

Scenic Pacifica
Incorporated Nov. 22, 1957

ZONING ADMINISTRATOR
Staff Report

DATE: May 27, 2015

ITEM: 1

PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on May 13, 2015 and mailed to 12 surrounding property owners.

FILE: UP-42-15

APPLICANT: Sareena Loomis for Almathan Partners LLC, 5460 Coast Highway, Pacifica

OWNER: Bruce G. Cohen Trust, 811 Clayton St, San Francisco, CA, 94117

PROJECT LOCATION: 5460 Coast Highway, Pedro Point Shopping Center, Pacifica (APN 023-072-060) – Pedro Point

PROJECT DESCRIPTION: Establish an outdoor seating area in conjunction with the existing restaurant “La Playa Taqueria”

General Plan: Commercial
Zoning: C-2 (Community Commercial)

RECOMMENDED CEQA STATUS: Class 11 Categorical Exemption, Section 15311

ADDITIONAL REQUIRED APPROVALS: None. Subject to appeal to the Planning Commission.

RECOMMENDED ACTION: Approve as conditioned.

PREPARED BY: Christian Murdock, Associate Planner

DEVELOPMENT STANDARDS CONFORMANCE

The project does not involve building construction. It is proposed within an existing sidewalk area fronting the Pedro Point Shopping Center. The only vertical construction occurring is installation of a 4 ft. tall wrought iron fence, which is below the 6 ft. maximum height limit established in Pacifica Municipal Code (PMC) Sec. 9-4.2502(a).

PROJECT SUMMARY

1. Project Description:

The Zoning Administrator must consider whether the establishment of an outdoor seating use at the subject location is appropriate for the site and whether any potential impacts may result from commencement of the use. The outdoor seating area in this application was established unlawfully without a Use Permit by a previous business owner. Staff is uncertain of the date of commencement of the unpermitted outdoor seating area, but a review of archived images suggests it started prior to July 2011.

The applicant became aware of the unpermitted status of the outdoor seating area during an inspection by staff from the California Department of Alcoholic Beverage Control (ABC) who visited the site in conjunction with a liquor license application by the new business owner (applicant). ABC required legalization of the outdoor seating area as a condition on the issuance of the license since the applicant intends to sell alcohol in the patio area. The applicant's ABC license is a Type 47 On-Sale General for Bona Fide Public Eating Place.¹

The proposed outdoor seating area will extend 6 ft. outward from the façade of the existing storefront, leaving a 4'-9" clear pathway along the sidewalk, and will be 20 ft. wide, coinciding with the entire width of the applicant's lease space. The area will be surrounded with a 4 ft. tall wrought iron fence with a 3'-6" opening in the middle to allow ingress and egress to both the outdoor seating area and main restaurant interior. The design of the windows on the southern half of the existing storefront is such that they can be opened to allow walkthrough access between the restaurant interior and outdoor seating area. The applicant is aware of and will comply with the requirement to provide outdoor seating accessible to persons with disabilities in accordance with applicable state and federal laws.

¹ A Type 47 license allows the sale of beer, wine, and liquor in conjunction with a restaurant. Business and Professions Code Sec. 23038 defines a *bona fide public eating place* as "a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. "Meals" means the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance with this requirement. "Guests" shall mean persons who, during the hours when meals are regularly served therein, come to a bona fide public eating place for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require that any food be sold or purchased with any beverage."

The applicant proposes to sell the full menu of food items and alcoholic beverages in the outdoor seating area. The intended hours of operation will mirror those of the main restaurant, as shown below. However, a condition of approval in the draft resolution of approval would allow operating hours beyond those currently intended by the applicant in case she wishes to extend the hours in the future.

Proposed Outdoor Seating Area Hours of Operation:

Mon: Close
Tues-Wed-Thurs-Sun: 11:30 AM – 9:30 PM
Fri-Sat: 11:30 AM – 10:30 PM

2. General Plan, Zoning, and Surrounding Land Uses:

The subject site's General Plan land use designation is Commercial, and its zoning classification is C-2 (Community Commercial). It is part of the Pedro Point Shopping Center. Surrounding land uses to the south and east are commercial. To the north and northeast is Linda Mar State Beach. Behind the shopping center building to the west is vacant land. The nearest residence is approximately 420 ft. north of the subject site, with the shopping center building obstructing line-of-sight between the outdoor seating area and the residence.

3. Municipal Code:

The applicant's proposal requires approval of a Use Permit pursuant to Pacifica Municipal Code (PMC) Sec. 9-4.2308(a), which requires that all commercial and industrial uses be conducted within enclosed structures unless a Use Permit is obtained. Issuance of a Use Permit is governed by PMC Sec. 9-4.3303(a), which requires that the Planning Commission make the following findings:

- That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City;
- That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan; and
- That the use or building applied for is consistent with the City's adopted Design Guidelines.

PMC Sec. 9-4.3802(b)(3) grants authority to the Planning Director, acting as the Zoning Administrator, to hear and decide applications for a Use Permit subject to the same duties and responsibilities applicable to the Planning Commission. Decisions of the Zoning Administrator are appealable to the Planning Commission within 10 days after any determination (PMC Sec. 9-4.3804).

4. CEQA Recommendation:

Staff analysis of the proposed project supports a Zoning Administrator finding that it qualifies for a categorical exemption from the California Environmental Quality Act (CEQA). The construction of an outdoor seating area qualifies as a Class 11 project in Section 15311 of the CEQA Guidelines (Accessory Structures). Section 15311 states in part:

Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(a) On-premise signs;

(b) Small parking lots;

(c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

The applicant's proposal to construct a small fence surrounding a paved area to allow the temporary placement of tables and chairs fits within the scope of a Class 11 categorical exemption.

5. Staff Analysis:

Staff believes the project is a positive improvement for the Pedro Point Shopping Center. It will increase an active retail use at the shopping center while also providing an enjoyable outdoor dining experience for patrons. The project will satisfy all zoning regulations and applicable development standards, and will be consistent with the General Plan. As conditioned, with respect to the prohibition on music and limited hours of operation, the potential for noise or other impacts to surrounding businesses and property owners is negligible.

The project site is located within the Coastal Zone Appeals Zone; however, the project scope does not meet the definition of "development" as defined in PMC Sec. 9-4.4302(z). Therefore, the project does not require a Coastal Development Permit. Specifically, the project area is already developed as a shopping center and the project will not involve the placement or erection of any new solid material or structure on undeveloped land. The project also will not change the density or intensity of land use at the site, or otherwise result in any other physical

modifications at the site which would constitute “development.” With respect to the Neighborhood Commercial District Supplementary Regulations contained in PMC Sec. 9-4.4410, the project is a permitted visitor-serving use. For these reasons, the project is consistent with the Local Coastal Land Use Plan.

Staff’s analysis supports a recommendation of approval of the project subject to the conditions in Exhibit A of the Resolution.

RECOMMENDED ZONING ADMINISTRATOR ACTION

Determine that the project is exempt from the California Environmental Quality Act; approve Use Permit UP-42-15 by adopting the attached resolution, including conditions of approval in Exhibit A; and, incorporate all maps and testimony into the record by reference.

Attachments:

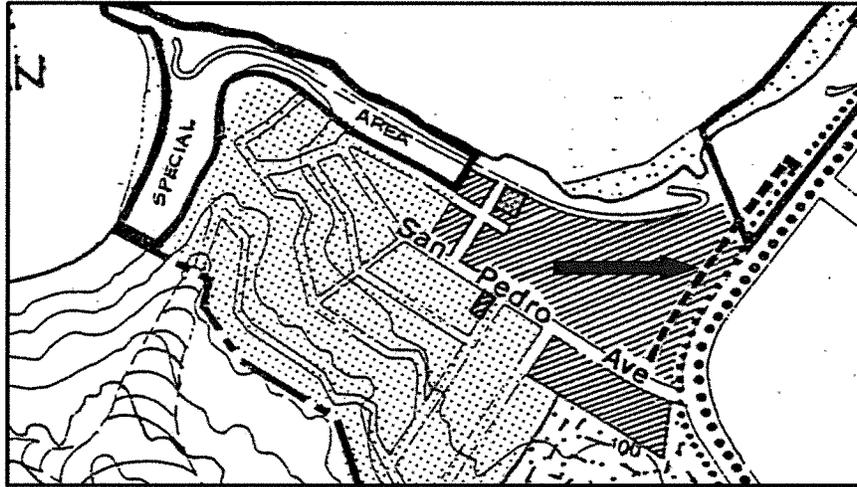
- A. Land Use and Zoning Exhibit
- B. Resolution for Use Permit
- C. Exhibit A for Resolution – Conditions of Approval
- D. Plans and Elevations

Zoning & Land Use Exhibit

City of Pacifica Planning Department

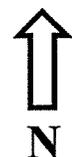
General Plan Diagram

Neighborhood: Pedro Point
Land Use Designation: Commercial



Zoning Map Diagram

Zoning District: C-2 (Community Commercial)



(Maps Not to Scale)

RESOLUTION NO. ZA-2015-____

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF PACIFICA APPROVING USE PERMIT UP-42-15, SUBJECT TO CONDITIONS, FOR ALMATHAN PARTNERS LLC, DOING BUSINESS AS LA PLAYA TAQUERIA, TO OPERATE AN OUTDOOR SEATING AREA IN CONJUNCTION WITH A RESTAURANT AT 5460 COAST HIGHWAY, PEDRO POINT SHOPPING CENTER (APN 023-072-060).

Initiated by: Sareena Loomis for Almathan Partners LLC, d.b.a. La Playa Taqueria (“Applicant”).

WHEREAS, an application has been submitted to establish an outdoor seating area in conjunction with the existing restaurant “La Playa Taqueria” at 5460 Coast Highway, Pedro Point Shopping Center, in Pedro Point; and

WHEREAS, the project requires approval of a Use Permit because it involves a commercial use conducted outside of an enclosed structure in the C-2 (Community Commercial) zoning district; and

WHEREAS, the Zoning Administrator has determined the project is exempt from the California Environmental Quality Act (CEQA) as a Class 11 project per Section 15311 of the CEQA Guidelines (Accessory Structures);

NOW, THEREFORE, BE IT RESOLVED that the Zoning Administrator of the City of Pacifica does hereby make the following findings pertaining to Use Permit UP-42-15:

1. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.

The conditions of approval governing operation of the outdoor seating area will preserve the health, safety, and welfare. Specifically, conditions of approval are in place to regulate noise by prohibiting music of any kind, and hours of operation restrict how early or late the outdoor seating area may operate.

2. That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the Local Coastal Land Use Plan.

The subject site’s General Plan land use designation is Commercial, and its zoning classification is C-2 (Community Commercial). The proposed outdoor

seating area in conjunction with a restaurant is a commercial uses consistent with the Commercial General Plan land use designation and C-2 zoning.

The project site is located within the Coastal Zone. However, the project does not meet the definition of “development” and therefore, does not require a Coastal Development Permit. With respect to the Neighborhood Commercial District Supplementary Regulations contained in PMC Sec. 9-4.4410, the project is a permitted visitor-serving use. Therefore, the project is consistent with the Local Coastal Land Use Plan.

3. Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.

The project does not involve construction activities that are described in the City’s adopted Design Guidelines.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Zoning Administrator of the City of Pacifica does hereby approve Use Permit UP-42-15, subject to conditions of approval attached in Exhibit A.

* * * * *

Decided and adopted at a public hearing before the Zoning Administrator of the City of Pacifica, California, held on the 27th day of May 2015.

Tina Wehrmeister, Zoning Administrator

APPROVED AS TO FORM:

Michelle Kenyon, City Attorney

Exhibit A

Conditions of Approval: Use Permit UP-42-15, Outdoor Seating Permit for Almathan Partners LLC, d.b.a. La Playa Taqueria, 5460 Coast Highway, Pedro Point Shopping Center, (APN 023-072-060)

Zoning Administrator Hearing of May 27, 2015

Planning Division

1. Development shall be substantially in accord with the site plan and floor plan submitted to the City, consisting of two (2) sheets and stamped received by the City on March 5, 2015, as well as the patio floor plan, consisting of one (1) sheet and stamped received on April 3, 2015, except as modified by the following conditions.
2. The applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and/or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.
3. Prior to the issuance of a building permit, Applicant shall submit information on outdoor furniture, including but not limited to tables, chairs, and trash receptacles, for review and approval by the Planning Director.
4. All transformers, HVAC units, backflow preventors and other ground-mounted utility equipment shall be shown on the site plan and floor plan and shall be located out of public view and/or adequately screened through the use or combination of walls or fencing, berming, painting, and/or landscaping, to the satisfaction of the Planning Director.

Attachment C

5. Prior to the issuance of a building permit, Applicant shall submit a detailed on-site exterior lighting plan for review and approval by the Planning Director. Said plan shall indicate fixture design, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties. Lighting shall be directed away from adjacent residences. Buffering techniques to reduce light and glare impacts to residences shall be required. Building lighting shall be architecturally integrated with the building style, materials and colors and shall be designed to minimize glare. Show fixture locations, where applicable, on all building elevations.
6. Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction prior to approval of a building permit.
7. Operating hours of the outdoor seating area shall be limited to 7:00 AM until 10:30 PM daily, inclusive of time needed for daily setup, disassembly, and cleaning. The Planning Director shall have the authority, upon 15 days advanced written notice to Applicant, to modify the hours of operation if substantial evidence exists that the outdoor seating area is creating a disturbance to nearby residences or businesses. Applicant may appeal to the Planning Commission any modification to the hours of operation of the outdoor seating area.
8. No musical performance, whether vocal, instrumental, or electronic, or amplified sound of any kind, shall be played, broadcast, transmitted, or otherwise be allowed to emanate from the outdoor seating area.
9. Applicant shall operate the outdoor seating area in conformance to the maintenance plan described in an e-mail from Applicant dated April 3, 2015. The e-mail stated: "Patio maintenance: We have and will continue to have patio cleaned daily by our staff at opening and closing – swept only and will NEVER hose patio down." Applicant shall maintain the outdoor seating area in a high state of cleanliness, including daily removal of trash, debris, and litter from trash receptacles, seating areas, ground areas, and landscaping areas, to the satisfaction of the Planning Director. The foregoing shall also include timely replacement of broken, severely damaged, or faded outdoor furniture, upon written request of the Planning Director.
10. Applicant shall not install a hose bib at any exterior location of the restaurant without first obtaining written approval from the Planning Director. Any future proposal for hose bib installation must demonstrate how all wash water will drain directly into an adjacent landscaped area or into the sanitary sewer system (not the stormwater system), to the satisfaction of the Planning Director.

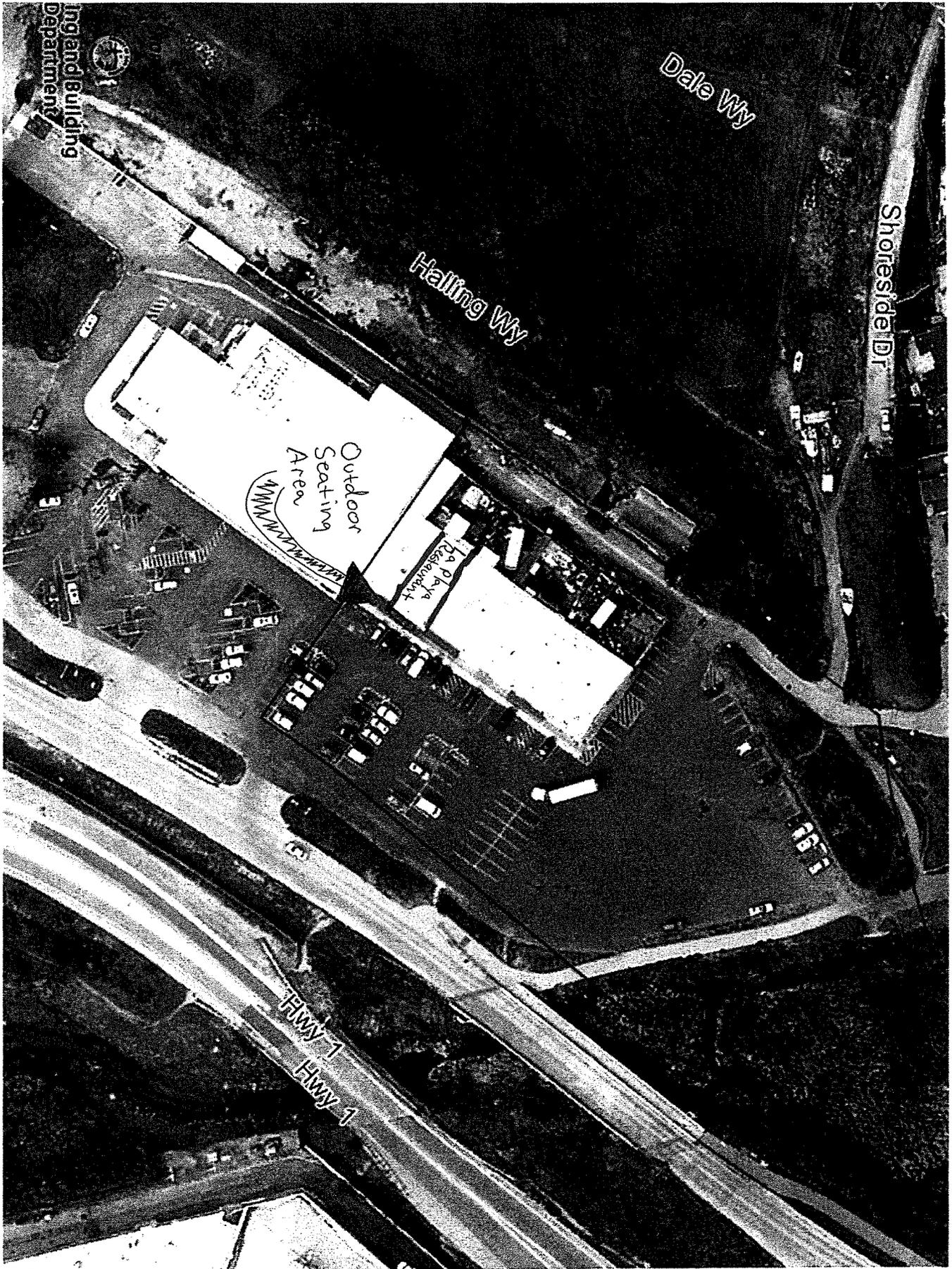
11. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.

Building Division

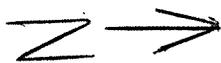
12. Applicant shall provide seating in the patio area that is accessible to persons with disabilities in accordance with local, state, and federal laws.

Engineering Division

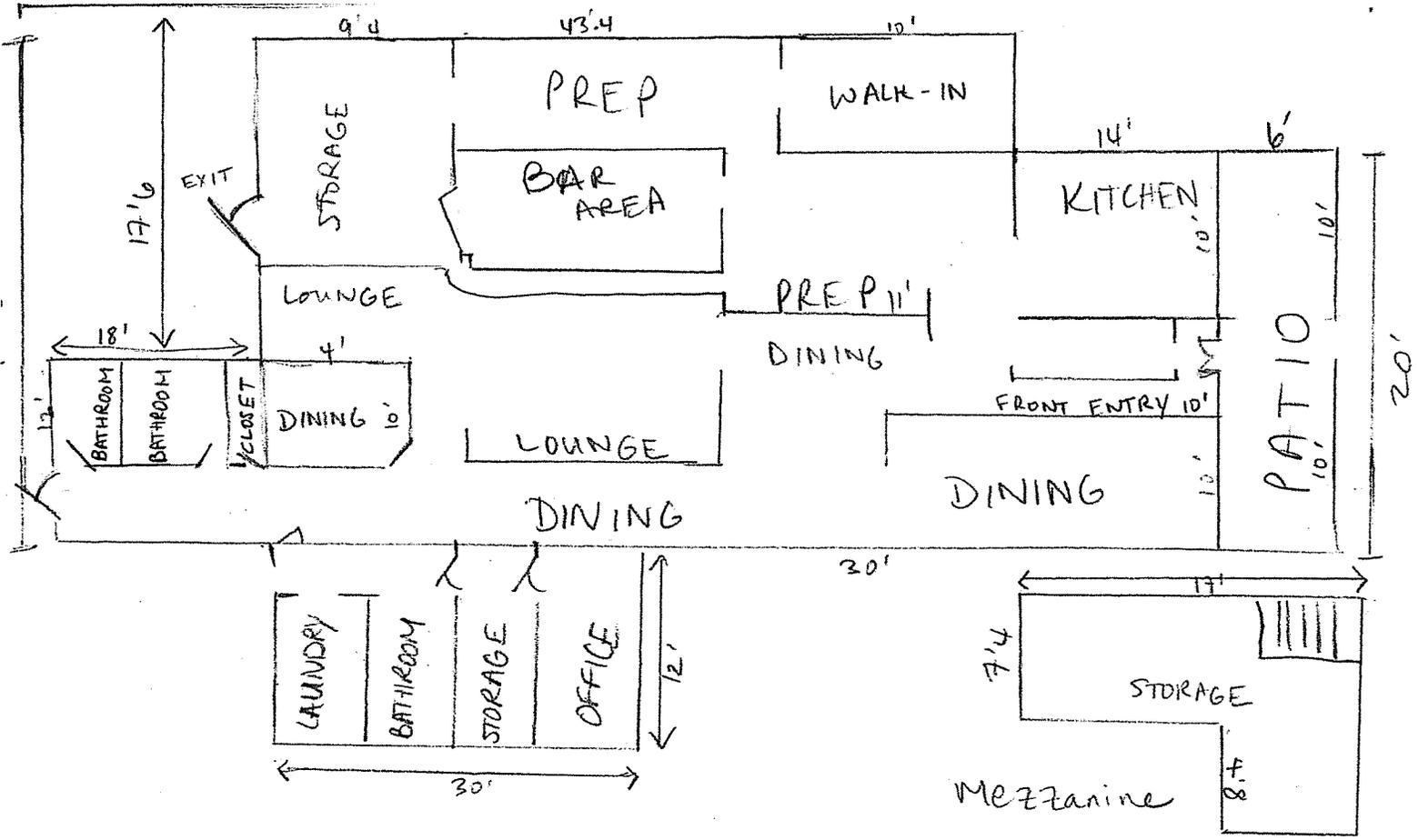
13. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented.
14. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, Applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to completion of the building permit.
15. No debris box or equipment shed is allowed in the street or sidewalk.
16. Prior to issuance of a building permit, add a note on the Site Plan that says, "Existing curb, sidewalk or street adjacent to property frontage that is damaged or displaced shall be repaired or replaced even if damage or displacement occurred prior to any work performed for this project."
17. Prior to issuance of a building permit, add a note on the Site Plan that says, "Any damage to improvements within the city right-of-way or to any private property, whether adjacent to subject property or not, that is determined by the City Engineer to have resulted from construction activities related to this project shall be repaired or replaced as directed by the City Engineer."
18. An Encroachment Permit must be obtained for all work within the City right-of-way. All proposed improvements within the City right-of-way shall be constructed per City Standards.



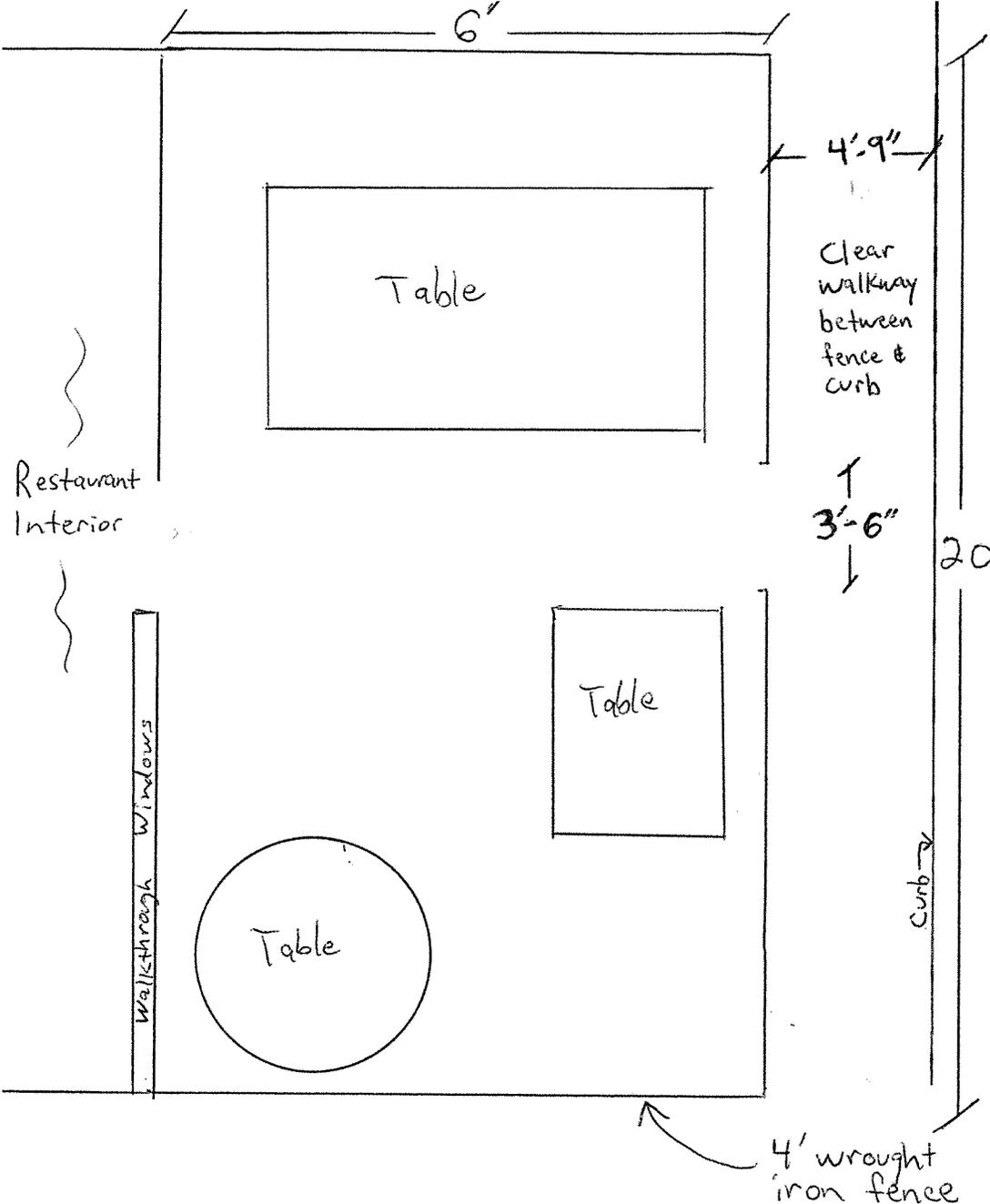
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ATTACHMENT D



RECEIVED
 MAR 05 2015
 City of Peoria



Patio
Floor
Plan
Sketch

RECEIVED
 APR 03 2015
 City of Pacifica

Patio Hours
 Match restaurant hours,
 Currently:
 M: Closed
 T-WTH-Su: 11:30AM - 9:30PM
 F-Sa: 11:30AM - 10:30PM

Tables for persons with disabilities in patio area to be provided in accordance with State and Federal law.

[Signature] 4/3/15