



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending January 18, 2019.

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**
(Non-Hearing Items)

Item 1: Guacamigos Staff Approval No. SA2018-010 (PA2018-283)
Site Address: 2607 West Coast Highway

Action: Approved

Council District 3

cc Wendy Joe, Civilian Investigator, NBPD
Sgt. Brad Miller, NBPD

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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COMMUNITY DEVELOPMENT DIRECTOR **ACTION LETTER**

Application No.	Staff Approval No. SA2018-010 (PA2018-283)
Site Location	2607 West Coast Highway Guacamigos Staff Approval
Applicant	Cory Adams of Oatman Architects representing Eric Lofgran of Kelly Investment Group (KRG JCS, LLC)
Legal Description	A portion of Lot "H" of Tract 919 being a re-subdivision of a portion of the first addition to Newport Heights as per MB4 – P94 and a re-subdivision of a portion of Lot 172, Block 1, and Lots 169-170, Block 2, Irvine's Subdivision M.P.M. I-88 records of Orange County, California, and a portion of Sections 27 and 28, T.GS, R.10W, S.B.B. & M.

On **January 18, 2019**, the Community Development Director approved Staff Approval No. SA2018-010. This approval is based on the following findings and subject to the following conditions.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** MU-W1 (Mixed-Use Water Related)
- **General Plan:** MU-W1 (Mixed-Use Water Related)
- **Coastal Land Use Plan:** MU-W (Mixed-Use Water Related)
- **Coastal Zoning District:** MU-W1 (Mixed-Use Water Related)

I. BACKGROUND

The existing restaurant building was constructed in 1968, at a time when such uses were permitted in commercial districts without a use permit.

In 1983, the restaurant was extensively remodeled. However, based on the nonconforming standards in effect at the time, no use permit was required as there was no increase in the "net public area" nor was there any other change in the operational characteristics.

On August 20, 1987, the Planning Commission approved Use Permit No. UP3288 authorizing on-site valet parking and compact parking spaces to accommodate a portion of the required parking. Condition of Approval No. 3b required a total of 57 on-site parking spaces.

On March 19, 1998, the Planning Commission approved Use Permit No. UP3627 authorizing live entertainment involving singing and dancing performances by waiters and waitresses in association with amplified music. Under this use permit, the project plans reflected a net public area of 2,725 square feet.

In fall of 2018, the existing restaurant tenant, Joe's Crab Shack, closed down and a new tenant, Guacamigos, assumed the lease and initiated dining room changes addressed in this staff approval action.

II. PROPOSED CHANGES

The applicant proposes an interior remodel and Americans with Disabilities Act (ADA) site improvements related to the parking lot layout at an existing food service establishment with a Type 47 (On-Sale General) alcohol license and late hours of operation. No floor area additions or other structural changes are proposed. The existing bar area has been modified and relocated and a new seating layout is provided throughout the dining space. The modified dining space will adhere to the approved net public area and seat limit identified on the project plans.

The proposed project would retain the existing net public area and hours of operation as authorized under UP3288 and UP3627. Refer to Table 1 summarizing the existing and renovated restaurant operational characteristics:

Table 1. Summary of Project Characteristics

	Existing	Requested
Alcohol License	Type 47 (On-Sale General – Liquor and Spirits)	Type 47 (On-Sale General – Liquor and Spirits)
Seats	190 seats	178 seats
Net Public Area	2,725 square feet	2,646 square feet
Hours	<ul style="list-style-type: none"> • 11:00 a.m. through 10:30 p.m., Monday through Thursday • 11:00 a.m. to 11:30 p.m., Friday, Saturday, and Holidays • 9:30 a.m. through 10:30 p.m., Sundays 	<ul style="list-style-type: none"> • 11:00 a.m. through 10:30 p.m., Monday through Thursday • 11:00 a.m. to 11:30 p.m., Friday, Saturday, and Holidays • 9:30 a.m. through 10:30 p.m., Sundays
Parking Rate	<ul style="list-style-type: none"> • 57 parking spaces required where 58 are provided on-site per approved site plan 	<ul style="list-style-type: none"> • 55 parking spaces provided (three spaces removed for ADA parking requirements)

The proposed tenant improvements do not change or increase the parking requirement. The proposed striping plan eliminates compact parking spaces, adds a designated valet loading area, and is designed to meet current ADA parking space size, path of travel, and accessibility requirements. Three parking spaces will be removed to accommodate the ADA

parking stalls. Zoning Code [Section 20.40.110 \(Adjustments to Off-Street Parking Requirements\) subsection A](#), authorizes the adjustment of parking spaces to accommodate required ADA improvements. The updated parking layout results in 55 on-site parking spaces where 57 parking spaces were originally required under Use Permit No. UP3288.

III. LOCAL COASTAL PROGRAM

The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related) and it is located within the MU-W1 (Mixed-Use Water Related) Coastal Zoning District. A coastal development permit is not required because the request for interior remodeling and site improvements do not intensify or expand the existing eating and drinking establishment use.

IV. FINDINGS

Pursuant to [Section 20.54.070 \(Changes to an Approved Project\)](#), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing, and waive the requirement for a new use permit application. In this case, the Community Development Director has determined that the proposed changes to the food service, eating and drinking establishment are not an expansion of the use and they are in substantial conformance with Use Permit No. UP3288 and UP3627.

Finding:

- A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. Food service uses are a conditionally permitted use in the MU-W1 (Mixed-Use Water-Related). The proposed changes to the dining room floor plan and parking lot layout are consistent with the operational characteristics approved by Use Permit No. UP3288 and UP3627.
2. As required by current regulations, three ADA parking stalls will be provided at the southwest corner of the site. The proposed 55-space parking layout closely matches the 57 space layout authorized under Use Permit No. UP3288. Zoning Code [Section 20.40.110 \(Adjustments to Off-Street Parking Requirements\) subsection A](#), authorizes the adjustment of parking spaces to accommodate required ADA improvements. A total of 55 parking spaces will be provided on-site and no modification to code required parking is necessary.
3. The proposed floor plan and modified bar area remains consistent with the operational characteristics of the previously approved dining area.

Finding:

- B. *Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The original use permits (UP3288 and UP3627) were approved under the California Environmental Quality Act Guidelines pursuant to Section 15301, Class 1 (Existing Facilities). Class 1 exempts interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The proposed project is also consistent with this exemption since it involves alterations to the interior restaurant floor plan and exterior alterations to the existing parking layout.

Finding:

- C. *Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The operational characteristics including seating (190 seats maximum), size of interior dining area (2,725 square feet of net public area maximum), and hours of operation are consistent with the existing approvals (Use Permit No. UP3288 and Use Permit No. UP3627).
2. The parking lot layout is in substantial conformance with the striping plan approved under Use Permit No. UP3288. The proposed restriping plan was able to eliminate the need for compact parking spaces as well as provide necessary ADA parking updates to the site. The loss of parking stalls results from these ADA improvements and no additional adjustment to code required parking is required as a result of these improvements in accordance with [Section 20.40.110 \(Adjustments to Off-Street Parking Requirements\) subsection A](#), of the Zoning Code.

Finding:

- D. *Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The interior renovation of the floor plan and ADA parking improvements are minor in nature and do not expand or otherwise represent a substantial change in the operational characteristics to the approved use.
2. The proposed tenant improvements do not result in additional employees. The hours of operation will remain unchanged as conditioned by Use Permit No. UP3627:
 - 11:00 a.m. through 10:30 p.m., Monday through Thursday

- 11:00 a.m. to 11:30 p.m., Friday, Saturday, and Holidays
- 9:30 a.m. through 10:30 p.m., Sundays

V. DETERMINATION

This staff approval has been reviewed and the determination has been made that the proposed changes to the existing food service are in substantial conformance with the original approval actions.

CONDITIONS

1. All applicable conditions of approval for Use Permit No. UP3288 and UP3627 shall remain in effect (Attachment Nos. CD 2 and CD 3).
2. The revised floor plans shall remain in substantial conformance with the approved site plan and floor plan found in Attachment No. CD 4.
3. A total of 55 parking spaces shall be provided on-site in accordance with [Section 20.40.110 \(Adjustments to Off-Street Parking Requirements\) subsection A.](#)
4. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.
5. Prior to the issuance of building permits for tenant improvements, the project plans shall address all work that was not previously permitted. The plans shall also illustrate compliance with State accessibility requirements of 11B. Project plans will include plumbing and electrical plans for the restaurant.
6. The Community Development Director may add to or modify conditions to this staff approval, or revoke this staff approval upon determination that the operations, which is the subject of this staff approval, causes injury, or is detrimental to the public health, safety, peace, or general welfare of the community or if the property is operated or maintained so as to constitute a public nuisance.
7. This staff approval shall expire unless exercised within twenty-four (24) months from the end of the appeal period, in accordance with [Section 20.54.060 \(Time Limits and Extensions\)](#) of the Newport Beach Municipal Code.
8. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees,

disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Guacamigos Staff Approval including, but not limited to, Staff Approval No. SA2018-010 (PA2018-283). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:



Makana Nova
Associate Planner



Seimone Jurjis, PE, CBO
Community Development Director

GR/mkn

Attachments: CD 1 Vicinity Map
CD 2 UP3288
CD 3 UP3627
CD 4 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2018-010
(PA2018-283)

2607 West Coast Highway

Attachment No. CD 2

UP3288

August 20, 1987

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ROLL CALL	INDEX
<p><u>Use Permit No. 3288 (Public Hearing)</u></p>	<p><u>Item No. 7</u></p>
<p>Request to change the operational characteristics of the existing Ancient Mariner Restaurant located in the Mariner's Mile Specific Plan Area so as to permit the use of valet parking. The proposal also includes a modification to the Zoning Code so as to permit the use of compact parking spaces for a portion of the required off-street parking.</p>	<p><u>UP3288</u></p>
<p><u>Approved</u></p>	
<p>LOCATION: A portion of Lot H, Tract 919, located at 2607 West Coast Highway, on the southerly side of West Coast Highway, between Riverside Avenue and Tustin Avenue, in the Mariner's Mile Specific Plan Area.</p>	
<p>ZONE: SP-5</p>	
<p>APPLICANT: Raygal, Inc., Irvine</p>	
<p>OWNER: Mariner's Mile Marina, Newport Beach</p>	
<p>William Laycock, Current Planning Manager, referred to the Addendum to the staff report regarding the subject use permit that was distributed prior to the subject Planning Commission meeting. Mr. Laycock referred to the following revisions to Exhibit "A" as follows: added Finding No. 8 regarding restaurant and employee parking; revised Condition No. 6 regarding self parking spaces; revised Condition No. 9 regarding employee parking spaces; added Condition No. 12 regarding handicapped parking spaces; and added Condition No. 13 regarding valet parking.</p>	
<p>The public hearing was opened in connection with this item, and Mr. Richard Vaughn, Vice President of Construction for the Ancient Mariner Restaurant appeared before the Planning Commission. In response to questions posed by Chairman Person, Mr. Vaughn replied that he had reviewed and agreed to the amended findings and conditions in Exhibit "A"; however, he made reference to Condition No. 3 in conjunction with the emergency vehicular access that had to be modified and he said that he had an appointment with the City Traffic Engineer at a later date to discuss the matter. Chairman Person reminded the applicant that there is a 21 day appeal period after the use permit has been approved by the Planning Commission.</p>	

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Motion		<p>There being no others desiring to appear and be heard, the public hearing was closed at this time.</p> <p>Motion was made to approve Use Permit No. 3288 subject to the findings and conditions in Exhibit "A", including the following revised and/or added finding and conditions as previously recommended by staff in the Addendum to the staff report, and conditions that had been revised by the Planning Commission in conjunction with Use Permit No. 1600 (Amended), the Rusty Pelican Restaurant: added Finding No. 8; revised Condition No. 6; revised Condition No. 9; added and revised Condition No. 12; and added and revised Condition No. 13.</p> <p>Commissioner Di Sano addressed revised Condition No. 9 in Use Permit No. 1600 (Amended), the Rusty Pelican Restaurant and the subject use permit, regarding restaurant employee and valet employee parking restrictions on public streets, and he questioned the enforceability of restricting parking on public streets.</p>	
All Ayes	x	<p>Motion voted on to approve Use Permit No. 3288 subject to the findings and conditions in Exhibit "A", including the aforementioned Finding No. 8; Conditions No. 6, No. 9, No. 12 and No. 13. MOTION CARRIED.</p> <p><u>FINDINGS:</u></p> <ol style="list-style-type: none"> 1. That the subject restaurant with the proposed valet parking service is consistent with the Land Use Element of the General Plan and the Local Coastal Program, Land Use Plan, and is compatible with surrounding land uses. 2. That the project will not have any significant environmental impact. 3. That the proposed percentage of compact parking spaces is consistent with that approved in conjunction with similar restaurant projects. 4. That there is adequate space within the on-site parking area to operate a valet parking service. 5. That the requirement to relocate or alter the existing sign adjacent to West Coast Highway, so as to provide required sight distance for the easterly driveway, is justified inasmuch as the 	

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additional on-site parking activity that will result from the applicant's proposal will increase the potential for automobile accidents to occur on West Coast Highway due to improper sight distance.

6. That the approval of the proposed modification to the Zoning Code to permit the use of additional compact parking spaces will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed modification is consistent with the legislative intent of Title 20 of the Municipal Code.
7. That the approval of Use Permit No. 3288 will not, under the circumstances of the case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City.
8. That the existing on-street parking in the Mariner's Mile area is currently over utilized and that the parking of restaurant and valet employees on public streets will further impact parking and traffic circulation in the area.

CONDITIONS:

1. That all improvements be constructed as required by ordinance and the Public Works Department.
2. That a standard use permit agreement and accompanying surety be provided in order to guarantee satisfactory completion of the public improvements, if it is desired to obtain a building permit prior to completion of the public improvements.
3. That the on-site parking, vehicular circulation and pedestrian circulation systems be subject to further review by the Traffic Engineer and that the on-site parking plan shall be redesigned as follows, unless otherwise approved by the City Traffic Engineer:

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	<p>a. That the light standards located within the parking area be altered or relocated so that they extend no more than a 1 foot by 1 foot area in the corner of a parking space.</p> <p>b. That should the approved parking plan result in any excess parking (more than 57 spaces), that the two parking spaces located adjacent to the entrance to the parking area and West Coast highway be eliminated so as to prevent vehicles from backing into the public sidewalk.</p> <p>c. That all self parking spaces shall be a minimum of 9 feet wide.</p> <p>d. That the parking design be modified so as to insure that the minimum required turning radius for emergency vehicles is provided.</p> <p>4. That the existing drive aprons be reconstructed using a flared apron per City Standard 166-L and that the deteriorated sections of sidewalk be reconstructed along the West Coast Highway frontage under an encroachment permit issued by the Public Works Department and the California Department of Transportation.</p> <p>5. That the existing sign and landscape planter located adjacent to the West Coast Highway right-of-way be altered so as to comply with the sight distance requirement per City Standard 110-L, unless otherwise approved by the Public Works Department. Said alterations shall be completed prior to the implementation of the subject use permit.</p> <p>6. That a minimum of five standard size parking spaces shall be designated for self parking and shall be identified in a manner acceptable to the City Traffic Engineer.</p> <p>7. That a maximum of 25 percent compact parking shall be permitted.</p> <p>8. That the valet station shall be located in front of the entrance to the restaurant so as to provide maximum on-site stacking of automobiles.</p>	

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9. That restaurant employees and valet employees on duty shall park their automobiles on-site, in the Municipal parking lot or on other authorized off-site locations. Said employees shall not park their vehicles on any public street. Said employees shall also not park their vehicles on private property not authorized for said use.

10. That the Planning Commission may add or modify conditions of approval to this use permit, or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

11. That this use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090 A of the Newport Beach Municipal Code.

12. That a minimum of two handicapped parking spaces shall be designated solely for handicapped self parking and shall be identified in a manner acceptable to the City Traffic Engineer. Said parking spaces shall be accessible to the handicapped at all times. Both the handicapped sign on the pavement and the handicapped sign on a post shall be required for each handicapped parking space.

13. That valets shall park vehicles of restaurant patrons only on the restaurant site, and shall not for any reason exit or enter any valet vehicles onto West Coast Highway.

* * *

Attachment No. CD 3

UP3627

project site.

4. That should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing company.

Selected City standards and policies that are applicable to the project:

1. That the project shall be maintained in substantial conformance with the approved site plan, floor plan and elevations.
2. That the project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. That the Planning Commission may add to or modify conditions of approval to this use permit or recommend to the City Council the revocation of this use permit, upon a determination that the operation which is the subject of this use permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
4. That the project will comply with the provisions of Chapter 14.30 of the Newport Beach Municipal Code for commercial kitchen grease disposal.
5. That approval from the County Health Department shall be obtained prior to the issuance of the building permit.
6. That the use permit shall expire unless exercised within 24 months from the effective date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code.

SUBJECT:

- Shelton Residence (Robert Shelton, applicant)**
- **General Plan Amendment 98-1 (D)**
 - **Amendment 870**
 - **LCP Amendment 49**

**Item No. 5
GPA 98-1D
A No. 870
LCP No. 49**

Amendments to the General Plan and Local Coastal Program Land Use Plan and a prezone amendment which are necessary to annex a portion of a single family residential parcel that is located outside of the city limits.

Approved

Public Comment was opened and closed.

Motion was made by Commissioner Adams to adopt Resolution No. 1462 recommending approval of an amendment to the Land Use Element of the Newport Beach General Plan and the Local Coastal Program Land Use Plan [GPA 98-1(D)]/LCP No. 49 and Resolution No. 1463 recommending approval of Amendment No. 870 to the City Council.

Without objection and by acclamation, MOTION PASSED

SUBJECT: Joe's Crab Shack (Crab Addison, Inc., applicant)
2607 West Coast Highway
• Use Permit No. 3627

Item No. 6
UP No. 3627

A request to allow a change in the operational characteristics of an existing restaurant to allow live entertainment involving singing and dancing performances by waiters and waitresses with patron participation in association with amplified sound and music. The restaurant use is legally non-conforming since it was established prior to the requirement for a use permit.

Approved

Ms. Temple clarified that the staff's determination in regards to needing a use permit to allow the live entertainment was based on the full scope - amplified sound, singing and dancing, and encouraging patron participation by the waiters and waitresses.

Don Atkinson, 1516 East Ocean Front attorney for Landry's, the operator of Joe's Crab Shack, spoke on behalf of this application. He noted the family history on the ownership of this site. He commented that the Crab Shack is a family restaurant that is used by locals. Continuing, the enthusiasm of the waiters and waitresses creates a terrific amount of noise. Therefore, the restaurant is attempting to resolve that issue with the windows being opened and closed as needed. Just because there was noise in the past, does not mean there will be in the future. He noted further:

- Hours of operation authorized by the City be one half hour greater than posted at the door – someone who races across town can be served and thereby bad public relations is avoided.
- Brunch time on Sunday be 9:30 a.m.
- Use of megaphones
- Operation of windows
- Signs – opportunity for Modifications Committee determination
- gas odor on occasion when windows are opened – have hired an engineer
- asked that employees be allowed to park off site in the Municipal Parking Lot
- a condition that there be a six month review during which the

neighbors concerns are addressed

Commissioner Ashley clarified the closing hours requested as 10:30 p.m. Sunday through Thursday, and 11:30 p.m. Friday and Saturday. The applicant is requesting this as a matter of public relations.

Commissioner Selich asked about the importance of having the garage door windows opened. Mr. Atkinson responded that the operator believes that the reason this operation has been successful is the windows. They are afraid if the windows are closed or taken away, it will go back to the revenues received during the old Landry days which did not make it a paying operation. The glass is not double paned, to his knowledge.

Tom Collins, operator of 2607 West Coast Highway, apologized to the residents of Lido Island for the early noise pollution when the restaurant was first opened. In answer to Commission inquiry, he noted that if westerly winds are blowing strong the windows are generally closed.

Chairperson Kranzley asked the applicant about the letter he received from the City dated July 29th addressing some of the issues. He asked when the battery operated bullhorns, sirens, etc. ceased to be used to which he was answered in early August.

Ms. Temple noted that after the initial correspondence, staff had an in department meeting with the owner and general manager on August 5th where issues and potential solutions related to the live entertainment, sound and sign program were discussed. At that time, the applicant was in disagreement with staff that the activities going on inside the restaurant did in fact constitute live entertainment. It was suggested that they should look at ways to ameliorate the noise but most particularly they needed to file the appropriate permits to authorize live entertainment on the premises. Until staff received a number of phone calls and correspondence in late September and early November, there was not a lot of interaction with the applicant or property owner.

Public Comment was opened.

Bill Kline, 101 Via Lido Soud - complimented staff on their thorough assessment of the issues. He noted that Joe's has been rather arrogant in their dealings with the community by disregarding the regulations, the permit process and out of conformance and compliance with many of laws which their competitors follow and prosper under. They disregard their neighbors when called about the noise levels and being a nuisance and were unresponsive. When the restaurant was finally required to close the windows and cease use of bullhorns, etc. the noise level came down remarkably, however, there are still noise spikes. Leaving the windows opened would lead to continued complaints by the community and

continued abuse of the regulations. Therefore the request by staff to close the windows permanently is entirely reasonable and fair. That is the only way the restaurant can meet the requirements of code and the intent of the code will be enforceable. Their history does not speak to good will to the community and their attitude does not require nor demand any special considerations. He concluded stating that the windows should be closed permanently and is not supportive of a trial operation as requested by the attorney.

The following people spoke in opposition for similar reasons stated above:

Martin Weinberg, 100 Via Lido Nord – time certain for windows to be replaced, no sound amplification is needed, no financial suffering

Don Gregory, 601 Via Lido Nord – residents have a right to peace of mind and the applicant has the right to do business, define live entertainment and enforce code

Sheila Baker, Via Lido Nord – do not care what is done inside but close the windows so the residents do not hear it, no complaint about the entertainment but the complaint is that residents hear the entertainment which is obnoxious and offensive

Robert Baker, Via Lido Nord – set a terrible precedence if this is allowed to continue as is, restaurant has been cited at least eight times, opening windows has very little bearing on business

Elaine Weinberg, 100 Via Lido Nord – every surface in restaurant is hard, no windows on other restaurants on Mariner's Mile are opened

Speaking in support of this application:

Tamara Kromm, 312 Amethyst employee of Crab Shack, spoke in favor of this application stating that the atmosphere is a family restaurant and the waiters and waitresses respond to the children to make it a fun experience. The families are the ones who want to see the entertainment.

John Jordan, 18318 Patterson Lane, Huntington Beach spoke for this application stating that as manager who closes the restaurant six nights a week disagrees with some comments made. He stated that the windows are closed by sunset, 69% of clientele are residents, has been cited once for dancing on the tables but that was done by children and has not been cited any other time. He asked that the Commission vote in favor of this application.

At Commission inquiry, Mr. Jordan said he would agree to having entertainment restricted until 6:00 p.m. or restricted to having windows permanently closed and allowed to have entertainment any time.

Public Comment was closed.

Staff affirmed that George's Camelot has windows that are opened on the bay and, there are glass panels at Josh Slocum's patio that can be opened a few inches and that there are sliding doors on the third floor of John Dominis. However, the preponderance of restaurants have fixed windows.

Commissioner Ridgeway agrees with the staff report and that the restaurant can be run successfully with the entertainment but recommends that windows be permanently closed to keep the noise on the premises.

Chairperson Kranzley, agreeing with what was said, stated he spoke with the president of Lido Isle Community Association and talked about what happens at Joe's Crab Shack. The president commented that they could do whatever they want, let them have fun, we just don't want to hear it on Lido Island. In speaking with the representative of the applicant, was told that the applicant was unwilling to go along with the condition to have the windows closed. Concluding, he noted that he is in favor of the conditions in the staff report.

Commissioner Gifford, noted that the applicant appears to have disregarded a number of regulations of the City, including the Sign Ordinance and has not made an effort to be cooperative with the community. The point is if you are not visiting the restaurant, you should not have to live the experience. There is no justification for asking the residents of the community to be dependent on the good will of this applicant who has not demonstrated a great deal of good faith. **Motion** was made to approve Use Permit No. 3627 subject to the findings and conditions in Exhibit A as modified.

Mr. Atkinson, at Commission inquiry, stated that 90 days should be enough time to address the window issues. He asked about the employees parking off site and the additional time of operation.

Commission discussion noted that:

- 90 days for window concern to be addressed with the understanding that the windows be permanently closed during that period of time
- employees should be allowed to park off site and suggest that condition number 7 of the Standard City Requirements be deleted
- the hours of operation as requested by the applicant be included

Ms. Temple stated that altering condition number 7 of the Standard City Requirements could be done. In terms of the closing hour, staff has no objection to this request as it is less than most of the restaurants in the vicinity, and Sunday brunch is quite common.

Public Comment was reopened.

**City of Newport Beach
Planning Commission Minutes
March 19, 1998**

INDEX

At Commission inquiry, Bill Kline representing the speakers, agreed that with the windows being fixed, the additional hours are reasonable.

Commissioner Gifford noted that the sign issue is an existing sign code that needs to be addressed and brought into compliance. The verbiage of Condition No. 9 shall be,.....That the applicant shall comply with the Sign Code within 30 days.

Motion now reads: . to approve Use Permit No. 3627 subject to the findings and conditions in Exhibit A with the following:

- Delete Standard City Requirement Number 7
- Extend hours of operation by 30 minutes and if on Sundays decide to open for brunch it would be starting at 9:30 a.m.
- Condition Number 9 now reads: "That the applicant shall comply with the Sign Code within 30 days."
- 90 days for window concern to be addressed with the understanding that the windows be permanently closed during that period of time

Without objection and by acclamation, MOTION PASSED - All Ayes

Findings:

1. That the Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Recreational Marine Commercial" uses. Restaurants are a permitted use within this designation.
2. That this project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. That the proposal involves no physical improvements which will conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
4. The approval of Use Permit No. 3627 to allow the business to allow live entertainment and dancing will not, under the circumstances of the case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City, for the following reasons:
 - The restaurant use is compatible with the surrounding

commercial and residential uses since restaurant uses are typically allowed in commercial districts and conditions of approval and limited hours of operation have been included which should prevent problems associated with noise generated by the facility.

- The control of noise can be achieved by the limitations on the performance of live entertainment and dancing, by requiring the closing of all doors and windows during the performances, limiting the hours of entertainment, limiting the use of the speaker system and compliance with the provisions of the Municipal Code, Community Noise Ordinance.

Conditions:

1. That development shall be in substantial conformance with the approved site plan, floor plan and elevations, except as noted below.
2. That all applicable previous conditions of approval of Use Permit No. 3288 shall remain in force (dated August 20, 1987).
3. That the hours of operation of the restaurant shall be limited to between 11:00 a.m. and ~~10:00~~ 10:30 p.m. Sunday through Thursday and 11:00 a.m. to ~~11:00~~ 11:30 p.m. Friday, Saturday and Holidays. *That in the event this applicant chooses, he may open for Sunday Brunch at 9:30 a.m.* Any increase in the hours of operation shall be subject to the approval of an amendment to this Use Permit.
4. That the performance of live entertainment shall be limited to between the hours of 11:00 a.m. and 10:00 p.m., daily.
5. That the live entertainment and dancing shall be limited to waiter/waitress performances and patron participation in association with pre-recorded music only. The sound from these activities shall be confined to the interior of the restaurant and all doors and windows of the establishment shall remain closed during all performances, except when persons enter and leave by the main entrance of the facility.
6. That the use of bull horns, megaphones, sirens and other sound amplification equipment which does not provide volume control capabilities shall be prohibited.
7. That the large openable windows which face the bay shall be removed and replaced with fixed windows using an acoustically

engineered laminated glass product or dual or triple pane windows specifically designed to reduce sound transmission. The specific windows installed shall be as recommended by a noise engineer.

8. That the installation of a speaker system for music or paging of patrons outside the restaurant is prohibited.
9. ~~That all signs shall conform to the provisions of the Municipal Code. That 4 of the 6 wall signs on the Coast Highway frontage of the building be removed with 30 days of this approval. That the applicant shall comply with the Sign Code within 30 days.~~
10. *That the applicant has ninety days to address concern of the windows during which time the windows are to remain permanently closed.*

Standard City Requirements:

1. That the operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. That is, the sound shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned Property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

2. That the applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the live entertainment to insure compliance with these conditions, if required by the Planning Director.
3. That a Live Entertainment Permit and Café Dance Permit issued by the Revenue Division, in accordance with procedures set forth in Chapter 5 of the Municipal Code, shall be required to allow live entertainment and dancing as incidental and accessory to the

-
- primary use of the facility as a restaurant.
4. That regular food service from the full lunch/dinner menu shall be made available at all times the facility is open.
 5. That the approval is for the establishment of a restaurant type facility as defined by Title 20 of the Municipal Code, with the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use during the specified restaurant hours of operation.
 6. That no temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the food establishment, unless specifically permitted. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
 - ~~7.~~ That all employees shall park on-site.
 8. 7. That all mechanical equipment shall be screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
 - 9 8. That all trash shall be stored within the building or within dumpsters stored in the trash enclosure, or otherwise screened from view of neighboring properties except when placed for pick-up by refuse collection agencies. That the trash dumpsters shall be fully enclosed and the top shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
 - ~~10.~~ 9. That the applicant shall maintain the trash dumpsters or receptacles so as to control odors which may include the provision of fully self contained dumpsters or may include periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department.
 - ~~11.~~ 10. That the operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
 - ~~12.~~ 11. That should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the property owner or the leasing

company.

13.12. That the Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

14.13. That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code.

SUBJECT:

Slack Residence, 3729 Ocean Blvd.

Brion S. Jeannette, applicant

- **Variance No. 1218**
- **the Acceptance of a Negative Declaration**

**Item No. 7
Variance No. 1218
Negative Declaration**

Request for a Variance to exceed the top of curb height limitation by 9 feet. The top of curb height limitation is for structures on the bluff side of Ocean Blvd. in Corona Del Mar. Also included is a request to construct the garage and a portion of the house 10 feet into the required 10 foot front yard setback along Ocean Blvd.

Approved

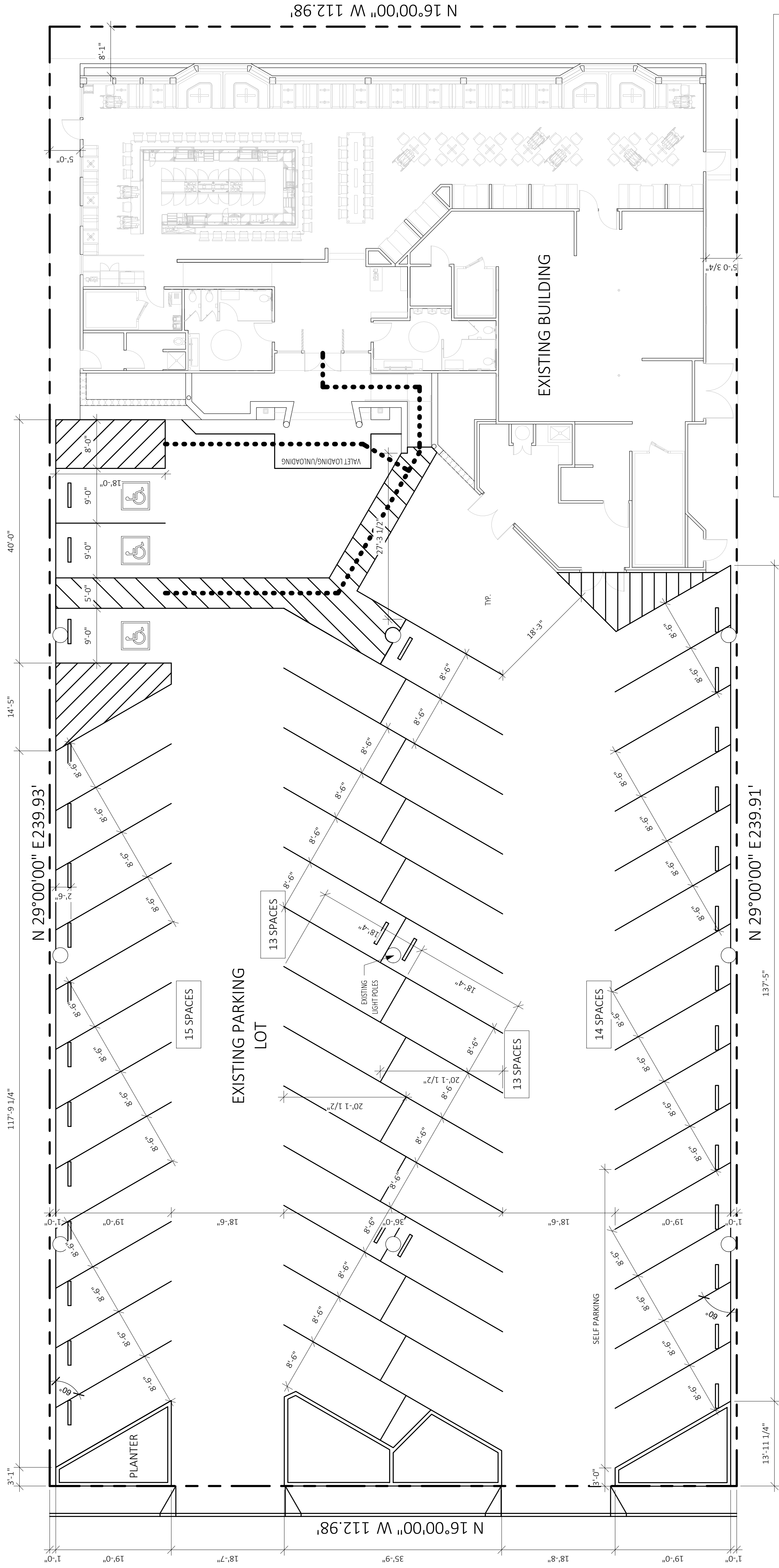
Ms. Temple noted that the Public Works Standards regarding driveway approaches. A typical design standard is a 15% grade and this particular project as proposed is with a down grade of less than 10%. The applicant's architect has looked at lowering the garage structure.

Public Comment was opened.

Brian Jeannette, architect spoke on behalf of this project. He thanked the staff for the work on the report. The variance is requested to maintain in concept the existing entry and garages. There is a full loss of view over the site by the existing landscape, entry and garage. The intent is to remove the old building and build a new one that will open 50% to create a view. The existing building was built in 1947 with front yard setbacks less than 10 feet. One of the issues of the new design is the driveway slope. Referencing the exhibit, Mr. Jeannette pointed out a slope of 13% that is much safer which reduces the building by 3 feet. With that and a redesign of the roof height, the proposed new building is down four feet. The client is asking to build a new home, not just to remodel. This new home will be of benefit to the community. The findings for the variance are there as other buildings along Ocean Boulevard have been granted

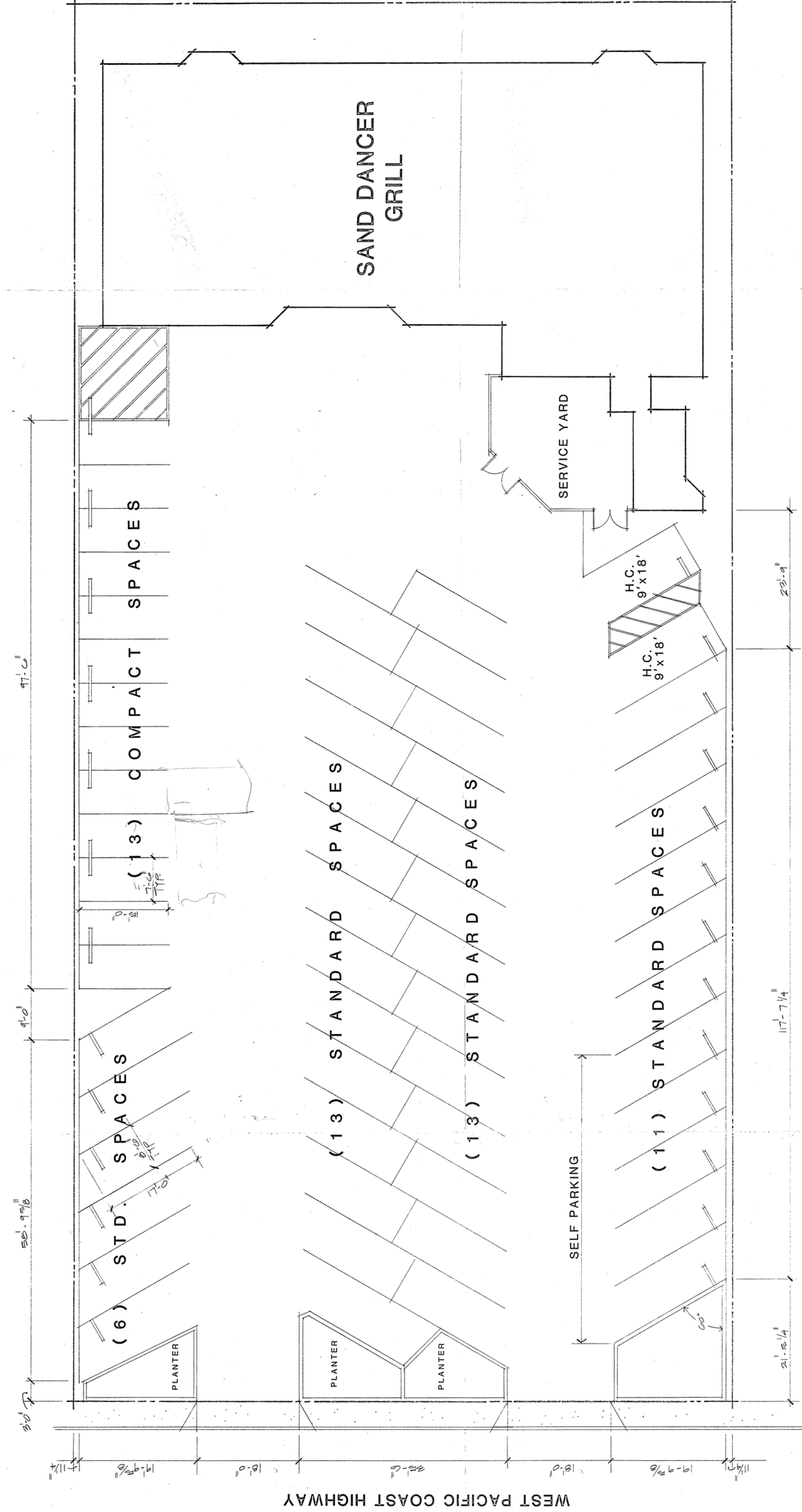
Attachment No. CD 4

Project Plans



PARKING PROVIDED: 58 PER PREVIOUSLY APPROVED SITE PLAN
 55 SPACES
 ACCESSIBLE PARKING REQUIRED: 3 SPACES
 ACCESSIBLE PARKING PROVIDED: 3 SPACES

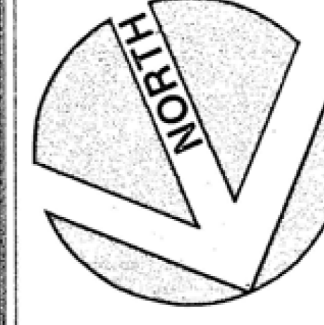
2 PROPOSED SITE PLAN
1"=10'-0"



STANDARD: 43 SPACES
 COMPACT: 13 SPACES
 H.C.: 2 SPACES
 TOTAL: 58 SPACES

✓ 7-10-19
 3 Spaces
 Traffic Emph

SCALE 1/8"=1'-0"



1 APPROVED SITE PLAN
1/8"=10'-0"

GUACAMIGOS RESTAURANT

2607 W. COAST HWY.
 NEWPORT BEACH, CA 92663
 APN# 049-150-27

STAFF APPROVAL

Project Number: 2018004

THESE DRAWINGS ARE THE PROPERTY OF OATMAN ARCHITECTS AND SHALL NOT BE MODIFIED OR USED ON ANY OTHER PROJECT OR SITE WITHOUT WRITTEN PERMISSION.

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NOTE: THE ORIGINAL SIZE OF THIS DRAWING SHEET IS 36"x48"

SITE PLAN
COMPARISON

A1.2

412 31st Street Newport Beach CA 92663
 P (949) 675-1755 • F (949) 675-1758
 oatmanarchitects.com

PROJECT TEAM:
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 E-MAIL: cadams@oatmanarchitects.com
 PRINCIPAL: HOMER DATMAN
 PROJECT DIRECTOR: CORY ADAMS
 PROJECT DESIGNER: BEHTASH AZAR



LICENCE STAMP:
 SUBMITTAL: DATE DESCRIPTION

12/19/18 STAFF APPROVAL

REVISION:
 NO. DATE DESCRIPTION

CLIENT:
 KRG JCS, LLC



OATMAN ARCHITECTS INC.
architecture + planning

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PRINCIPAL: HOMER OATMAN
PROJECT DIRECTOR: CORY ADAMS
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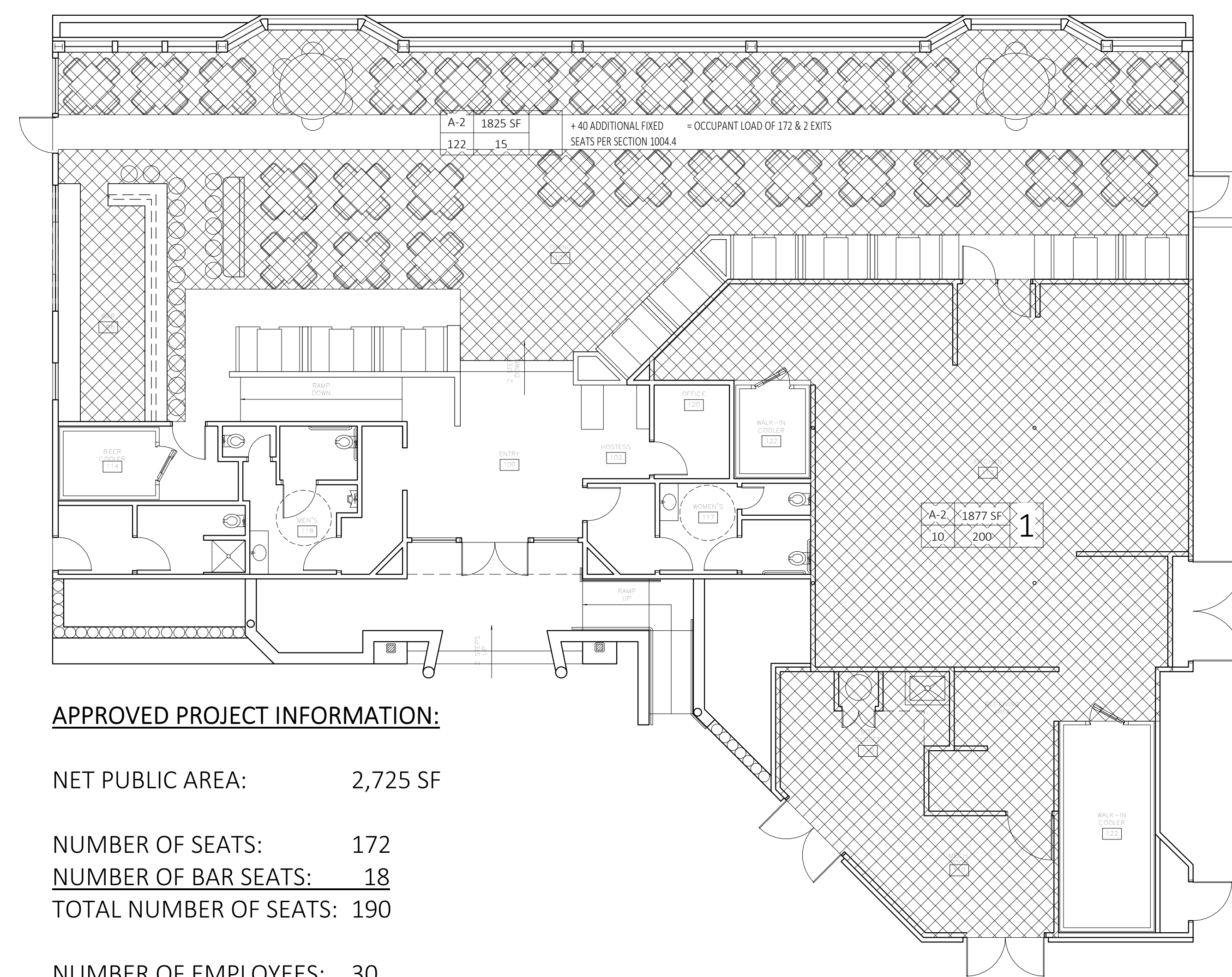
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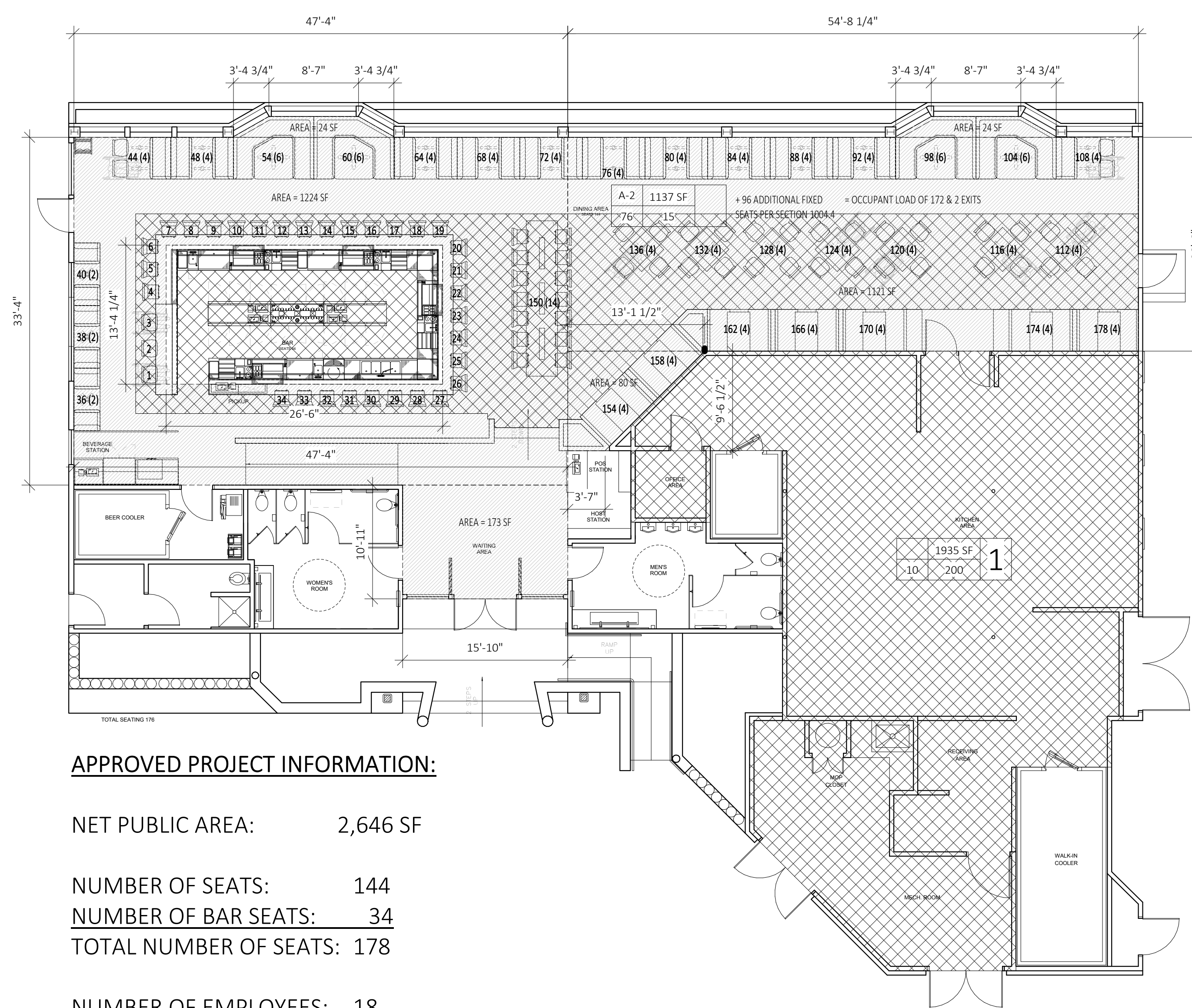
NOTE: THE ORIGINAL SIZE OF THIS DRAWING SHEET IS: 36"x48"

FLOOR PLAN
COMPARISON

A1.1



1 APPROVED FLOOR PLAN
1/8" = 1'-0"



2 AS BUILT FLOOR PLAN
1/8" = 1'-0"

SCOPE OF IMPROVEMENTS

- RELOCATE BAR AREA
- NEW FIXED SEATING LAYOUT
- REVISED ELECTRICAL LAYOUT
- NEW FINISHES:
 - NEW BLACK WALNUT BAR TOP
 - NEW FRP FOR INSIDE THE BAR AREA.
 - SPANISH STYLE CERAMIC TILE ON THE FACE OF THE BAR.
 - NEW WHITE "SUBWAY" STYLE TILE FOR RESTROOM WALLS.
 - NEW "PLANK" STYLE CERAMIC TILE FLOORING IN THE ENTRYWAY AND RESTROOMS.
 - EPOXY BASED CONCRETE FLOOR IN THE MAIN DINING AND BAR AREA.
 - WOOD PLANT DECORATIVE WALL.
 - NEW STEEL ADA COMPLIANT RAILING.