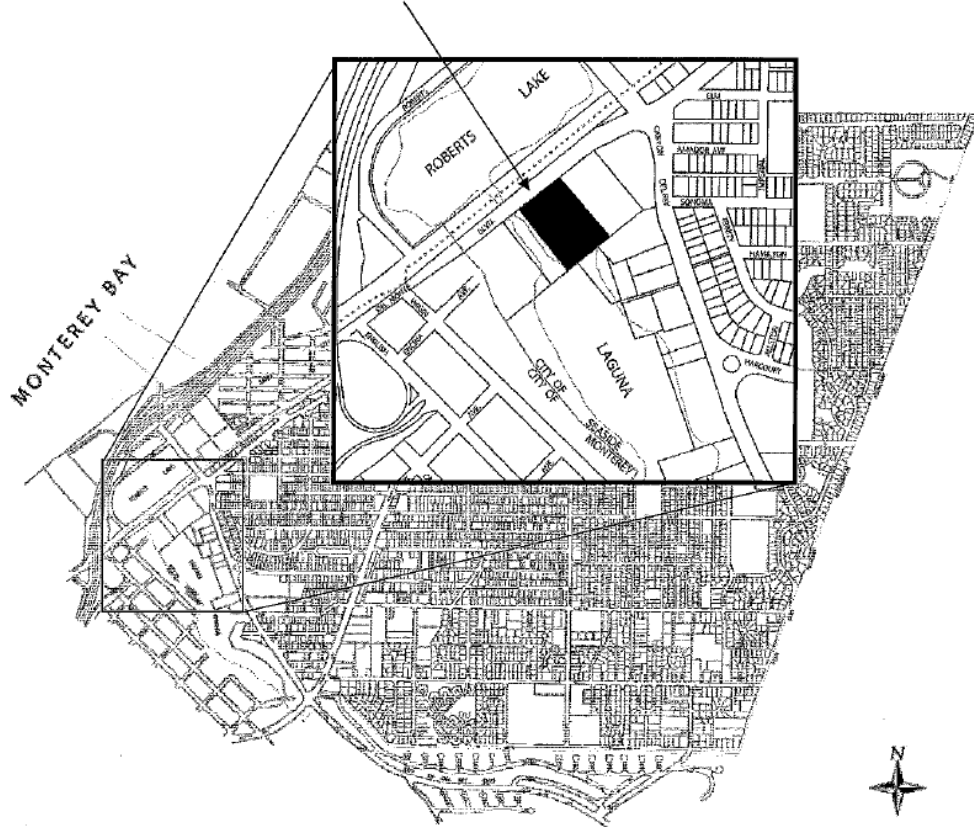
ADR	
Architectural Design & Restoration, Inc. 1000 Del Norte Blvd. San Diego, CA 92101 PHONE: (619) 447-4642	

FIRST FLOOR LOBBY PLAN	
Holiday Inn Express, Seaside 1400 Del Norte Blvd. Seaside, CA 94135 APN: 01-1401-025 OWNER: Pacifica Hotel, Albi Guan 1715 Hancock Street San Diego, CA 92101	

DATE: 11/11/14	
SCALE: 1/8"=1'-0"	
DRAWN: R.B.	
SHEET: A2.0	

Location Map:

1440 Del Monte Boulevard



Attachment 3

Aerial Photo

In-N-Out Burger Site (Under Construction)

Smart and Final Supermarket



Project Site: 1400 Del Monte Blvd

Site Photographs



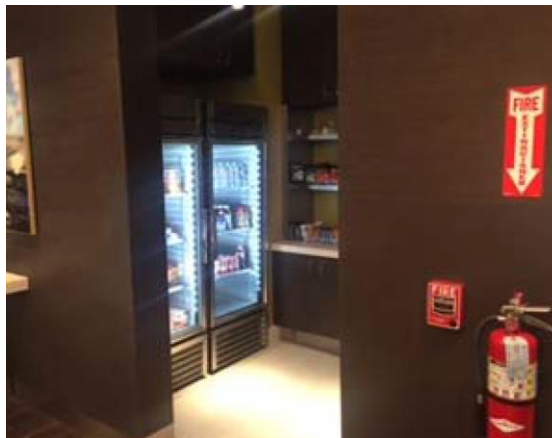
View of front elevation looking east from Del Monte Boulevard



View of front elevation looking south from Del Monte Boulevard



View of entrance to retail marketplace inside lobby



View of interior of retail marketplace



View of interior lobby

Attachment 5

Freezer and Refrigerator



Attachment 6

