COUNTY OF SAN MATEO PLANNING AND BUILDING DEPARTMENT

DATE: July 21, 2022

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Coastal Development Permit and a Use Permit

Amendment and Renewal, pursuant to Section 6328.4 and 6500 of the San Mateo County Zoning Regulations, to allow for the continued operation of an existing restaurant and modifications to the layout of an existing outdoor patio area. This application is appealable to the

California Coastal Commission.

County File Number: PLN1999-00758 (Love/Madsen)

PROPOSAL

The applicant proposes to renew the existing Use Permit to allow for the continued operation of a restaurant. The applicant is also requesting an amendment to the Use Permit to allow for the removal of one existing outdoor table and chairs, and to modify an existing patio area to partially enclose it and construct a standing table-top to allow for outdoor service.

RECOMMENDATION

That the Zoning Hearing Officer approve the Coastal Development Permit and Use Permit renewal with amendments, County File Number PLN 1999-00758, by making the required finings and adopting the conditions of approval set forth in Attachment A of this report.

BACKGROUND

Report Prepared By: Angela Chavez, Project Planner

Applicant: Ed Love

Owner: Melody Madsen

Location: 281 Capistrano Road, Princeton

APN(s): 047-082-010

Size: 11,761 sq. ft.

Existing Zoning: CCR/DR/CD (Coastside Commercial Recreation/Design

Review/Coastal District)

General Plan Designation: Commercial Recreation

Local Coastal Plan Designation: Coastside Commercial Recreation

Sphere-of-Influence: Half Moon Bay

Existing Land Use: Restaurant

Water Supply: The property is currently served by a municipal water connection provided by Coastside County Water District.

Sewage Disposal: The property is currently served by a municipal sewer connection provided by Granada Sanitary District.

Flood Zone: The majority of the parcel is located in FEMA flood zone VE (Areas subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action). However, the area proposed for modification is located in Zone X (The areas of minimal flood hazard, which are the areas outside the Special Flood Hazard Area (SFHA) and higher than the elevation of the 0.2-percent-annual-chance flood). FIRM panel no: 06081C0138F, dated August 2, 2017.

Environmental Evaluation: Exempt under Section 15301, Class 1, of the California Environmental Quality Act, which allows for the continued operation of an existing use.

Setting: The subject site is located between Capistrano Road, the Harbor, and the Harbor District's parking lot. The subject site has 425 linear feet of harbor frontage. The existing restaurant building sits partially on land and partially on piers but is not located within the mean high tide line. This building covers 66 feet of the harbor frontage and is visible from Pillar Point Harbor and the Johnston Pier. A 10-foot-wide recorded access easement bisects the property east of the restaurant building. This easement was granted to the Harbor District to provide public access from Capistrano Road to the Harbor District's public fishing pier and harbor trail.

Directly across Capistrano Road from the Fishtrap Restaurant are the Half Moon Bay Brewing Co. Brewery and Restaurant and the Oceano Inn.

Abbreviated Chronology:

<u>Date</u>		<u>Action</u>
May 1991	-	Coastal Development Permit and use permit, County File No. USE 91 0008 and CDP 91-0017, approved by the Board of Supervisors to legalize existing deck seating and storage shed and allow for additional indoor seats.
June 1995	-	Use permit amendment and Coastal Development Permit approved by the Planning Commission to allow development of outdoor picnic tables and increase outdoor seating capacity to 39.
December 28, 2004	-	Use Permit Renewal received.
July 5, 2007	-	Zoning Hearing Officer approved the Use Permit renewal.
June 9, 2010	-	Administrative Review completed.
January 3, 2014	-	Use Permit Renewal with amendment received.
January 2014- July 2019	-	The project went through several iterations which were deemed infeasible due to further encroachments into the public right-of-way and/or impacts to public access.
June 2019	-	Current iteration of the project was submitted.
December 15, 2021	-	Project Deemed complete
July 21, 2022	-	Zoning Hearing Officer Hearing

DISCUSSION

A. KEY ISSUES

1. <u>Conformance with the General Plan</u>

Staff has reviewed the project and found it to be compliant with the policies of the General Plan. The relevant policies are discussed below:

a. Visual Quality

Policy 4.2 (*Protection of Shorelines*) calls for the protection and enhancement of the visual quality of and from shorelines of bodies of water including lakes, reservoirs, streams, bays, ocean, and sloughs.

The policy also calls for maximizing the preservation of significant public ocean views.

The existing restaurant is located on the west side of Capistrano Road and there are direct views of the ocean from the roadway. The continued operation of the restaurant does not propose any significant changes to the appearance of the building which would impact views. The removal of the one of the fixed outdoor tables/chairs does not result in any negative visual impacts as it reduces visual clutter. The patio which is proposed to be partially enclosed is existing and currently has an existing wood railing along the rear to address the grade change between the street level and beach area below. The proposed enclosure will match the existing railing and does not add any additional visual/view impediments.

Policy 4.15 (*Appearance of New Development*) calls for the regulation of development to promote and enhance good design, site relationships and other aesthetic considerations. The existing restaurant continues to be compatible with the surrounding development in both size and scope. The removal of one of the exterior tables and chairs addresses previous concerns regarding items which were located within the public right-of-way and obstructed pedestrian flow. The partial enclosure of the existing patio results a more contained space to minimize overflow onto the sidewalk. In addition, it results in minimal visible impacts as the railings match the existing see-through railing.

b. Urban Land Use

Policy 8.16 (*Land Use Compatibility*) calls for commercial development to be compatible with adjacent land uses and supports a mixture of commercial activity with appropriate service-oriented and transit-oriented land uses. The subject property is zoned Coastside Commercial Recreation (CCR) which allows the operation of a restaurant with the issuance of a Use Permit. The surrounding area is developed with other commercial uses including hotels, restaurants, recreation, and retail. The partial railing enclosure of the existing patio is consistent with the existing restaurant use which includes a take-out/to-go window and other exterior seating. In addition, this is consistent with other restaurants in the area which also include outdoor alcohol service. However, a condition of approval has been added to memorialize that this service is limited to the partially enclosed patio to the left of the to-go window as required by California Department of Alcoholic Beverage Control.

2. <u>Conformance with the Local Coastal Program</u>

Staff has reviewed the project and found it to be compliant with the policies of the Local Coastal Program. The relevant policies are discussed below:

Visual Resources

Policy 8.13.b (*Special Design Guidelines for Coastal Communities-Princeton*) calls for commercial buildings to be designed to reflect the natural character of the harbor setting, are of wood or shingle siding, employ natural or sea colors, and use pitched roofs.

The proposed project does not involve construction of new buildings or alterations to the existing structure. The existing building is a single-story, wood building, with a pitched roof. The proposed modifications to the existing patio are minor in nature and the new railing matches the design and natural wood material of the previous railing.

Shoreline Access Component

Policy 10.13 (*Commercial and Industrial Areas*) calls for the establishment and improvement of vertical (trails) and lateral (shoreline destinations) for public access and parking consistent with Policy 10.22(e) as a condition for obtaining a permit for commercial and industrial development along the shoreline, except where the establishment of access would disrupt activities which are essential to public safety.

The project site has direct public access to the small beach located behind/below the restaurant from the sidewalk at Capistrano Road. Previous iterations of the project included the provision of dedicated parking spaces within the restaurants parking lot. Staff has confirmed that the dedicated parking spaces remain and are marked. The applicant has previously granted the Harbor District an easement for pedestrian access to public restrooms and pier located to the southwest of the site. The removal of elements in the public right-of-way and reconfiguration of the patio railing provides a more clearly defined outdoor space which also improves flow and accessibility of the Coastal Trail which currently runs along Capistrano Road.

Recreation/Visitor-Serving Facilities Component

Policy 11.4 (*Recreation and Visitor-Serving Facilities Permitted in the Coastal Zone*) calls for the allowance of the following facilities in the Coastal Zone as permitted uses: necessary visitor-serving facilities as defined in Policy 11.1, and commercial recreation and public recreation facilities which (a) are designed to enhance public opportunities for coastal recreation, (b)

do not substantially alter the natural environment, and (c) do not subvert the unique small town rural character of the individual communities on the Coastside.

Necessary visitor serving amenities include restaurants, restrooms, and public parking for coastal recreation. The subject restaurant is an allowable use (with the issuance of a Use Permit), has an existing parking lot with dedicated and marked beach parking spaces, and has existing beach access. The restaurant is a long staple of the Princeton community and is of a scale and scope which is complementary to the area. The development is existing and modifications only impact previously paved areas. There are no substantial alterations to the natural environment or rural character of the area.

3. Conformance with the Coastside Commercial Recreation Regulations

Staff has reviewed the project and found it to be compliant with the policies of the Coastside Commercial Recreation (CCR) regulations. The relevant policies are discussed below:

The purpose of the CCR District is to limit and control the use and development of land designated as commercial recreation in the Local Coastal Program in order to establish commercial areas which (1) are primarily oriented toward meeting the service and recreational needs of Coastside visitors, boat users and Coastside residents seeking recreation, (2) are active and pedestrian-oriented, while meeting the need for safe and efficient automobile access and parking; (3) have an intimate, human scale; (4) have a unified design theme appropriate to their location; (5) size of the district permitting, have a balanced diversity of uses, within the limits of Section 6266(a); (6) provide public access to nearby coastal areas; and (7) protect coastal resources. The CCR further defines allowable uses by location into shoreline and inland areas.

The project is located in the shoreline area of the CCR District. Restaurant establishments are permitted in this district with the issuance of a Use Permit. This particular use has been present on the site for decades and is a staple of visitor serving uses in this area. The continued operation of this restaurant remains in compliance with the intent and goals of the CCR District.

Section 6269 provides the Development Standards for the CCR District for new development. The continued operation of the restaurant is not considered new development and the modification of the existing patio does not result in any significant changes or impacts to coastal resources or coastal access. The project does not result in additional building height, lot coverage, impervious surface, landscaping, or changes to setbacks.

Section 6270 of the County Zoning Regulations outlines performance standards for noise, odor, lighting, vibration, enclosed uses and trash and storage for the CCR zoning district. These items have been previously reviewed and are addressed in the Conditions of Approval. Staff has not received any complaints or comments that the restaurant has not been in compliance with all performance standards.

Section 6119 of the Zoning Ordinance requires one parking space for three restaurant seats. The Fishtrap Restaurant currently owns a parcel (APN 047-081-030) directly across the Capistrano Road from the restaurant that is utilized as their parking lot which provides 35 parking spaces. The project owner has a recorded easement with the adjacent restaurant's parking lot for 28 parking spaces. In addition, the project owner has an agreement with the Harbor District for 8 additional spaces in the nearby (within 150 feet of the existing restaurant) parking lot at the harbor. The total number of existing parking spaces available for restaurant patrons is 43. This total of 43 parking spaces allows for a maximum of 129 seats at the site.

4. Compliance with Use Permit Regulations

a. Compliance with Conditions of Last Approval

Current Planning Section

(1) This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Zoning Hearing Officer on July 5, 2007. 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.

Compliance with Condition? Yes.

Recommend to Retain Condition? Yes, but modified. This is a standard condition of approval which accompanies Use Permit approvals. It should be modified to reflect the current hearing date of July 21, 2022.

(2) The use permit shall be valid for seven (7) years from the date of approval. This use permit shall be valid through July 5, 2014. If the applicant wishes to renew this use permit at that time, an application for renewal must be submitted at least six months prior to the expiration date. An administrative review of this permit shall be required in July 2010.

Compliance with Condition? Yes, the applicant originally submitted the application to renew and amend the Use Permit on January 3, 2014. The Administrative Reviews were also conducted as detailed by the condition.

Recommend to Retain Condition? Yes, but modified to reflect the new expiration and administrative review dates.

(3) The applicant shall submit a plan for outdoor seating arrangements that show the total number of existing tables and associated seats. The total number of retained seats shall not exceed 34. The total number of seats for the restaurant shall not exceed 129.

Compliance with Condition? Yes, the applicant has provided a seating count confirming that the total seating does not exceed the amounts delineated by the last approval

Recommend to Retain Condition? Yes, this condition remains essential to ensure the restaurant operates at an appropriate scale to the site.

(4) The current and future owners and lessors of the restaurant will ensure that restaurant patrons waiting for seating at the restaurant do not wait on Capistrano Avenue.

Compliance with Condition? Yes, the overflow of patrons remains an area of concern for this restaurant. The applicant has provided several design iterations in an attempt to address this condition. The proposed modifications include the removal of a fixed table and chairs located parallel to Capistrano Avenue and replaces it with a partially enclosed standing food and drink area.

Recommend to Retain Condition? Yes, this should be an ongoing effort. Minimizing the encroachments on to the Capistrano Avenue right-of-way remain important for both vehicle and pedestrian safety.

(5) The current and future owners and lessors of the subject property shall comply with the performance standards of the Coastside Commercial Recreation (CCR) zoning district outlined in Section 6270 of the County Zoning Regulations at all times.

Compliance with Condition? Yes.

Recommend to Retain Condition? Yes.

(6) All employees of Barbara's Fishtrap shall park at the parking spaces designated for the restaurant in the harbor area.

Compliance with Condition? Yes. The parking spaces are marked. Staff has not received any complaints indicating that this condition is not being met.

Recommend to Retain Condition? Yes.

(7) The applicant shall post nine parking spaces as "Beach User Parking between 10:00 a.m. and 4:00 p.m. daily."

Compliance with Condition? Yes, there are signs marking the nine parking spaces and the applicable time requirements.

Recommend to Retain Condition? Yes.

(8) Signage designating "Parking for Barbara's Fishtrap Patrons" in the front of the main parking lot must remain in place and maintained by the applicant.

Compliance with Condition? Yes, the signage is in place and maintained.

Recommend to Retain Condition? Yes.

(9) Signage designating "Parking for Barbara's Fishtrap Employees" near the reserved spaces must remain in place and maintained by the applicant.

Compliance with Condition? Yes, the signage is in place and has been maintained.

Recommend to Retain Condition? Yes.

(10) The bar shall comply with the provisions of Division 9 of the State Business and Professions Code regulating licensing of alcoholic beverages.

Compliance with Condition? Yes, the applicant has a valid alcohol beverage license.

Recommend to Retain Condition? Yes, in order to serve alcohol beverages on the premises a valid license will continue to be required. In addition, the serving of alcoholic beverages on the patio area will require a revision to the existing license.

(11) The applicant shall, pursuant to Section 5021 of the County Ordinance Code, keep the parking lot as clean as practical by using appropriate methods including, but not limited to, sweeping and litter control.

Compliance with Condition? Yes, during site inspections the parking lot has been found to be in a clean and orderly state.

Recommend to Retain Condition? Yes, this condition is still necessary to memorialize the County Ordinance Code requirements.

Environmental Health Services

(12) The applicant shall maintain its annual health permit to operate the restaurant.

Compliance with Condition? Yes, the applicant has a valid health permit to operate the restaurant.

Recommend to Retain Condition? Yes, this is a requirement of the Environmental Health Services.

b. <u>Conformance with Use Permit Findings</u>

Section 6267 lists shoreline restaurants as permitted uses in the CCR District with a use permit. The following findings must be made for approval of a use permit renewal.

- (1) That the continuation of the existing use would not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- (2) That the design and operation of the use will further the purpose of this chapter as stated in Section 6265.
- (3) That the design and operation of the use conforms with the development standards stated in Section 6269.

Staff has conducted a site inspection, reviewed the file for any correspondence regarding this facility, and found no complications associated with this project. Therefore, as conditioned, the continued use would have a minimal impact to the surrounding neighborhood and would not be detrimental to the public welfare or injurious to property or improvements in the neighborhood. The design and operation of the use further the purpose of the Coastside Commercial Recreation District by meeting the service needs of Coastside visitors and residents in accordance with Section 6265 of the CCR district

regulations. The minor exterior changes are consistent in design and scope with the existing development on the site. The project conforms to the development standards of the CCR Zoning District.

Section 6269(b) requires that structures and parking areas must be sited in a manner which maximizes public views of, and access to the shoreline or the ocean; and Section 6269(7)(b) that where more than 10 off-street parking spaces are required for development within a 1/4 mile along the nearest public road from an established shoreline access, a minimum of 20% of these parking spaces shall be available for shoreline access parking between 10:00 a.m. and 4:00 p.m. Signs shall be posted designating spaces available for shoreline access parking. This project complies with these development standards.

B. <u>ENVIRONMENTAL REVIEW</u>

The project is categorically exempt from environmental review under Section 15301, Class 1, of the California Environmental Quality Act (CEQA) which allows for continued operation of existing facilities and minor additions.

C. <u>REVIEWING AGENCIES</u>

Building Inspection Section
Department of Public Works
Environmental Health Services
Geotechnical Section
Coastside Fire Protection District
Midcoast Community Council

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Proposed Plans

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County of San Mateo Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN1999-00758 Hearing Date: July 21, 2022

Prepared By: Angela Chavez For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

Regarding the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301, Class 1 related to continued operation of an existing use and minor additions.

Regarding the Coastal Development Permit, Find:

- 2. That the project, as described in the application and accompanying materials required by the Zoning Regulations, Section 6328.4 and as conditioned in accordance with Section 6328.14, conforms with the applicable policies and required findings of the San Mateo County Local Coastal Program (LCP). Specifically, the project complies with policies regarding sensitive habitats, shoreline access, and design review standards and findings. The project also conforms to Coastal Act Access and Recreation Policies.
- 3. Where the project is located between the nearest public road and the sea, or the shoreline of Pescadero Marsh, that the project is in conformity 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). The project site is located between the nearest public road and the sea and has existing visual and walkable access to the small beach that is located to the west of the building site.
- 4. That the project conforms to specific findings required by policies of the San Mateo County Local Coastal Program.
- 5. That the number of building permits for the construction of single-family residences issued in the calendar year does not exceed the limitation of LCP Policy 1.23. The project does not include the construction of a single-family residence and does not trigger compliance with this finding.

Regarding the Use Permit Renewal, Find:

- 6. That the continuation of the existing use will not be detrimental to the public welfare or injurious to property or improvements in said neighborhood, because the design and operation of the use conforms to Sections 6265 and 6269 of the Coastside Commercial Recreation District by meeting the service needs of Coastside visitors and residents and maximizing public views of and access to the shoreline or ocean.
- 7. That the design and operation of the use will further the purpose of the of Section 6265 of the County Zoning Regulations. No negative reports have been associated with this facility.
- 8. That the design and operation of the use conforms with the development standards stated in Section 6269 of the Coastside Commercial Recreation District regarding parking and signage requirements.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

- 1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Zoning Hearing Officer on July 21, 2022. 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.
- 2. The use permit shall be valid for seven (7) years from the date of approval. This use permit shall be valid through July 21, 2029. If the applicant wishes to renew this use permit at that time, an application for renewal must be submitted at least six months prior to the expiration date. An administrative review of this permit shall be required in July 2025.
- 3. The applicant shall submit a plan for outdoor seating arrangements that show the total number of existing tables and associated seats. The total number of retained seats shall not exceed 34. The total number of seats for the restaurant shall not exceed 129.
- 4. The current and future owners and lessors of the restaurant will ensure that restaurant patrons waiting for seating at the restaurant do not wait on Capistrano Road.
- 5. The current and future owners and lessors of the subject property shall comply with the performance standards of the Coastside Commercial Recreation (CCR) zoning district outlined in Section 6270 of the County Zoning Regulations at all times.

- 6. All employees of Barbara's Fishtrap shall park at the parking spaces designated for the restaurant in the harbor area.
- 7. The applicant shall post nine parking spaces as "Beach User Parking between 10:00 a.m. and 4:00 p.m. daily."
- 8. Signage designating "Parking for Barbara's Fishtrap Patrons" in the front of the main parking lot must remain in place and maintained by the applicant.
- 9. Signage designating "Parking for Barbara's Fishtrap Employees" near the reserved spaces must remain in place and maintained by the applicant.
- 10. The bar shall comply with the provisions of Division 9 of the State Business and Professions Code regulating licensing of alcoholic beverages.
- 11. The applicant shall, pursuant to Section 5021 of the County Ordinance Code, keep the parking lot as clean as practical by using appropriate methods including, but not limited to, sweeping and litter control.
- 12. In all outdoor areas alcoholic beverage service is limited to the partially enclosed patio located to the left of the to-go window.

Environmental Health Services

13. The applicant shall maintain its annual health permit to operate the restaurant.

Department of Public Works

14. The applicant shall apply for an encroachment permit. A recorded maintenance agreement for all encroachments in public right of way will be required.

Building Inspection Section

- 15. The project requires a building permit.
- 16. The 42-inch-high table shall meet the accessibility requirements of CBC 11B-226.3.

Geotechnical Section

17. The project site is located in both tsunami zone and FEMA Zoning VE. At the building permit stage, a geotechnical letter is required for foundation recommendation and site geotechnical evaluation.

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COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT B

WGS_1984_Web_Mercator_Auxiliary_Sphere © Latitude Geographics Group Ltd.

County San Mateo, CA

reference only. Data layers that appear on this map may or may not be accurate,

current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



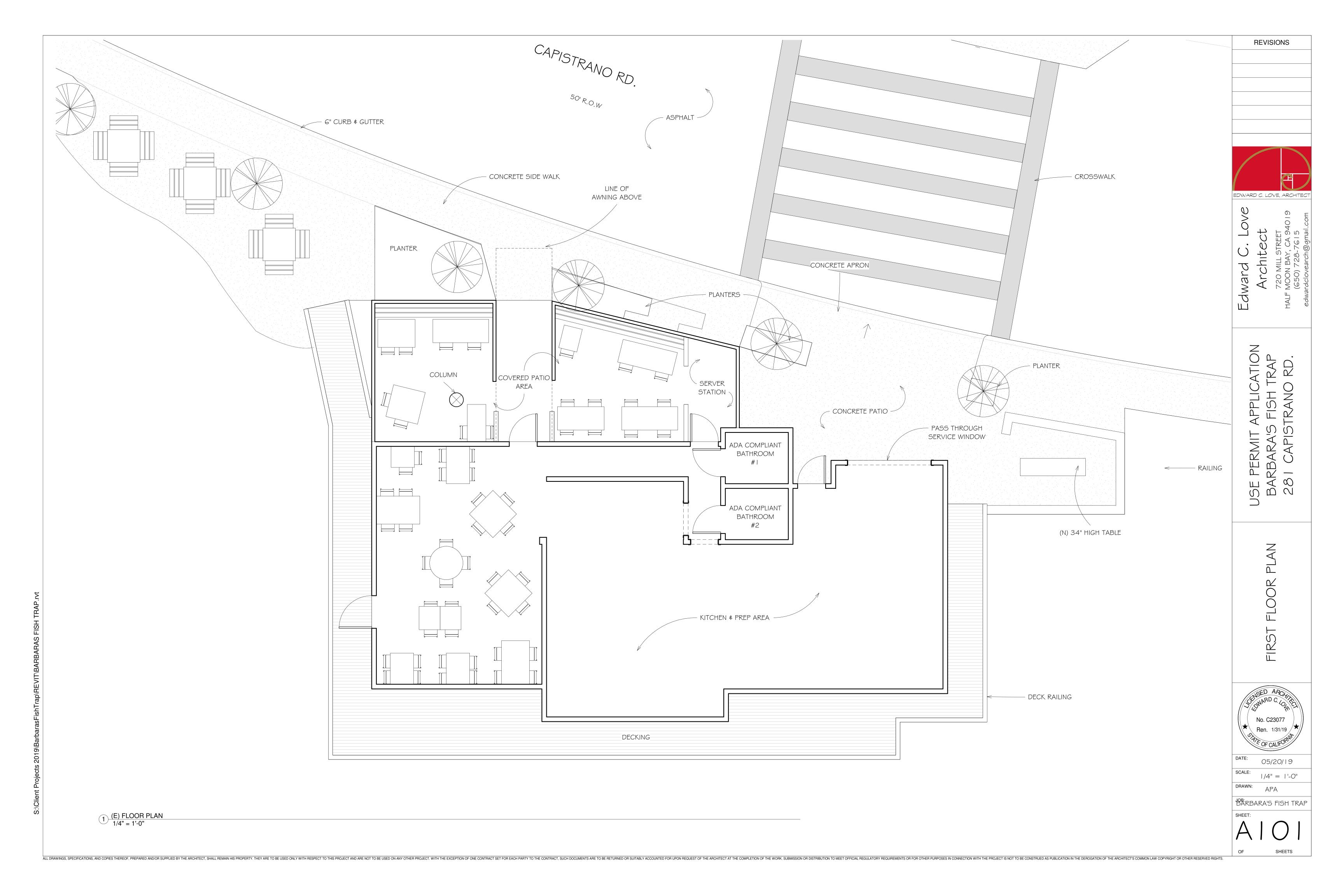
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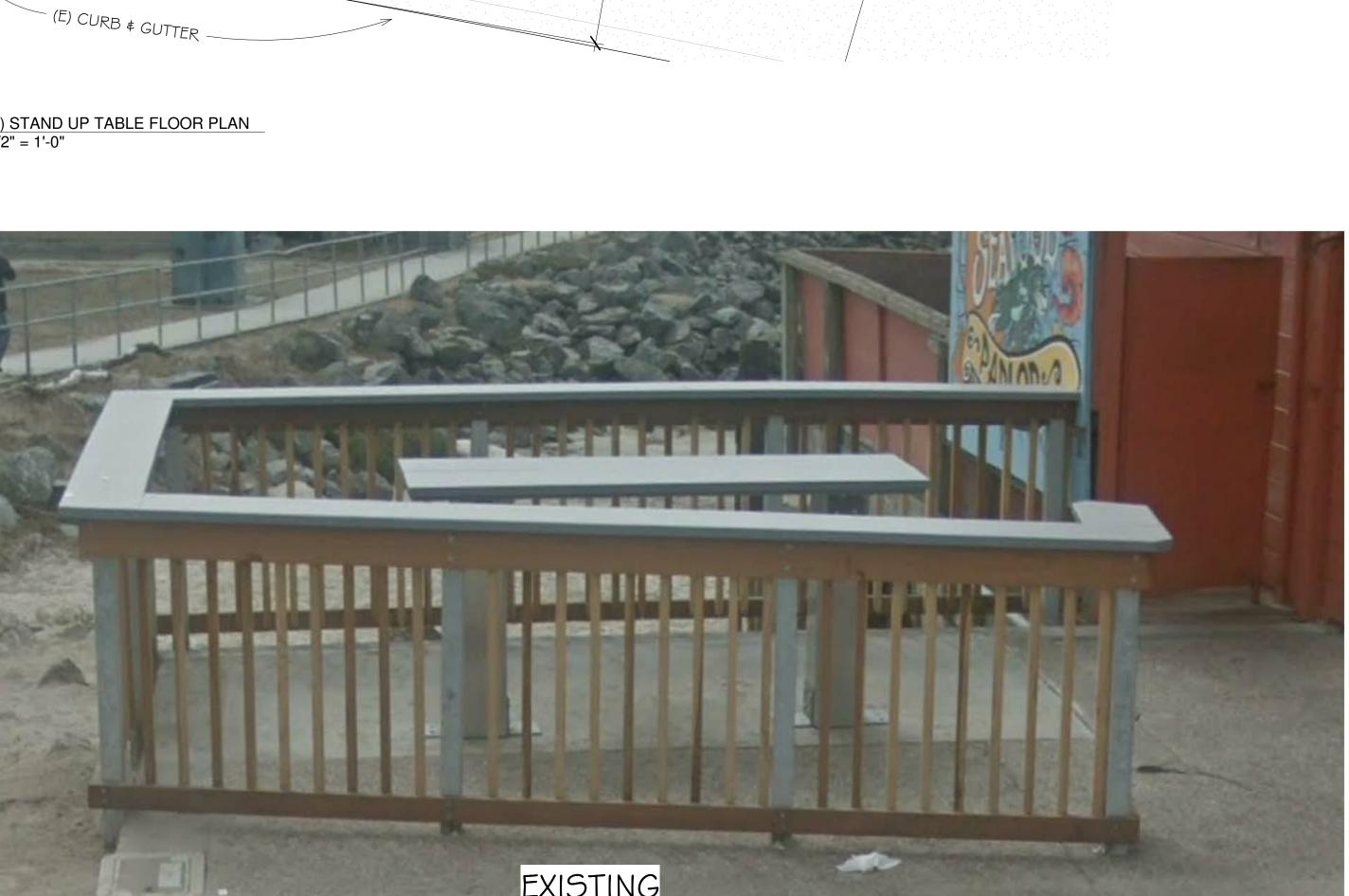
COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT C





LALL DRAWINGS, SPECIFICATIONS, AND COPIES THEREOF, PREPARED AND/OR SUPPLIED BY THE ARCHITECT'S COMMON LAW COPYRIGHT OR OTHER RESERVED RIGHTS.



PLANTER -

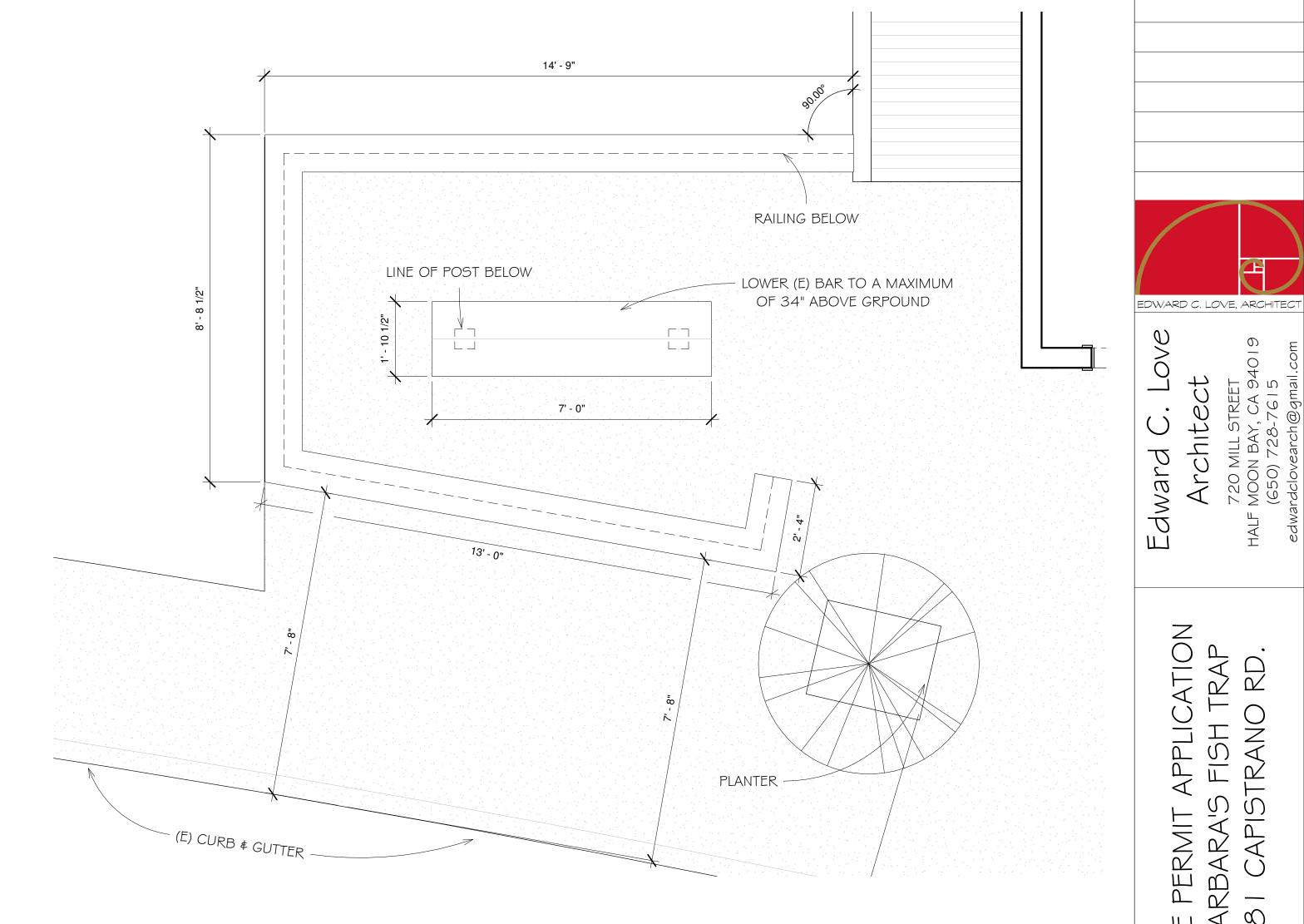
14' - 9"

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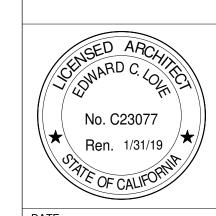
LINE OF POST BELOW

RAILING BELOW

(E) STAND UP TABLE



REVISIONS



06/07/19

SCALE: 1/2" = 1'-0"

BARBARA'S FISH TRAP