

Law Offices  
**GAZZERA, O'GRADY & STEVENS**  
A PROFESSIONAL ASSOCIATION  
1134 WEST EL CAMINO REAL  
MOUNTAIN VIEW, CALIFORNIA 94040

Attachment A

STEPHEN GAZZERA, JR.  
BRIAN J. O'GRADY  
MICHAEL K. STEVENS  
MKSTEVENS.LAW1@AOL.COM

TELEPHONES  
(650) 968-9612  
(408) 286-1723  
FAX (650) 968-1627

ROBERT J. SMITH (RETIRED)  
J. A. LONDON (RETIRED)  
JOHN FILIPPI (RETIRED)

April 17, 2003

**FAX TRANSMISSION (650) 654-3416**  
**ORIGINAL TO FOLLOW**

Frederick Lyon  
Attorney at Law  
P.O. Box 159  
Belmont, CA 94002

RE: Barbara's Fish Trap

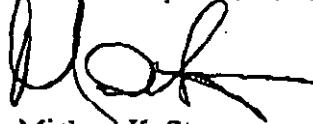
Dear Mr. Lyon:

This will confirm receipt of your letter of April 22 (?), 2003 wherein you decline to accept my client's offer to resolve this matter by purchase of the Parcels and Easements in question. I have requested that JAMS (San Jose) send us a copy of the Panelist list and I will advise as soon as possible as to who would be agreeable for mediating this matter. I have also responded to a call from Mary Rafteri (ph) from County Counsel's Office indicating I would not be objecting to a 30-day Continuance of the Hearing before the Board of Supervisors on our Application for a Development Permit.

Therefore, I anticipate we will need to get the Mediation finalized on or before June 5, 2003. I will provide you the list of Mediators and my proposals from that list as soon as I receive it from JAMS. If you have any comments or questions, please do not hesitate to call.

Sincerely,

GAZZERA, O'GRADY & STEVENS



Michael K. Stevens

MKS/klo

cc: Barbara Walsh  
Mary Rafteri (Fax) 650-363-4034

Law Offices

**GAZZERA, O'GRADY & STEVENS**A PROFESSIONAL ASSOCIATION  
1134 WEST EL CAMINO REAL  
MOUNTAIN VIEW, CALIFORNIA 94040TELEPHONES  
(650) 968-9512  
(408) 286-1723  
FAX (650) 968-6227STEPHEN GAZZERA, JR.  
ERIAN J. O'GRADY  
MICHAEL K. STEVENSROBERT J. SMITH (RETIRED)  
J. A. LONDON (RETIRED)  
JOHN FILIPPI (RETIRED)

April 10, 2003

**VIA FACSIMILE (650) 363-4034****ORIGINAL TO FOLLOW**Michael F. Murphy, Chief Deputy  
: Counsel Hall of Justice-Sixth Floor  
400 County Center  
Redwood City, CA 94063-1662**RE: Barbarba's Fish Trap Restaurant**

Dear Mr. Murphy:

Please be advised that I represent Barbara's Fish Trap Restaurant with regard to the issues that have arisen with her neighbor, Keet Nerhan. Your letter of April 1, 2003, was provided to me by Mr. Pedley on April 9, 2003. I also have Mr. Lyon's response of April 7, 2003, which I believe adequately sets forth the history of the matter, the sole exception being that I have responded to his letter of March 27, 2003 by my own letter of April 9, 2003 regarding settlement of this matter. The delay between March 27 and April 9 was occasioned by the fact that I was in a mediation arbitration on the date it was sent and did not actually receive his March 27 fax until my return to the office on Monday, March 31<sup>st</sup>, 2003. I forwarded it to my client for consideration and also did my own investigation of some of the issues between the parties, specifically relating to the parking easement obtained by Barbara Walsh from the San Mateo County Harbor District over which Mr. Nerhan now claims rights. After a review with Ms. Walsh and based upon my own research and investigation on the matter, I forwarded Mr. Lyon a very detailed, point-by-point response to each of the issues raised and made him an offer to resolve the matter in its entirety. I anticipate that we will have further discussions and I assume that, should those discussions be unsuccessful, a mediator can be contacted to assist in resolution of these issues.

I should also note that my initial telephone discussion with Mr. Lyon was relatively lengthy and each of the issues between the parties was explored at that time as well. Therefore, my more recent correspondence is both a confirmation of positions previously discussed and a recitation of other information more recently obtained. I am hopeful that the level of detail articulated to Mr. Lyon at this time will assist in resolving the matter between these parties.

Finally, I should note that my letter to Mr. Lyon of March 21<sup>st</sup> specifically advised that, although we were discussing settlement, unless we could reach an early resolution of the matter, I did want to choose a mediator and proceed to mediation prior to the next meeting before the

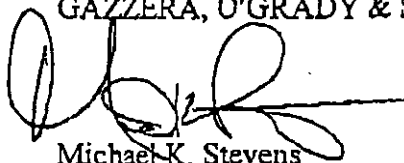
Michael Murphy  
April 10, 2003  
Page 2

Board of Supervisors. Whether or not that can be accomplished is unknown, however, perhaps one further continuance of the hearing on my client's application could be arranged if necessary.

I will advise as soon as Mr. Lyon and I are able to further discuss my most recent letter. If you have any further comments or questions, please do not hesitate to call.

Sincerely,

GAZZERA, O'GRADY & STEVENS

A handwritten signature in black ink, appearing to read "Michael K. Stevens", with a long horizontal flourish extending to the right.

Michael K. Stevens

MKS/klo

cc: Frederick Lyon  
Barbara Walsh

TELEPHONE: 650-595-8183

FREDERICK LYON  
ATTORNEY AT LAW  
P.O. BOX 159  
BELMONT, CA 94002

Attachment B

FAX: 650-595-8183  
E-MAIL: [FREDLYON@ATT.NET](mailto:FREDLYON@ATT.NET)

April 7, 2003

Michael F. Murphy, Esq.  
Chief Deputy, County Counsel  
County Counsel Office - 5th Floor  
400 County Center  
Redwood City, 94063-1662

Re: Barbara's Fish Trap Appeal

Dear Mr. Murphy:

I have received your letter of April 1, 2003 regarding the status of mediation in the above referenced matter. I feel that it is appropriate to bring you up to date on our progress or lack thereof. My letter of March 6 to Barbara Walsh was returned to me for proper address. The letter was re-addressed and re-sent on March 13 with copies to your office.

On March 14, Michael K. Stevens, Esq. left a telephone message for me indicating his representation of Barbara's Fish Trap and requesting a return call. I returned his call that day and he called me back from his cell the following morning. Mr. Stevens requested that I ascertain what, if anything, my client would accept in satisfaction of rights which he has in this matter. He proposed that we might eliminate the need for mediation if an agreement could be reached.

I conveyed this information to my client the following day. My client then requested documents from the County regarding permits obtained by Barbara's Fish Trap for the storage shed which has been located on his property. This information was faxed to my client on March 25 by the county. On March 27, I sent a letter to Mr. Stevens outlining Mr. Nerhan's proposal which included rent and conditions of removal of personal property. To date we have received no response from this letter which was both faxed and mailed. (In the meantime, I received a follow-up letter on about March 21, from Mr. Stevens requesting our proposal as soon as possible.)

My letter to Mr. Stevens also mentioned that if our proposal or a reasonable variation thereof could not be agreed to, we proposed mediation by a JAMS/Endispute mediator. I am concerned, however, that time may no longer permit this option.

Yours truly,



Frederick Lyon

cc: Michael K. Stevens, Esq.



**COUNTY COUNSEL**

THOMAS F. CASEY III

**CHIEF DEPUTIES**

CHRISTINE E. MOTLEY

MICHAEL P. MURPHY

**COUNTY COUNSEL**

**COUNTY OF SAN MATEO**

HALL OF JUSTICE AND RECORDS • 6<sup>TH</sup> FLOOR

400 COUNTY CENTER • REDWOOD CITY, CA 94063-1862

TELEPHONE: (650) 363-4250 • FACSIMILE: (650) 363-4034

**DEPUTIES**

MARY M. ASH

JOHN C. BEIERS

DEBORAH PENNY BENNETT

BRENDA B. CARLSON

PETER K. FINCK

PORTOR GOLTZ

LEIGH HERMAN

LISA SOTO HERNANDEZ

JUDITH A. HOLIBER

KIMBERLY A. MARLOW

MIGUEL MARQUEZ

JOHN D. NIBSELIN

PAUL A. OKADA

MARY K. RAFTERY

MIRUNI SOOSAIPILLAI

WILLIAM E. SMITH

V. RAYMOND SWOPE III

LEE A. THOMPSON

CAROL L. WOODWARD

April 1, 2003

Ms. Barbara Walsh  
Barbara's Fishtrap  
381 Capistrano Rd.  
Half Moon Bay, CA 94019

Mr. Richard Pedley  
Pedley & Joy Architecture, Inc.  
25599 Fern Hill Drive  
Los Altos Hills, CA 94024-6338

Mr. Frederick Lyon, Esq.  
Attorney at Law  
P.O. Box 159  
Belmont, CA 94002

Re: Barbara's Fish Trap

Dear Ms. Walsh, Mr. Pedley and Mr. Lyon:

As you are all aware, the Board of Supervisors continued the appeal of this matter to provide the opportunity for the parties to mediate their dispute. The Board directed this office to assist in facilitating a mediation if the parties could not do so.

As of this date, the only effort made to convene a mediation, that we are aware of, was made by Mr. Lyon in letters dated March 6, 2003, to Mr. Pedley and Ms. Walsh. We are not aware of any response to Mr. Lyon's request.

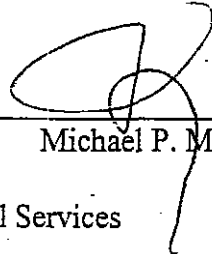
April 1, 2003  
Page 2

This matter is set to return to the Board in May. It was clearly the Board's expectation that all sides would attempt, in good faith, to mediate. We strongly urge that the parties do so. If we can be of any assistance in arranging for a mediator, please contact the undersigned.

Very truly yours,

THOMAS F. CASEY III, COUNTY COUNSEL

By



Michael P. Murphy, Chief Deputy

cc: Marcia Raines, Director of Environmental Services  
Terry Burnes, Planning Administrator

L:\CLIENT\P\_DEPTS\PLANNING\lr to Walsh, Pedley & Lyon.doc

TELEPHONE: 650-595-8183

FREDERICK LYON  
ATTORNEY AT LAW  
P.O. BOX 159  
BELMONT, CA 94002

FACSIMILE: 650-654-3416  
E-MAIL: FREDLYON@ATT.NET

March 6, 2003

Mr. Richard Pedley  
Pedley & Joy Architecture, Inc.  
25599 Fern Hill Dr.  
Los Altos Hills, CA 94024-6338

RE: Barbara's Fishtrap Expansion Appeal

Dear Mr. Pedley:

As you know, the Board of Supervisors is expecting the applicant and the appellant in this matter to enter mediation as to the civil issues related to easements on property owned by Barbara Walsh and by Keet Nerhan, each of which has an easement burdening the other.

I am representing Keet Nerhan in this matter. I called your office yesterday morning and left a message to the effect that I would appreciate your letting me know who would represent Ms. Walsh in the mediation, so that I could begin arrangements for a mediator with Mr. Tom Casey, Counsel to the Board, who has offered to facilitate the mediation. As yet, I have not heard from you.

This letter is for the same purpose as my phone call. Please notify me at your earliest convenience whether you will be handling this matter, or, at least who will be handling it. Hopefully, we can come to an understanding early in the process and so that we can leave threats of legal action out of the picture.

I am sending a similar letter, requesting the same information to Ms. Walsh.

Yours truly,

  
Frederick Lyon

cc: Members of the Board of Supervisors  
Thomas F. Casey, III, Esq., County Counsel  
Ms. Miroo Desai Brewer, Project Planner

TELEPHONE: 650-595-8183

FREDERICK LYON  
ATTORNEY AT LAW  
P.O. BOX 159  
BELMONT, CA 94002

FACSIMILE: 650-654-3416  
E-MAIL: FREDLYON@ATT.NET

March 6, 2003

Ms. Barbara Walsh  
Barbara's Fishtrap  
381 Capistrano Rd.  
Half Moon Bay, CA 94019

RE: Barbara's Fishtrap Expansion Appeal

Dear Ms. Walsh:

As you undoubtedly know by now, the Board of Supervisors is expecting the applicant and the appellant in this matter to enter mediation as to the civil issues related to easements on property owned by you and by Keet Nerhan, each of which has an easement burdening the other.

I am representing Keet Nerhan in this matter. I called Mr. Richard Pedley's office yesterday morning and left a message to the effect that I would appreciate knowing who would represent you in this matter so that I could begin making arrangements for mediation that Mr. Tom Casey, County Counsel, has offered to facilitate.

I have also requested this information by a letter to Mr. Pedley because he is your co-applicant, but in the event that someone else will be handling this matter, please notify me at your earliest convenience who that person will be. Hopefully, we can come to an understanding early in the process and so that we can leave threats of legal action out of the picture.

Yours truly,



Frederick Lyon

cc: Members of the Board of Supervisors  
Thomas F. Casey, III, Esq., County Counsel  
Ms. Miroo Desai Brewer, Project Planner





COUNTY OF SAN MATEO  
ENVIRONMENTAL SERVICES AGENCY  
**PROJECT FILE**

Date: February 13, 2003

Set Time: 9:30 a.m.

Hearing Date: March 4, 2003

To: Honorable Board of Supervisors

From: Marcia Raines, Director of Environmental Services *me*

Subject: EXECUTIVE SUMMARY: Consideration of an appeal of the Planning Commission's decision to approve a Coastal Development Permit for an expansion to Barbara's Fishtrap Restaurant to allow development of a new enclosed deck and increase indoor seating capacity from 63 to 95. The project is located at 281 Capistrano Road, in the unincorporated Princeton area of San Mateo County. This project is appealable to the California Coastal Commission.

**RECOMMENDATION**

Deny the appeal and uphold Planning Commission's decision to approve the Coastal Development Permit, County File No. PLN 1999-00758 (Formerly USE 91-0008), by making the required findings and adopting the conditions of approval.

**PROPOSAL**

The applicant is proposing an expansion to the existing restaurant by constructing a new enclosed deck that will allow for 32 additional indoor seats. The proposed development of 917.6 square feet includes a new walk-up window, new restrooms and a bar. This new development will increase the indoor seating capacity from 63 to 95.

**PLANNING COMMISSION ACTION**

On October 23, 2002, ... Based on staff analysis and the testimony presented, the Commission approved the project (3-0, Commissioners Bomberger and Nobles absent) by making all the relevant findings and adopting a set of conditions. This decision has been appealed by Keet Neerhan. Please see Section D of the staff report for discussion of the key issues of the appeal.

## SUMMARY

In September 1999, the applicant filed for a Use Permit Amendment and Coastal Development Permit for the proposed project. At that time, the California Coastal Commission determined that the area of the proposed expansion of the restaurant was within their jurisdiction. Therefore, the County processed only the Use Permit Amendment and on April 20, 2000, the Zoning Hearing Officer approved the Use Permit Amendment.

In a letter dated August 14, 2002, the California Coastal Commission informed the applicant that upon further review, it was determined that the area of the proposed expansion did not fall within their jurisdiction and advised that a Coastal Development Permit should be obtained from the County Planning Division.

The applicant then requested that the County process and issue a Coastal Development Permit (CDP) for the proposed expansion. The Planning Commission considered and approved the CDP on October 23, 2002. Their decision has been appealed.

The appellant's main issue is related to dispute of easement rights over parking areas. As explained in the staff report, this issue is considered a civil issue and not subject to a resolution by the County.

Staff has reviewed the project against the Local Coastal Program Policies and found the project to be in compliance. Staff believes that the project, as conditioned, conforms to all applicable policies and therefore recommends approval.

MDB:kcd - MDBN0169\_WKU.DOC



**COUNTY OF SAN MATEO  
ENVIRONMENTAL SERVICES AGENCY**

**Date:** February 13, 2003

**Set Time:** 9:30 a.m.

**Hearing Date:** March 4, 2003

**To:** Honorable Board of Supervisors

**From:** Marcia Raines, Director of Environmental Services ~~MR~~

**Subject:** Consideration of an appeal of Planning Commission's decision to approve a Coastal Development Permit for an expansion to Barbara's Fishtrap Restaurant to allow development of a new enclosed deck and increase indoor seating capacity by from 63 to 95. The project is located at 281 Capistrano Road, in the unincorporated Princeton area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 1999-00758 (Formerly USE 91-0008) (Walsh/Pedley)

**RECOMMENDATION**

Deny the appeal and uphold Planning Commission's decision to approve the Coastal Development Permit, County File No. PLN 1999-00758 (Formerly USE 91-0008), by making the required findings and adopting the conditions of approval listed in Attachment A.

**PROPOSAL**

The applicant is proposing an expansion to the existing restaurant by constructing a new enclosed deck that will allow for 32 indoor seats. The proposed development of 917.6 sq. ft. includes a new walk-up window, new restrooms and a bar. This new development will increase the indoor seating capacity from 63 to 95 and the total allowable restaurant seating capacity (including outdoor seating) from 108 to 129.

## **BACKGROUND**

Report Prepared By: Miroo Desai Brewer, Project Planner, Telephone 650/363-1853

Appellant: Keet Neerhan

Applicant/Owner: Rick Pedley/Barbara Walsh

Location: 281 Capistrano Road, Princeton

APN: 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

Sphere-of-Influence: Half Moon Bay

Existing Use: Barbara's Fishtrap Restaurant

Water Supply: County Coastside Water District

Sewage Disposal: Granada Sanitary District

Flood Zone: Zone C (Area of Minimal Flooding)

Environmental Evaluation: Exempt; CEQA Section 15303 (Class 3, Construction of Small Structures)

Setting: The subject site is located between Capistrano Road, Princeton 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 extending over the high water 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 is the Pillar Point Inn Bed and Breakfast and the Half Moon Bay Brewing Company Restaurant.

## 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.
September 1999	- Application filed for a Use Permit Amendment and Coastal Development Permit to construct a new enclosed deck.
January 2000	- California Coastal Commission submits documentation to show that the area of the proposed expansion lies within the Commission's permit jurisdiction. Therefore, the Coastal Development Permit to be issued by the Coastal Commission.
April 20, 2000	- Use Permit Amendment approved by the Zoning Hearing Officer Public Hearing.
August 14, 2002	- California Coastal Commission states that on further review, the proposed development is not within their jurisdiction and advises applicant to obtain Coastal Development Permit from the County.
October 23, 2002	- Coastal Development Permit approved by the Planning Commission at a public hearing.
October 30, 2002	- Appeal filed at the Planning Division.
March 4, 2003	- Board of Supervisors Public Hearing.

## DISCUSSION

### A. PLANNING COMMISSION ACTION

On October 23, 2002, the Planning Commission considered the project. Based on staff analysis and the testimony presented, the Commission approved the project (3-0, Commissioners Bomberger and Nobles absent) by making all the relevant findings and recommendations. This decision has been appealed by Keet Neerhan. Please see Section D of the staff report for discussion of the key issues of the appeal.

## B. BACKGROUND

In September 1991, the applicant filed for a Use Permit Amendment and the Coastal Development Permit for the proposed project. As part of permit processing, the project was referred to the Coastal Commission. The Commission determined that the area of the proposed expansion of the restaurant lay within their jurisdiction. Therefore, the County processed only the Use Permit Amendment. At the April 20, 2000 public hearing, the Zoning Hearing Officer found the project in compliance with the applicable General Plan policies and Zoning regulations and approved the Use Permit Amendment. No appeals were filed. In a letter dated August 14, 2002, the Coastal Commission informed the applicant that upon further review, it was determined that the area of the proposed expansion did not fall within their jurisdiction and advised that a Coastal Development Permit be obtained from the County Planning Division.

The applicant requested that the County process and issue a Coastal Development Permit (CDP) for the proposed expansion. The Planning Commission approved the CDP on October 23, 2003. Their decision has been appealed.

## C. KEY ISSUES

### 2. Compliance with General Plan and the Zoning Regulations

Regarding the project's compliance with the General Plan and the Zoning Regulations staff notes the following:

- a. Planning and Locating New Development. Local Coastal Program (LCP) Policy 1.18 sets out criteria for the location of new development along the coast. These criteria include the directive to concentrate new development in existing urban areas and revitalize existing developed areas. This project would be constructed in the existing mixed-use commercial area of Princeton Harbor. The proposed expansion of an existing restaurant is compatible with the adjacent land uses of a restaurant, a bed and breakfast and the harbor. It will also add to the vitality of the area.
- b. Visual Resources. LCP Policy 8.13 (*Special Design Guidelines for Coastal Communities; Princeton-by-the-Sea*) for commercial development requires buildings be designed which reflect the nautical character of the harbor setting, are of wood or shingle siding, employ natural or sea colors, and use pitched roofs.

The design of the proposed new addition is contemporary in style with materials that complement the appearance of the surrounding general commercial style development. The materials and color of the proposed addition will match that of the existing structure. The applicant has proposed a gray shingle roof and color of crab-shells-orange wood lap siding for exterior walls. It may be noted that the crab-shells-orange color is a color approved for the facility in prior permit approvals.

- c. Shoreline Access. LCP Policy 10.1 requires that all development located between the sea and the first through road make some provision for shoreline access. The applicant was required to dedicate a 10-foot wide, handicap accessible, access trail that connects Capistrano Road with the Harbor District's Access Trail and Harbor Access Trail as part of a previous permit approval. The Harbor District is responsible for maintaining the access trail.

In conformance with LCP Policy 10.22(d), the applicant has proposed designation and posting of nine parking spaces in the existing parking lot across from the restaurant as "Beach User Parking between 10:00 a.m. and 4:00 p.m. daily." This designation constitutes 20 percent of the project's total parking spaces.

#### D. KEY ISSUES OF THE APPEAL

The appeal addresses certain conditions of approval regarding the project's parking provisions. Key issues are highlighted in **bold**, followed by staff's response. Please see Attachment I for a copy of the entire appeal letter and Attachment J for applicant's response to the appeal.

**The appellant contends that proposed parking of 43 spaces is inaccurate. The applicant has a right to use the parking lot for only 28 spaces and not 35. Second, 9 spaces are required to be reserved for "Beach User Parking," and therefore at lunch time the restaurant would not be able to support 43 spaces. Third, 8 spaces are shown in an area that is partially Harbor district land and partially the applicant's property. The appellant contends that he has easement rights over this area. Fourth, per condition of approval, the 8-space parking area on the Harbor district is reserved for the employees' of the facility and therefore unavailable for patrons.**

Staff's Response: The owner has a recorded easement for 28 parking spaces across the project site (APN 047-081-030). In 1998 with the permission of the former owner, Charles [redacted], the parking lot was resurfaced and the number of parking spaces increased to 35. The appellant, who is the current owner of the parking lot, has a disagreement with this arrangement. This issue was raised during the Planning Commission public hearing. It was determined that this is a civil dispute and not subject to resolution at the County level.

LCP Policy 10.22(d) requires that new commercial facilities designate and post 20 percent of the total spaces for beach user parking between 10:00 a.m. and 4:00 p.m. The policy does not state that the 20 percent be in addition to the total spaces required by the facility.

The appellant claims that he has easement rights over the 8-space parking area. At the time of writing this report, no document was provided to substantiate this claim.

Finally, a condition of approval does reserve the 8-space parking area to the restaurant's employees. However, calculation of parking requirements does not differentiate between parking for patrons and parking for employees. Total parking spaces required by any facility incorporates parking needs of both the expected users of the facility as well as employees.

**The appellant questions the legitimacy of the enclosed garbage area on the 35-space parking lot, stating that the easement is exclusively for parking of 28 vehicles only. "Ms. Walsh has constructed a 4-side enclosed garbage/refuse area of wood fence and full-side paneling. I have never been provided a copy of any permit obtained to build this structure, let alone use it, as is being done. Further, I believe such use constitutes a health and safety hazard. Since the easement does not allow for such use anyway, a condition of this permit approval should be the immediate removal of that enclosure, prohibition of refuse or garbage storage on that site and an explanation of how those matters will be handled in the alternative to the use of that structure."**

Staff's Response: A review of past records shows that enclosed garbage area has the necessary permits (BLD 98-1069 and UP 91-0008) and that the owner at that time, Charles Van Linge, fully participated and was closely consulted in the decision-making process that led to its installation. The project was referred to Half Moon Bay Fire District and the Peninsula Health District. The referral to these agencies yielded no objection or concern about the garbage enclosure. Again, any dispute regarding easement rights is considered a civil issue and not subject to resolution at the County level.

#### **E. REVIEWING AGENCIES**

This proposed development is exempt from environmental review under Section 15303, Class 3 of the California Environmental Quality Act, New Construction of Small Structures. This office filed a notice of exemption on April 14, 2000.

#### **F. REVIEW BY MIDCOAST COMMUNITY COUNCIL AND PRINCETON CITIZENS' ADVISORY COMMITTEE**

The Midcoast Community Council (MCCC) as well as Princeton Citizens' Advisory Committee (PCAC) reviewed the proposed project at the time of processing the use permit amendment. The PCAC approved the project with no recommended conditions of approval. MCCC had a question regarding whether parking was provided and whether it was adequate. The parking issue was addressed in the staff report in the use permit amendment submitted to and approved by the ZHO on April 20, 2000. The MCCC also had a question regarding whether the proposed expansion had required sewer capacity. The Granada Sanitation District reviewed this project and their conditions of approval were included in the conditions of approval for the use permit amendment.

#### **VISION ALIGNMENT**

The proposal to expand an existing restaurant keeps the commitment to redesign our urban environment to increase vitality, expand variety and reduce congestion and Goal Number 12: Land use decisions consider transportation and other infrastructure needs as well as impacts on the environment and on surrounding communities. This proposal contributes to this commitment and goal by expanding on an existing facility and having marginal impact on the environment and on surrounding neighborhoods.



## ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Site Plan
- D. Floor Plan
- E. Elevations
- F. Parking Plan
- G. LCP Checklist
- H. Appellant's Letter
- I. Applicant's Response to Appellant's Letter

MDB:kcd - MDBN0170\_WKU.DOC

COUNTY OF SAN MATEO  
ENVIRONMENTAL SERVICES AGENCY

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project Number: PLN 1999-00758

Hearing Date: March 4, 2003

Prepared By: Miroo Desai Brewer

For Adoption By: Board of Supervisors

**RECOMMENDED FINDINGS**

The Planning Commission finds:

Regarding the Coastal Development Permit

1. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.
2. That the project conforms to the applicable policies of the San Mateo County Local Coastal Program.
3. That the project is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15303, Class 3 related to construction of small structures.

**RECOMMENDED CONDITIONS OF APPROVAL**

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Board of Supervisors on March 4, 2003. The Planning 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. Board of Supervisors action on the application for the use specified and contained within this staff report and for the parcel listed in no way authorizes approval of any other uses. In addition, any approval does not authorize this same use on any other parcel(s).
3. This CDP is for the project as proposed in this report. Indoor seating capacity will remain at the existing 38 seats. Deck seating will be limited to 25 seats in the existing deck and 32

seats in the new deck. The outdoor seating will be reduced from 45 to 34 seats. Maximum site occupancy will not exceed 129.

4. The applicant shall submit a plan for outdoor seating arrangements that show total number of existing tables and associated seats. The plan shall show which tables will be removed. Planning staff shall verify the removal of tables prior to building inspection final. The total number of retained seats shall not exceed 34.
5. 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.
6. The proposed bar area shall comply with the provisions of Division 9 of the County's Business and Professions Code.
7. 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.
8. The Coastal Development Permit shall be valid for one year from the date of approval in which time the applicant shall be issued a building permit. Any extension of this permit shall require submittal of a request for permit extension and payment of applicable extension fees no less than thirty (30) days prior to expiration.
9. The applicant shall apply for and be issued a building permit prior to the start of construction.
10. The colors and materials of exterior walls and roof of the proposed addition shall match those of the existing restaurant.
11. The applicant shall install signage "Parking for Barbara's Fishtrap Patrons" in the front of the main parking lot. The sign shall be no larger than 30 in. by 12 in. The applicant shall submit a plan showing location, size and color of the proposed sign for approval by the Planning Director.
12. All employees of Barbara's Fishtrap shall park at the parking spaces designated for the restaurant in the Harbor area. The applicant shall install signage "Parking of Barbara's Fishtrap Employees" near the reserved parking spaces in the Harbor area. The sign shall be no larger than 30 in. by 12 in. The applicant shall submit a plan showing location, size and color of the proposed sign for review and approval by the Planning Director.
13. Any other signage for the proposed building shall be submitted for review by the Planning Division to ensure conformance with General Plan and LCP policies regarding signs prior to any placement/construction of signage on the project site.
14. The applicant shall post nine parking spaces as "Beach User Parking between 10:00 a.m. and 4:00 p.m. daily."

15. 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, not limited to, sweeping and litter control.
16. All new utility lines shall be installed underground, from an existing utility pole/connection.
17. During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
  - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
  - b. Maintaining all disturbed areas and implementing erosion control measures continuously between October 15 and April 15.
  - c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
  - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
  - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
  - f. Limiting and tracking application of pesticides and fertilizer to avoid polluting runoff.
18. During the construction phase of the project, the applicant shall use appropriate erosion/stormwater control methods to keep exposed soils from being washed into the drainage channel on Capistrano Avenue. This may include silt fencing, hay bales, or other appropriate methods. This grading/erosion control plan shall be submitted, reviewed and approved by the Planning staff prior to issuance of a building permit.
19. Noise levels produced by the proposed construction activity shall not exceed the 80 dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

Building Inspection Section

20. The proposed expansion work will require all work to be done within the existing property lines.

### Department of Public Works

21. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed addition per Ordinance #3277.
22. No construction work (including landscaping) within the County of right-of-way shall begin until Public Works requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Public Works Department.

### Environment Health Division

23. The applicant shall submit construction plans to the Environmental Health Division for review and approval prior to the construction of the addition to the restaurant.
24. The applicant shall submit a health permit application to the Environmental Health Division.

### Coastside County Water District

25. The applicant shall provide detail of plumbing fixtures in existing and proposed addition for analysis of adequate capacity of existing water meter. If additional capacity is required, the applicant shall demonstrate proof of purchase of additional capacity prior to issuance of a permit. Priority capacity is available for purchase.

### Granada Sanitation District

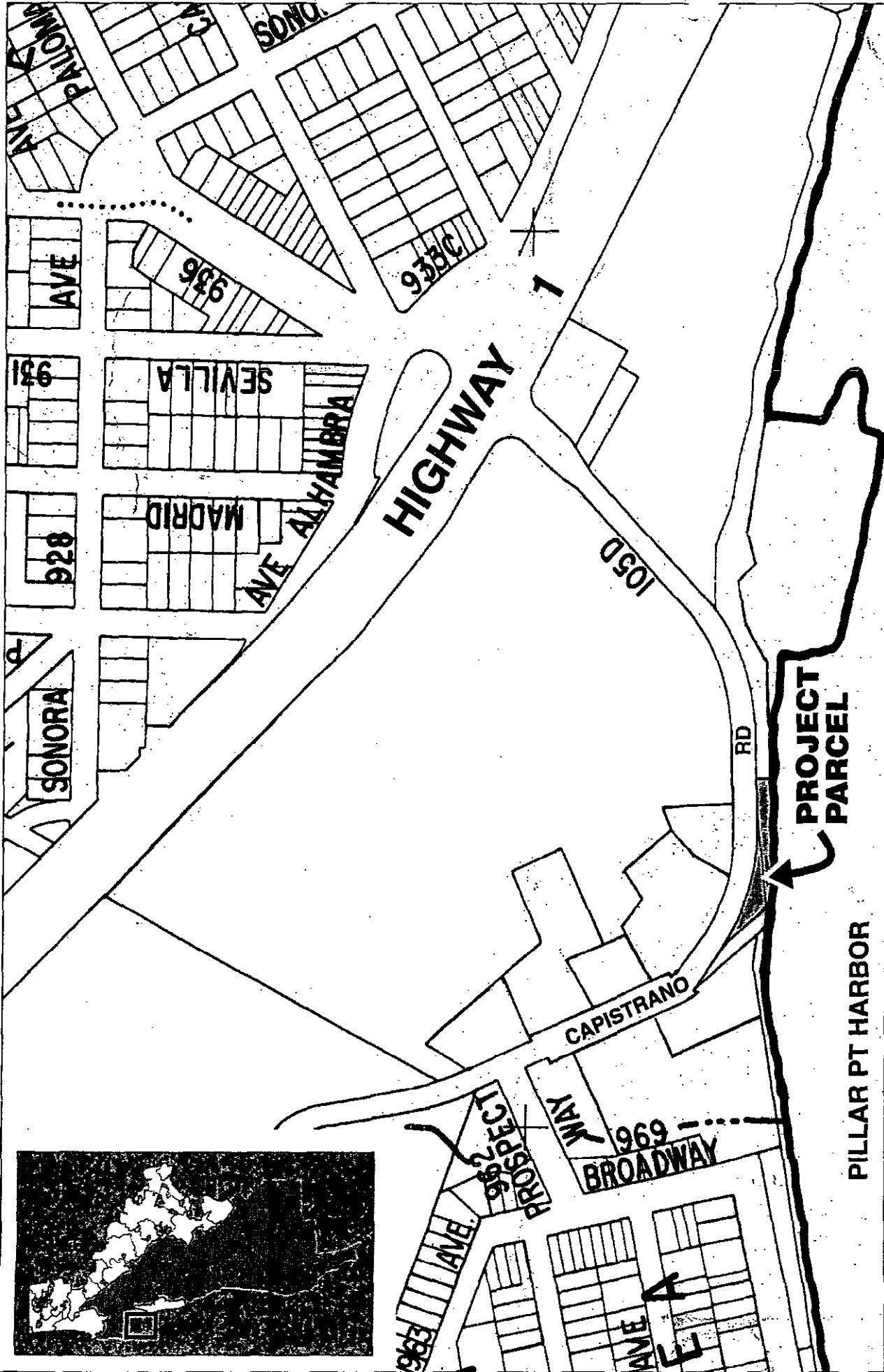
26. The project is eligible for priority sewer. Granada Sanitary District currently has limited amount of priority capacity available. Applicant's use of expanded treatment capacity would require the applicant to purchase Non-contingent Assessments and to pay Contingent Assessment if permit is granted.

### Half Moon Bay Fire District

27. Any existing detection and alarm system shall be extended to the addition and maintained in serviceable condition.
28. The Uniform Building Code requires smoke detectors on every level of a building, in every bedroom and at a point centrally located in the corridor or area giving access to each separate sleeping area. This requirement is for new construction and requires detectors to be interconnected, hardwired into the building power with battery back-up. Smoke detectors meeting these standards are required in residential portions of commercial buildings.
29. Any existing fire extinguishing systems shall be extended to the addition area and maintained in serviceable condition.

30. Sprinkler systems shall be installed per San Mateo County and Half Moon Bay Fire District Ordinance. Overhead installation and hydrostatic test will be inspected as well as a final operating test. In addition to the external alarm flow bell, an internal audible device will be required in a normally occupied area. Commercial buildings with residential areas will have residential quick response heads installed in those areas. Underground fire sprinkler supply lines will be inspected and flushed prior to connection. Underground fire sprinkler or hydrant service shall be left uncovered in the area of the thrust blocks for inspection. Welded pipe will be inspected by the Fire Marshal before placement into the system.
31. The County of San Mateo and Half Moon Bay Fire District ordinance requires a Class "B" or better roof covering or roof covering assembly.
32. Building identification shall be conspicuously posted and visible from the street. Temporary address numbers shall be posted prior to combustibles being placed on the site. The letters and numerals for permanent address numbers shall be a minimum of four inch stroke for residential. Such letters and numbers shall be internally illuminated and facing the direction of access.
33. Plans and specifications will be checked upon receipt of fees required by the Half Moon Bay Fire District.

MDB:kcd - MDBN0170\_WKU.DOC



PILLAR PT HARBOR

**San Mateo County Board of Supervisors Meeting**

Applicant: **Walsh/Pedley**

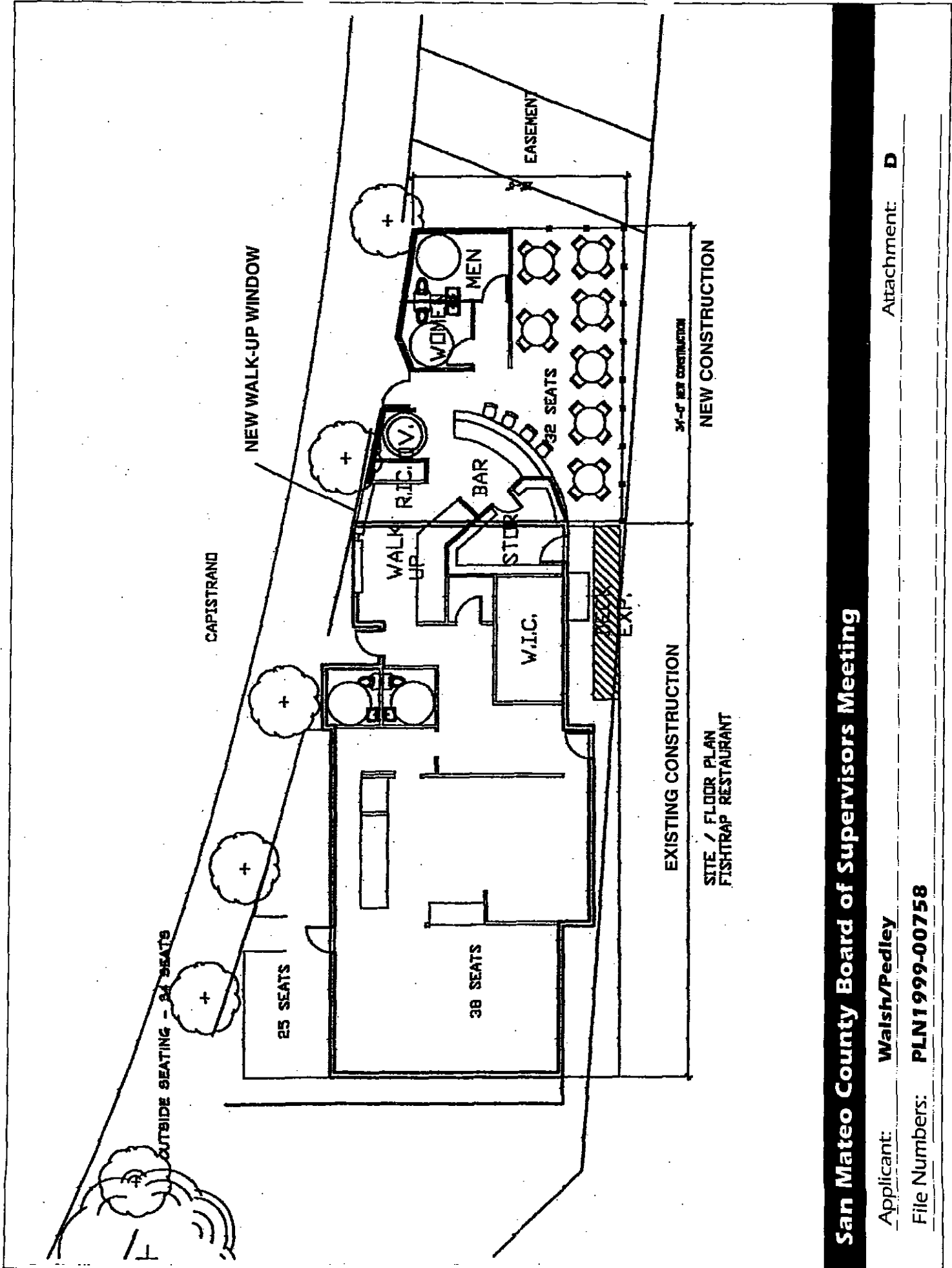
File Numbers: **PLN1999-00758**

Attachment: **B**







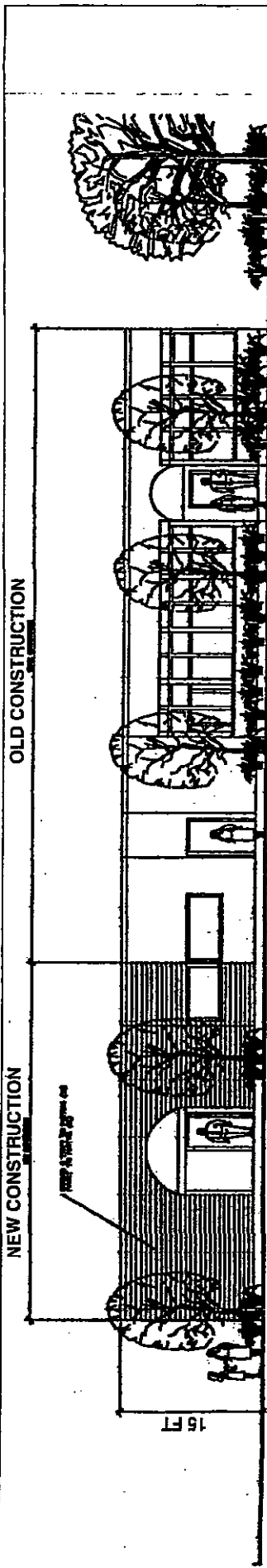


**San Mateo County Board of Supervisors Meeting**

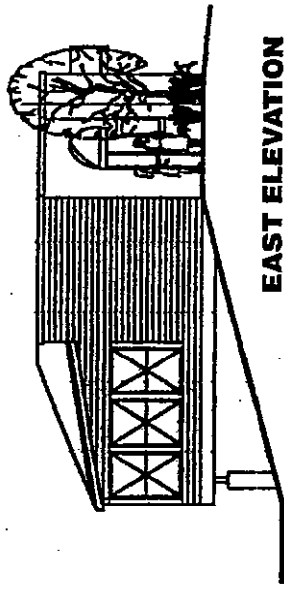
Applicant: **Walsh/Pedley**

Attachment: **D**

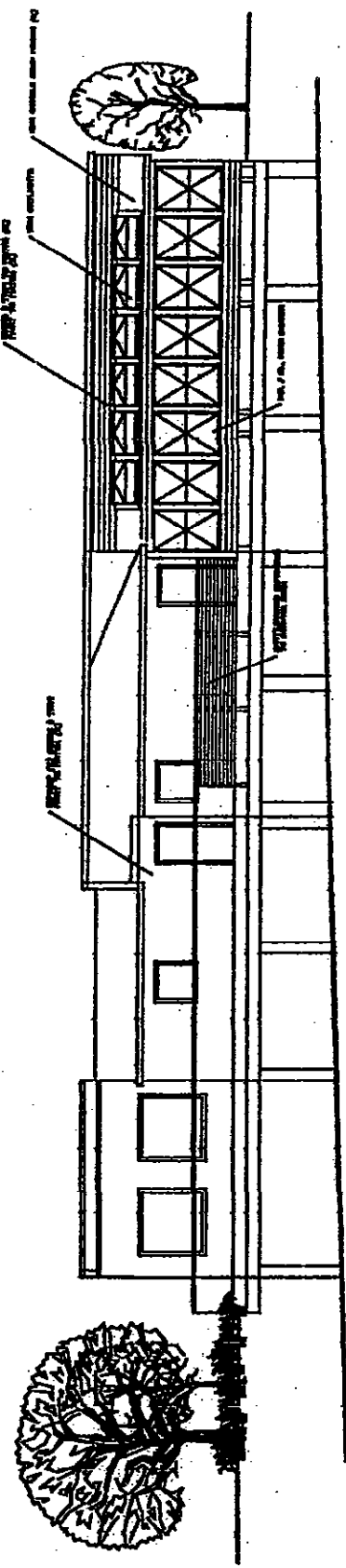
File Numbers: **PLN1999-00758**



**NORTH ELEVATION**



**EAST ELEVATION**



**SOUTH ELEVATION**

**San Mateo County Board of Supervisors Meeting**

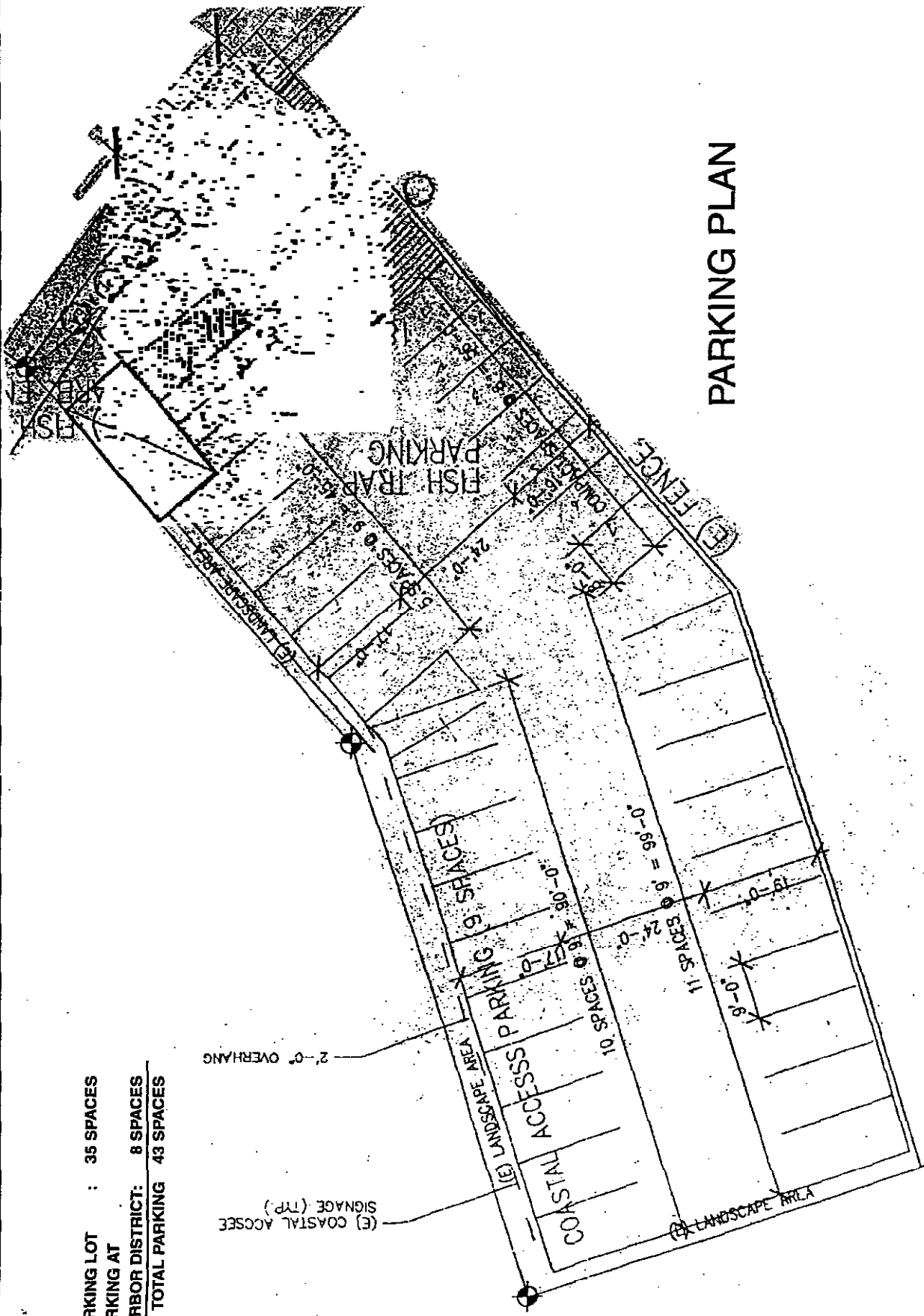
Applicant: **Walsh/Pedley**

Attachment: **E**

File Numbers: **PLN1999-00758**

PARKING LOT : 35 SPACES  
 PARKING AT  
 HARBOR DISTRICT: 8 SPACES  
 TOTAL PARKING 43 SPACES

(E) COASTAL ACCES  
 SIGNAGE (TRP)  
 2'-0" OVERHANG



# PARKING PLAN

## San Mateo County Board of Supervisors Meeting

Applicant: **Walsh/Pedley** Attachment: **F**

File Numbers: **PLN1999-00758**

County of San Mateo  
 Environmental Services Agency  
 Planning and Building Division

**COASTAL DEVELOPMENT POLICY CHECKLIST**

Based on Local Coastal Program as Adopted by  
 Board of Supervisors December 2, 1980  
 and as Last Amended in August 1992

**GENERAL INFORMATION**

1. File No.: PLN 1999-00758 Planner: Miroo Desai Brewer
2. Owner: Barbara Walsh Applicant: Rick Pedley
3. Project Description: Coastal Development Permit to expand Barbara's Fishtrap to allow development of a new enclosed deck and increase indoor seating capacity from 63 to 95.
4. Project Address: 281 Capistrano
5. APN(s): 047-082-010
6. General Plan: Coastside Commercial Zoning: CCR/DR/CD
7. Plan Checklist is completed and attached (initial) MDB

**LCP POLICIES** (Answer Each Item – References are to LCP Policy Numbers).

	Not Applicable	Project Complies	Does Not Comply	Condition Required
<b>PLANNING AND LOCATING DEVELOPMENT</b>				
1.2 Does this project meet the definition of development?		X		
1.9 If this is a land division in an area with a General Plan designation of Open Space, will dedication of a conservation/open space easement be required?	X			
1.22 If this is a residential development in a Midcoast area without Phase 1 sewer and new water facilities, does it exceed the 125 building permit limit in one calendar year?	X			
1.23 If this is a residential development in a South Coast area without Phase 1 sewer and new water facilities, does it exceed the 125 building permit limit in one calendar year?	X			

1.24	Is this development in an area which may contain sensitive archaeological/paleontological resources as noted on the County Sensitivity Maps?	X			
1.24	Will this project trigger an archaeological/paleontological mitigation plan?	X			
1.27	Does this development warrant a Certificate of Compliance to confirm the legal existence of parcels?	X			
1.29	Does this development meet the standards of review for legalizing parcels?	X			
<b>PUBLIC WORKS</b>					
2.1	If this development involves a Public Works project, does it meet the criteria of the Public Works Component of the LCP? (See Appendix Sheet for Public Works Projects)	X			
<b>HOUSING</b>					
3.13	Will this development involve demolition of structures providing affordable housing?	X			
3.17	If this development proposes affordable housing, is it compatible with the community character?	X			
3.19	Will this development involve construction in designated affordable housing sites?	X			
3.20	If this development is in a designated affordable housing site, does it exceed the 60 building permit limit in one calendar year?	X			
3.22	If this development involves placement of a mobile home on the site, does it meet all of the criteria for the appropriate zone?	X			
3.23	If this development involves the placement of multi-family residential units in the R-3 and C-1 zoning districts, are 20% of the units reserved for low or moderate income households?	X			
3.24	If this project involves placement of a second unit in the Midcoast R-1 District, does it meet the building permit limits and square footage limits as noted in the LCP?	X			

	Not Applicable	Project Complies	Does Not Comply	Condition Required
3.25 Is the applicant seeking a 33% density bonus in R-1/S-17 Midcoast area after meeting all of the criteria in this Section?	X			
3.26 If this project involves land divisions in rural areas of the South Coast, are 20% of the lots being optioned to the County for affordable housing?	X			
3.27 Does this development meet the criteria for qualifying for the option of 40 additional dwelling units in the rural area of the South Coast?	X			
3.28 Does the affordable housing developer accept the income, rent and cost controls of the County?	X			
3.29 Does the affordable housing developer accept the conditions to guarantee the continued availability of affordable housing units?	X			
<b>ENERGY</b>				
If this project involves energy facilities (oil and gas wells, onshore facilities for offshore oil, pipelines, transmission lines), complete and attach a separate analysis of compliance with LCP Energy Component and enter results here.	X			
<b>AGRICULTURE</b>				
5.1 These policies are addressed by Planned Agricultural District. A Planned Agricultural Permit (is)/(is not) required.	X			
5.18 Is any soil dependent floriculture located on prime soils while non-soil dependent floriculture is located on non-prime soils?	X			
5.19 Does this development meet these floricultural development standards?	X			
5.20 Does this development meet the Agricultural Management Policies?	X			
5.21 Does this development avoid endangering sensitive habitats?	X			
5.25 If an on-stream dam is proposed, does it meet all of this Chapter criteria?	X			

		Not Applicable	Project Complies	Does Not Comply	Condition Required
5.27	Is the allocation of future Midcoast water supplies to floriculture in accordance with the policies of the Public Works Component?	X			
5.29	Does this development require a grading permit for water impoundments according to County Ordinance?	X			
5.30	If this development involves land under Williamson Act contract, has conforming with zoning, the General Plan and the LCP been established?	X			
5.30	Have Williamson Act Notices of Non-Renewal been filed for those properties not in conformance with State Code and County Policies?	X			
5.33	Has the State explored the option of leasing prime agricultural land as a Condition of Permit Approval?	X			
<b>AQUACULTURE</b>					
6.1	If this development involves aquaculture as defined in LCP Policy 6.1, complete and attach a separate analysis of compliance with LCP Aquaculture Component and enter here.	X			
<b>SENSITIVE HABITATS</b>					
7.5	A biological report has been prepared in accordance with LCP Policies. Applicability of various Sensitive Habitats Policies was determined on the basis of:  _____ Coastal Development Permit Application.  _____ Environmental Information Form.  _____ LCP Sensitive Habitats Component Text.  _____ LCP Sensitive Habitat Maps.  _____ Site inspection.	X			
7.5	Will the restoration of damaged habitat be a condition of approval for this project?	X			
7.10	Does this development minimize removal of vegetation and/or minimize construction/protect vegetation during or after construction?		X		

		Not Applicable	Project Complies	Does Not Comply	Condition Required
7.10	Does this project use only native or non-invasive plant species when replanting?	X			
7.10	Does this project adhere to State Department of Fish and Game provisions for fish passage?	X			
7.10	Does this project minimize adverse effects of wastewater discharge?	X			
7.10	Does this project prevent depletion of groundwater supplies and waterflows and encourage wastewater reclamation?	X			
7.10	Does this project maintain natural vegetation buffer areas that protect habitats and minimize alteration of natural streams?	X			
7.11	Are appropriate buffer zones established along sensitive habitats?	X			
7.17	Will this project be required to construct catwalks so as not to impede movement of water?	X			
7.17	Will all construction take place during daylight hours, utilize a minimum amount of lighting and use low decibel motorized machinery?		X		X
7.17	Will any construction-induced alteration to the wetlands require replanting of vegetation or the natural re-establishment of vegetation?	X			
7.17	Does this project avoid utilizing herbicides unless approved by the Agriculture Commissioner and the Fish and Game Department?	X			
7.17	Was this project reviewed by the State Department of Fish and Game and the State Water Quality Control Board?	X			
7.20	If this project is in the Pillar Point Marsh, will groundwater extraction from an aquifer occur?	X			
7.21	If this project is in the Pescadero Marsh, will a State Parks and Recreation management plan be required or will this project involve development or dredging of the marsh?	X			



		Not Applicable?	Project Complies	Does Not Comply	Condition Required
7.22	Is this project a permitted use in a marine and/or estuarine habitat? (Fitzgerald Marine Reserve, San Gregorio Estuary, Pescadero Marsh, Pigeon Point, Franklin Point, Año Nuevo Island)	X			
7.25- 7.31	Does this project comply with use and development standards for sand dunes and sea cliffs?	X			
7.32	Will this project impact habitats of rare or endangered animal species as noted on the County Sensitive Habitat Maps or will a special biological report be required?	X			
7.42	Will this project permit development within 50 feet of rare plant habitats as noted on County Sensitive Habitat Maps?	X			
7.43	Will this project impact habitats of unique species, such as the Elephant Seal, Monterey Pine, California Wild Strawberry, etc., or will a special biological report be required?	X			
7.51	Will this project involve removal or nursery sales of Pampas Grass or the eradication of Weedy Thistle?	X			
<b>VISUAL RESOURCES</b>					
8.2	Does this project avoid development on beaches, sand dunes, ocean cliffs, bluffs and blufftops?		X		
8.5	If this project is in a coastal terrace, is clustering encouraged along with limitation of structures in open fields and grasslands?	X			
8.6	Does this project avoid development and meet setbacks for streams, wetlands and estuaries?	X			
8.7	Does this project avoid development on ridgetops and removal of ridgeline trees?	X			
8.7	Does this project avoid land divisions which encourage building on a ridgeline?	X			
8.7	Does this project comply with the limitations on structure height below the ridgeline?	X			
8.9	Is this project designed to minimize tree removal or will this project require replacement of removed vegetation?	X			

8.12-8.15	If this project is in an urban area, will it meet Design Review Criteria including special guidelines for coastal communities and the protection of ocean views?		X		X
8.16	Will this project meet landscaping requirements for rural areas?	X			
8.17	Will this project protect natural landforms in rural areas?	X			
8.18	Is this project designed to minimize visual disruption through the use of colors that blend in with surroundings, properly scaled structures, and non-reflective surfaces?		X		
8.21	Does this project meet the criteria for the placement of signs?		X		X
8.22	Does this project include underground utilities in State and County Scenic Corridors?		X		X
8.24	If this project involves large agricultural structures, is their visual impact limited by the use of blending colors or landscaping screening?	X			
8.25	If this project is listed as an Official County or State Historical Landmark, are the regulations of the Historical/Cultural Preservation Ordinance being followed?	X			
8.28	If this project is in a State/County Scenic Road Corridor, does it meet development regulations such as setback requirements, limits on timber harvesting and exemptions?	X			
8.33	Is this project exempt from Planning Commission architectural and site review because any structures would not be visible from the roadway?	X			
8.34	If this project is in a designated Historic Structure/District, is the project a permitted use?	X			
<b>HAZARDS</b>					
9.3	If this project is in a Geologic Hazard Area as shown in the LCP, does it meet development regulations or requirements for a geotechnical report?	X			
9.6	If this project is in a High Fire Risk area, does it meet development criteria?	X			

	Not Applicable	Project Complies	Does Not Comply	Condition Required
9.8 If this project involves blufftop development, does it meet design, geotechnical, setback and land division requirements?	X			
9.9 If this area is subject to flooding as noted in the LCP Hazards Maps, will the project meet development regulations for flood-prone areas?	X			
9.11 Does this project limit development to where beach erosion hazards are minimal?	X			
9.12 Will this development allow the construction of shoreline structures only for the protection of existing roadways or structures?	X			
9.13 Will this project avoid the need for future protective devices which could impact sand movement?	X			
9.18 If this site has a slope of 30% or greater, does it meet the slope development regulations?	X			
<b>SHORELINE ACCESS</b>				
NOTE: Use Coastal Access Checklist as a supplement to this Policy Checklist when determining access requirements.		X		
10.1 Does this project meet the requirements for provisions of shoreline access or in-lieu fees as a condition for development?	X			
10.8 Does this project meet Public Safety Locational Criteria?	X			
10.10 Does this project meet Sensitive Habitat Locational Criteria?	X			
10.11 Does this project meet Agricultural Area Locational Criteria?	X			
10.12 Does this project meet Residential Area Locational Criteria?	X			
10.13 Does this project meet Commercial/Industrial Locational Criteria?	X			
10.16 Does this project provide appropriate vertical/lateral access to the shoreline?		X		
10.17 Does this project meet development standards for blufftop/non-blufftop lateral access?	X			

	Not Applicable	Project Complies	Does Not Comply	Condition Required
10.19 Will this project provide for maintenance and posting for public access areas?	X			
10.21 Where topography permits, does this project provide handicapped access to the shore?		X		
10.22 Does this project meet all parking regulations for coastal access?		X		X
10.23- Does this project meet development standards for protecting public safety, fragile resources and adjacent land uses? 10.29	X			
<b>RECREATION/VISITOR/SERVING FACILITIES</b>				
11.4 Does this project meet General Locational Criteria?		X		
11.7 Does this project meet Urban Area Locational Criteria?		X		
11.8 Does this project meet Rural Area Locational Criteria?	X			
11.9 Does this project meet Oceanfront Area Locational Criteria?	X			
11.10 Does this project meet Upland Area Locational Criteria?	X			
11.11 Does this project meet Agricultural Area Locational Criteria?	X			
11.12 Does this project meet Sensitive Habitat Locational Criteria?	X			
11.14 Does this project meet development standards for public recreation facilities?	X			
11.15 Does this project meet development standards for private recreation facilities?		X		
11.16 Are directional/informational signs required as a condition of approval for recreational facilities and/or road projects?	X			
11.17 Does this project meet all parking development standards?		X		
11.18 Does this project meet development standards for protection of sensitive habitats?	X			

	Not Applicable	Project Complies	Does Not Comply	Condition Required
11.19 Does this project meet development standards for protection of agricultural lands?	X			
11.20 Does this project meet development standards for sewer/water connections, access and public conveniences?	X			
11.22 Does this project meet recreational vehicle parking restrictions?	X			
11.25 Has the State Department of Parks and Recreation submitted a long-range plan for any park unit proposed for improvement?	X			
11.26 Does this project require trail dedication or in-lieu fees as a condition of public agency projects or any land division?	X			
<b>COMMERCIAL FISHING/RECREATIONAL BOATING</b>				
If project involves facilities for commercial fishing or recreational boating, complete and attach a separate analysis of compliance with LCP Commercial Fishing/Recreational Boating Component and enter results here.	X			

**RECOMMENDATION**

1. **Recommended Findings (see Zoning Ordinance 6328.15):**

  X   That this project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14,   X   does            does not conform with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program.

  X   (Where the project is located between the nearest public road and the sea, or the shoreline of Pescadero Marsh.) That this project   X   does            does not conform 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).

  X   That this project   X   does            does not conform to specific findings required by Policies            of the San Mateo County Local Coastal Program. Specific findings recommended are:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**RECOMMENDATION (continued)**

  N/A   (Where the project involves construction of new residences other than affordable housing.) That the number of building permits for construction of new residences other than for affordable housing issued in the current calendar year \_\_\_\_\_ does \_\_\_\_\_ does not exceed the limitations of LCP Policies 1.22 and 1.23.

**2. Recommended Action:**

       Approve

  X   Approve with Conditions

       Deny

**3. Recommended Conditions or Reasons for Denial (attach on separate sheet if more convenient):**

Policy : . . . . Condition/Reason for Denial

  7.71   See Condition #19.

  8.12 to   See Condition #10.  
  8.15  

  8.21 to   See Condition #16.  
  8.22  

  10.22   See Condition #14.

**PROCESSING**

1. Is Project Appealable to Coastal Commission (see Section 6328.3(r) and appeal jurisdiction maps)?

Yes                       No

2. Approving Authority (see Section 6328.9):

Planning Director (staff)

Zoning Hearing Officer

Planning Commission

Board of Supervisors

3. Public Hearing Required (see Section 6328.10)?     Yes                       No

4. Notice Requirements (see Section 6318.11.1 and 6318.11.2):

Pre-Hearing (Newspaper)                      Owners:     100'     300'     500'

Pre-Hearing (Mailed)                      Residents:     100'

Pre-Decision (Mailed)

Decision (Mailed)

**REVIEW**

Checklist Prepared By: Thomas A. Brewer  
Signature

Date

Checklist Reviewed By: \_\_\_\_\_  
Signature

Date

Attachment H

San Mateo County Environmental Services Agency

Planning and Building Division

County Government Center - 590 Hamilton St. • Redwood City CA 94063  
Mail Drop PLN 122 • 415 • 363 • 4161

Application for Appeal

To the Planning Commission

To the Board of Supervisors

Appellant Information

Name: Keet Nerhan  
dba KN Properties  
Phone: W: 650-726-4402 H:

Address:  
P. o. Box 158  
Half Moon Bay, CA Zip: 94019-0158

Appeal Information

Permit Numbers involved:  
PLN 1999-00758

I have read and understood the attached information regarding appeal process and alternatives.

yes  no

I hereby appeal the decision of the:

- Staff or Planning Director
- Zoning Hearing Officer
- Design Review Committee
- Planning Commission

Appellant's Signature:

*Keet Nerhan*

Date: October 30, 2002

Effective on October 23 2002 to approve/deny the above-listed permit applications.

Basis for Appeal

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

\* See attached statement \*\*

RECEIVED

NOV 04 2002

San Mateo County  
Planning Division



# KN PROPERTIES

Post Office Box 158 • Half Moon Bay • CA 94019-0158

## ATTACHMENT TO APPLICATION FOR APPEAL

### 3. BASIS FOR APPEAL

This appeal of the approval of Permit/Project file Number PLN 1999-00758 (Rick Pedley, Applicant, for principal, Barbara Walsh, dba Barbara's Fish Trap Restaurant) is based solely on the admitted requirements and conditions relating to parking, which this appeal will show is in fact not available to the applicant for patrons and the business employees.

Therefore this appeal addresses the "Conditions of Approval" numbered: 3 (approved seating capacity); 11 (signage for parking); 12 (employee parking and related signage); 14 (Beach User Parking); 15 (maintenance of the parking lot not addressing the need to remove the garbage/refuse enclosure); and the failure of the Half Moon Bay Fire District conditions to address the hazard of the garbage/refuse enclosure on the parking site, which was built without a permit, as is more fully discussed below.

In general, the improvements, by admission and staff report, will result in a new maximum total seating capacity for the restaurant of 129 patrons. At the Planning Commission it was stated by staff (but not mentioned in the formal written report) that such seating capacity requires one (1) parking space for every three (3) seats for patrons. Therefore a figure of 43 parking spaces for patrons was stated as **the minimum** if this expansion were approved (exactly  $129 \div 3$ ). The applicant claimed to have such available spaces, claiming the right to park 35 vehicles in the lot across Capistrano Road (an easement owned by Ms. Walsh), *plus* 8 more spaces in an area on the west side of Capistrano Road, which is a combination of Ms. Walsh's land and an easement from the San Mateo County Harbor District.

Unfortunately for the applicant and Ms. Walsh, these claims of adequate parking are inaccurate.

First, as more fully described below, the "parking lot" across Capistrano from the restaurant, is on an easement which specifically restricts parking on that site to "28 vehicles." I am the owner of that property, over which the parking easement was created. I put Ms. Walsh on notice of this fact in May, 2000 and by another letter to Ms. Walsh, a copy of which will be provided to you as a part of this appeal, I will be reminding her of the maximum 28 vehicle limit, and demanding that she abide by it.

Second, as to that lot, how is the applicant able to claim the patrons (on a 1 for 3 basis) have parking at lunch time, when nine (9) of those spaces are required to be reserved for "Beach User Parking" during such lunch hours (condition 14)?

## KN PROPERTIES

Page 2

Application For Appeal - Attachment

RE: PLN 1999-00758

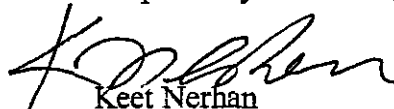
Third, the currently shown 8 spaces in the Harbor District parking lot, on the west side of Capistrano road, are only partially on District property. At least half of each space is on Ms. Walsh's owned lands. However, that land is subject to an easement, which provides for the exclusive right to the use of that property, up to the District border, for the parking (8 spaces) and related activities, currently enjoyed as a use by Ms. Walsh. I am the current owner of that easement and I will be providing a letter to Ms. Walsh, a copy of which will be provided to you for this appeal, reminding her of that fact, and demanding that she abide by it. That letter will include a demand to cease using that parking for the Fishtrap, and for removal of any reference signs that the parking is hers. It will also require that she remove signs on all benches and picnic tables on the west side of Capistrano Road, near the Fishtrap, which are also a part of my easement. I intend to use those areas for my, or my tenants' use. Therefore those 8 parking spaces, required as part of her claim of having 43 total spaces, are, in fact, unavailable to her.

Fourth, even if Ms. Walsh obtained those spaces, how can they be counted in the required 43 for patrons when condition 12 requires those "Harbor area" spaces be designated, reserved and used solely by Ms. Walsh's employees, making them unavailable for patrons?

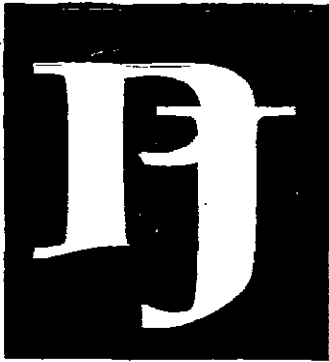
Lastly, as provided in a letter to Ms. Walsh on May 26, 2000, regarding the 28 vehicle easement (a copy of which was provided to staff as a part of the Planning Commission record), it is clear that the easement is *exclusively* for that purpose. Yet Ms. Walsh has constructed a four-side enclosed garbage/refuse area, of wood fence and full side paneling. I have never been provided a copy of any permit obtained to build this structure, let alone use it, as is being done. Further I believe such use constitutes a health and safety hazard. Since the easement does not allow for such use anyway, a condition of this permit approval should be the immediate removal of that enclosure, prohibition of refuse or garbage storage on that site (especially grease trap refuse), and an explanation how those matters will be handled in the alternative to the use of that structure.

In conclusion, I have no problem or dispute with a person wanting to improve or expand their business. However, all of us doing so are bound by the same requirements. I have had to specially purchase parking to meet such minimum requirements. I have business needs for the "Harbor" easement, and will be actively using it, eliminating 8 of Ms. Walsh's claimed "available" parking spaces. I have the right to require that the easterly easement be used, as written, for 28 spaces, eliminating another 7 of Ms. Walsh's claimed "available" parking spaces. Therefore her available parking, for patrons and employees, is 28, not 43. Her expansion approval should be reviewed and limited accordingly.

Respectfully submitted,



Keet Nerhan



**Pedley & Joy**  
Architecture, Inc.  
Planning • Interiors

December 12, 2002

San Mateo County Environmental Service Agency  
Planning and Building Division  
590 Hamilton St.  
Redwood City, CA 94063

Attn: Miroo Brewer

Re: The Fishtrap Restaurant  
281 Capistrano Rd.  
Princeton-by-the-Sea, Ca

File number: PLN1999-00758

Dear Ms. Brewer:

This letter is in response to the appeal of the referenced project by Mr. Keet Nerhan of KN Properties.

As you know we first applied for our Use Permit/ CDP back in September 1999 and was approved at the public hearing on April 20, 2000. It was determined at that time that the project was within the jurisdiction of the California Coastal Commission. Application was submitted to the Coastal Commission about August 1, 2001. After working closely with the Commission for more than one year, they determined that the project was now outside their jurisdiction, and we referred back to the County. We then proceeded with the County's Coastal Development Permit, which was approved by the Planning Commission on October 23, 2002. As of this date, it has been almost 40 months that we have been trying to get this project approved. We are hoping for the earliest possible date to appear before the Board of Supervisors, and that they will uphold the decision of the Planning Commission.

I would like to briefly respond to each of Mr. Nerhan's comments in his appeal letter.

First, the 28 parking spaces addressed in the easement were the spaces that were designated to the Fishtrap within the original parking lot of the Shore Bird Restaurant, with shared ingress, egress and cross access through the parking lot. The physical boundaries of the easement were set around these spaces. In 1999 the management of the Shore Bird constructed a picket fence along the north boundary of the easement to clearly identify the two different parking areas. The fence blocked the cross access into the Fishtrap's lot and made it impossible to park in. An alternative parking plan was agreed to and approved by all parties (including then owner of The Shorebird, Charles VanLinge). This plan was then submitted to the SMC Planning Department for their review and then their approval.

Second, as you know, the beach user parking is not exclusionary. It is used by both patrons and beach users. It is always counted as apart of the total seat / space count.

Third, the Harbor District parking spaces. It is Ms. Barbara Walsh (of the Fishtrap) that has the written parking agreement and easement with the Harbor District.

25599 Fernhill Dr.  
Los Altos Hills, CA.  
94024-6338  
Ca. Lic. No. C-14419  
(650) 917-0246 Tel  
(650) 917-0242 Fax

December 12, 2002

San Mateo County Environmental Service Agency  
Planning and Building Division  
Attn: Miroo Brewer  
Re: The Fishtrap Restaurant  
File number: PLN1999-00758

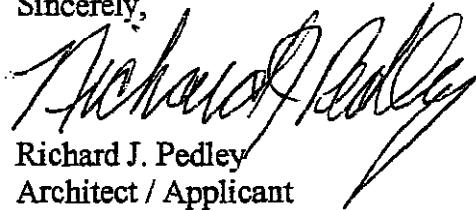
Fourth, again the parking requirements set forth in the Code take in to account that some of these spaces will be used by employees.

Lastly, the garbage enclosure was apart of the original agreement between Ms. Walsh and Mr. VanLinge. It has been apart of health, planning and building departments submittals since then.

It appears that Mr. Nerhan was not informed of all the agreements between Ms. Walsh and Mr. VanLinge when he purchased the property. His dispute should not be with Ms. Walsh but rather with Mr. VanLinge. If he does not agree with the County's final decision, he is entitled pursue civil remedies, if he chooses to do so. Otherwise, we intend on proceeding forth with construction in early spring 2003.

Contact me if you need to at 650-917-0246.

Sincerely,



Richard J. Pedley  
Architect / Applicant