

August 31, 2006

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
September 26, 2006**

CONTINUED FROM THE JULY 25, 2006 MEETING

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 05-8, 73 PIER AVENUE -
 MEDITERRANEO RESTAURANT - APPEAL OF THE PLANNING COMMISSION'S
 DENIAL OF THE REQUEST TO CHANGE THE CLOSING TIME FROM 12:00
 MIDNIGHT TO 2:00 A.M. -- FOR A RESTAURANT WITH ON-SALE ALCOHOL AND
 LIVE ENTERTAINMENT.

Planning Commission Recommendation

To deny the request for extended hours.

Background

PROJECT INFORMATION:

ZONING:	C-2 Restricted Commercial
GENERAL PLAN:	General Commercial
LOT AREA:	2,802 square feet
AREA OF ESTABLISHMENT: (NO CHANGE IN TOTAL)	Approx 3,300 square feet (Interior) 740 square feet (Outdoors))
PARKING:	No on site parking
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

The restaurant is located on the north side of Pier Plaza, in the prior location of "Brewski's," and has been operating as "Mediterraneo," a sit-down restaurant since early 2004. In December of 2003, the City Council, sustained the Planning Commission's decision to allow on-sale alcohol, but imposed a more restrictive 12:00 midnight closing time. The Council majority determined that a sit-down "upscale" restaurant did not need to be open until 2:00 A.M., but indicated that the business should operate for six months and if it demonstrated it was truly a restaurant with limited bar activity, and not causing any problems, the Council would consider an application for extended hours. Subsequently, the applicant submitted a new application to the Planning Commission.

At the September, 20, 2005 meeting, the Planning Commission voted 3:2 to deny the requested extension of hours. The Commission considered the applicant's request, but the majority felt that while the restaurant was upscale and operating successfully as a dining establishment that:

- The ownership may change, and since the terms of the CUP run with the property, the City could be left with a potential problem business operator that would focus on bar activity in the later hours, which would potentially exacerbate downtown problems;
- The restaurant did not need to cater to late night business given the type of restaurant clientele that patronize the establishment;
- Most sit-down "upscale" restaurants do not need to stay open until 2:00 A.M.;
- The downtown is saturated with late night businesses and does not need another;
- The business has not experienced problems because it is currently closing at midnight.

The Commission did not dispute that the restaurant was operating in accordance with requirements of the CUP, and staff reiterated that recent code enforcement investigations at the time found no violations, however, the Commission was concerned about possible sale of the business, and the

operating hours for the CUP in an area where some late night businesses had operated with CUP and Municipal Code violations primarily involving noise, overcrowding.

The applicant filed an appeal of the Commission's decision, and it was originally scheduled for October 11, 2005. At the request of the applicant the Council continued the matter four times, and the applicant has paid to re-notice the matter for the current hearing.

Analysis

The applicant is requesting that the 12:00 midnight closing time previously imposed by the City Council be changed to 2:00 A.M. This is the only change requested at this time. The CUP continues to allow non-amplified live entertainment and requires an acoustical study for amplified live entertainment. In the most recent consideration of a CUP Amendment along Pier Avenue, the Planning Commission approved a change from beer and wine to on-sale alcohol for Italy's Little Kitchen, but also modified the hours to a midnight closing time.

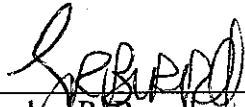
Since the opening of the restaurant, there have been no reported problems with respect to noise or other violations of the CUP. The following lists the limits on operating hours and on live entertainment for Pier Plaza businesses:

Restaurant	Hours Specified in CUP	Date	CUP type
Hennessey's	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1997	Full Alcohol w/ Live entertainment
The Mermaid	Not specified	1990	Full Alcohol
Cantina Real	8:00 A.M. – 12:00 Midnight	1979	Full Alcohol
Fishmarket Café	Not specified	1983	Beer and Wine
Dragon	7:00 A.M. – 2:00 A.M. 7:00 P.M. – 1:15 A.M. live entertainment	2003	Full Alcohol w/ Live entertainment
The Lighthouse	No general hours specified 2:00 P.M. – 1:30 A.M. live entertainment	1991	Full Alcohol w/ Live entertainment
Zeppy's	7:00 A.M. – 10:00 P.M. beer and wine	2000	Beer and wine
Il Boccaccio	8:00 A.M. – 1:30 A.M.	1993	Full Alcohol
Patrick Malloys	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1998	Full Alcohol w/ Live entertainment
Aloha Sharkeez	Not Specified	1968	Full Alcohol
Fat Face Fenner's	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1999	Full Alcohol w/ Live entertainment
Paradise Sushi	11:00 A.M. – 11:00 P.M.	1985	Beer and Wine
Sangria	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1996	Full Alcohol w/ Live entertainment

If the City Council decides to approve the appeal, staff will return with a resolution for approval.


 Sol Blumenfeld, Director
 Community Development Department

CONCUR:


 Stephen R. Burrell,
 City Manager

Attachments:

1. Resolution Sustaining Commission Decision
2. Planning Commission Minutes
3. Location Map
4. Correspondence

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RESOLUTION NO. 06-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, SUSTAINING THE PLANNING COMMISSION, ON APPEAL, TO DENY A CONDITIONAL USE PERMIT AMENDEMENT TO EXTEND OPERATING HOURS FOR A RESTAURANT WITH ON-SALE GENERAL ALCOHOL, AND LIVE ENTERTAINMENT AT 73 PIER AVENUE, AND LEGALLY DESCRIBED AS LOT 27, BLOCK 13 HERMOSA BEACH TRACT

Section 1. An application was filed by "Mediterraneo" restaurant, seeking an amendment to change the closing time from 12:00 midnight to 2:00 A.M. as set forth in the conditions of approval of the existing Conditional Use Permit for on-sale general alcohol and live entertainment.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application to amend the Conditional Use Permit on September 20, 2005, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission, and based on this evidence the Planning Commission denied the requested amendment.

Section 3. The applicant filed an appeal of the Planning Commission's decision.

Section 4. The City Council conducted a duly noticed public hearing to consider the appeal on September 26, 2006, at which testimony and evidence, both written and oral, was presented to and considered by the City Council.

Section 5. Based on evidence received at the public hearing and the record of the decision of the Planning Commission, the City Council makes the following factual findings:

1. The current Conditional Use Permit (CUP) was approved by the City Council in 2003 to allow general alcohol sales, and to convert the space to a full-service sit down restaurant including the removal of the brewing tanks and the manufacturing of beer on the premises, and included a specific condition of approval limiting operating hours to no later than 12:00 midnight. .

2. The site is located in the downtown district, which has several similar restaurants with on-sale general alcohol and live entertainment.

3. The site is zoned C-2 allowing the existing on-sale alcohol use with a Conditional Use Permit.

Section 5. Based on the foregoing factual findings, and consistent with the findings of the Planning Commission, the City Council makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. While the current business owner has been operating the restaurant in compliance with the conditions of the C.U.P., and without any complaints or violations, the ownership could change. Since the terms of the CUP run with the property, the City could be left with a potential problem business operator that would focus on bar activity in the later hours, that would potentially exacerbate downtown problems.

~~Items 2(a), (g), (j) and (m) were heard at this time but are shown in order for clarity.~~

~~Public comments on items removed from the Consent Calendar are shown under the appropriate item.~~

~~At 10:20 p.m., the order of the agenda went to item 3(a) consent ordinances.~~

5. **PUBLIC HEARINGS**

- a. **APPEAL OF THE PLANNING COMMISSION DENIAL, ON SEPTEMBER 20, 2005, OF A CONDITIONAL USE PERMIT AMENDMENT FOR A RESTAURANT WITH ON-SALE ALCOHOL TO CHANGE THE CLOSING TIME FROM 12:00 MIDNIGHT TO 2:00 A.M. DAILY AT 73 PIER AVENUE, MEDITERRANEO RESTAURANT.** Memorandum from Community Development Director Sol Blumenfeld dated July 19, 2006.

Community Director Blumenfeld presented the staff report and responded to Council questions.

The public hearing opened at 7:45 p.m. Coming forward to address the Council on this item were:

Albro Lundy – attorney for the appellant, Hermosa Beach resident and business owner, said his client was requesting a continuance because there was not a full Council present; said there were 30-35 people in the audience to speak in favor of the restaurant; knew the City had policies but thought their restaurant should have an exception;

Jim Lissner – Hermosa Beach, said the item had been continued many times in the last 10 months and should be heard tonight because many came to the meeting to speak and the residents deserved resolution;

Howard Longacre – Hermosa Beach, said further continuances would mislead the people and promote cynicism; thought there might be a lot of people who wanted the restaurant to have later hours;

Jim Rosenberger – Hermosa Beach, said the citizens had a right to be heard and the absent Councilmember could read the comments from this meeting and vote at a future meeting; as an alternative, the Council could hear the item and if there was a 3-1 vote in favor, the appellant would prevail and if there was a 2-2 tie, the item could be continued;

Adrienne Slaughter – Hermosa Beach, said because of her job with the Easy Reader, she was quite familiar with Hermosa Beach restaurants and bars and supported the request by Mediterraneo's attorney for a continuance; and

Dan Hagel – Hermosa Beach, concurred with the previous speaker; said Mediterraneo was the only entity punished by the continuance; said there were a number of members of the audience who came to support Mediterraneo's request for longer hours and he felt sure they would all come back when the item was heard on the continued date.

The public hearing closed at 7:55 p.m.

Action: To continue to the City Council meeting of September 26, 2006, with full re-noticing at the appellant's expense.

Motion Reviczky, second Bobko. The motion carried, noting the dissenting vote of Keegan and the absence of Councilman Edgerton.

b. APPEAL OF THE PLANNING COMMISSION DECISION, ON JANUARY 17, 2006, NOT TO MERGE THE PROPERTY AT 726 PROSPECT AVENUE, COMPRISED OF TWO LOTS, INTO ONE PARCEL.

Memorandum from City Manager Stephen Burrell dated July 20, 2006.

City Manager Burrell presented the staff report and responded to Council questions.

The public hearing opened at 8:08 p.m. As no one came forward to address the Council on this item, the public hearing closed at 8:08 p.m.

Action: To accept the appellant's withdrawal of the appeal.

Motion Reviczky, second Keegan. The motion carried, noting the absence of Councilman Edgerton

c. HEAR AND CONSIDER PROTESTS AND OBJECTIONS TO THE PROPOSED LANDSCAPE AND STREET LIGHTING SUPPLEMENTAL MAINTENANCE DISTRICT AND TO RECEIVE THE BALLOTS FOR AND AGAINST THE PROPOSED SUPPLEMENTAL DISTRICT.

Memorandum from Public Works Director Richard Morgan dated July 18, 2006.

Public Works Director Morgan presented the staff report and responded to Council questions. City Manager Burrell and City Attorney Jenkins also responded to Council questions.

The public hearing opened at 8:12 p.m. Coming forward to address the Council on this item were:

Shirley Cassell – Hermosa Beach, referenced her letter to the newspaper describing the poor handling of this vote; said the job should have been sent out to bid since the consultant's cost exceeded \$10,000; said Senate Bill No. 61, passed on July 1, requires two envelopes, one for the ballot and the other to serve as the mailing envelope; said the ballots floated around City Hall for a month and asked what happened to the mail on Fridays when City Hall is closed; said the vote could be seen when the single envelope was held up to the light;

Jim Rosenberger – Hermosa Beach, said this was the public's first opportunity to speak on the matter and thought the public hearing should have taken place before the voting (City Manager Burrell

Charles Kim, interpreting for the applicant, Sun Kim, explained that the owner is seeking to serve sake with the sushi meals, believing it is a complimentary drink to these meals; advised that the applicant does not expect the beer/wine sales to exceed 5 percent of his total sales; and stated that this applicant has other successful businesses and that he is a responsible business owner. He mentioned that ABC thoroughly investigates businesses seeking alcohol licenses; and that this business has been approved at the ABC level. He added that the applicant concurs with the conditions of approval.

There being no further input, Chairman Pizer closed the public hearing.

Vice-Chairman Hoffman stated that he will support this proposal because of the limitation placed on the hours of operation and because this is a small establishment.

Commissioner Allen stated that he is not opposed to the beer/wine sales as long as the Police Department is amenable with this proposal.

MOTION by Commissioner Kersenboom, seconded by Vice-Chairman Hoffman, to **APPROVE** CUP 05-6 -- Conditional Use Permit for on-sale beer and wine in conjunction with a restaurant at 429 Pacific Coast Highway, California Sushi & Teriyaki. The motion carried as follows:

AYES: Allen, Hoffman, Kersenboom, Perrotti, Pizer
NOES: None
ABSTAIN: None
ABSENT: None

11. CUP 05-8 -- Conditional Use Permit amendment for a restaurant with on-sale alcohol to change the closing time from 12:00 midnight to 2:00 A.M. daily at 73 Pier Avenue, Mediterraneo.

Staff Recommended Action: To direct staff as deemed appropriate.

Senior Planner Robertson advised that the Mediterraneo restaurant is located on the north side of Pier Plaza, the former location of Brewski's; and noted that it has been operating as Mediterraneo, a sit-down restaurant, since early 2004. When the Planning Commission approved this conditional use permit (CUP) in October 2003, he noted that the hours were limited to 2:00 A.M. and that live entertainment would cease at 1:15 A.M.; however, he advised that in December 2003, City Council sustained the Planning Commission's decision to allow on-sale alcohol, but imposed a more restrictive closing time of midnight. He stated that the applicant is now seeking authorization to close at the 2:00 A.M. hour, as previously recommended by the Planning Commission; and pointed out that this is the only change being requested this evening. Senior Planner Robertson explained that the midnight restriction was based, in part, on Council's feelings that an upscale, sit-down restaurant did not need later hours -- believing it would create more of a bar or nightclub atmosphere and that the business operation hours could be reviewed after six months of operation. He pointed out that since the opening of the Mediterraneo restaurant, there have been no reported problems with respect to noise or other

violations with its CUP. He added that the Commission has been provided a list of the restricted hours for other restaurants on Pier Plaza, many which have bars operating from 7:00 A.M. to 2:00 A.M. He stated that staff is seeking the Commission's direction on this proposal.

Commissioner Kersenboom recalled that the Commission's prior concern was that this establishment not turn into another nuisance party spot.

Director Blumenfeld noted that some of the Commission's prior deliberations pertained to whether this was going to be a sit-down restaurant that offered a full menu; noted staff's opinion that this is a dining establishment; and pointed out that over the period of time it's been in operation, the business has demonstrated it is a full service restaurant and has not had any Conditional Use Permit violations.

Commissioner Kersenboom questioned if the applicant is proposing any change in the seating plan or a dance floor.

Director Blumenfeld advised that a seating plan has been prepared at staff's request and that the area layout is the same and no dance floor is being proposed.

The Commission reviewed the seating plan at this time.

Director Blumenfeld confirmed for Commissioner Perrotti that there have been no citations with this business; and explained that when the City commenced its code enforcement activity in this area at the end of last year and beginning of this year, no violations were observed.

Chairman Pizer opened the public hearing.

Albro Lundy, attorney representing the applicant, stated that two years ago, in 2003, there was an approval for a 2:00 A.M. closing hour, which was an important decision to help this business become financially viable; and stated that Mediterraneo is a European, upscale restaurant with exceptional food and wine. He advised that Tommy Short owned Brewski's for 10 years without any issuance of a single citation; and added that two years ago, Mr. Short turned this facility into this upscale restaurant known as Mediterraneo. He stated that this restaurant needs the extended hours to financially sustain itself; advised that it's been operating since November 2003; that the business has successfully undergone the 6-month review process; and expressed his belief that after two years of operation, this business has proven it is an enhancement to this area and the City. Mr. Lundy explained that businesses in this area make their profits after hours when the Plaza area is alive with business; and advised that they are not planning on having a bar or dance floor, but that they intend to improve the quality of Hermosa Beach and the quality of its night life. He mentioned that one of the arguments at the City Council level was to allow this restaurant to compete with the other restaurants in this area; that Council directed the midnight restriction be imposed for six months and then following with a review process; and he stated that this business has proved it can operate under the conditions imposed and he urged the City to allow this business to stay open until 2:00 A.M. daily.

Mr. Lundy noted for Commissioner Kersenboom that the CUP has a provision which states no live entertainment will be permitted, with the exception of special occasions like New Year's

Eve. He stated they would probably either have a non-amplified acoustic guitar, a trio, piano, or violin. He reiterated that there is no interest in turning this business into a bar.

Matt Houston, general manager of Mediterraneo and resident of Hermosa Beach, expressed his belief this business has proven it is an upstanding business in this community; stated that they are committed to maintaining a classic environment, with excellent food and drink; and he urged support of this request so they can continue to provide an upscale dining environment for Hermosa Beach.

Commissioner Perrotti questioned if any type of food would be served after the kitchen closes.

Mr. Houston stated that the kitchen currently closes at 11:30 P.M. and that they are interested in being able to serve food a half hour to an hour later, noting that simple cuisine will be served at the later hour, such as desserts and finger foods.

Chairman Pizer questioned if this restaurant is currently profitable.

Mr. Houston noted for Chairman Pizer that the first year was a big challenge, but that this second year, he feels they are becoming more successful, establishing much more of a regular clientele.

Chairman Pizer questioned if the applicant believes he cannot make an acceptable profit based upon the current hours of operation.

Responding to Chairman Pizer's inquiry, Mr. Houston stated that the additional two hours of business, when Hermosa Beach is at its busiest, would create a more acceptable profit margin than what the restaurant currently enjoys.

Chairman Pizer questioned if the business is open for lunch.

Mr. Houston stated that the restaurant is open for lunch 3 days a week: Fridays, Saturdays and Sundays.

In response to Commissioner Kersenboom's inquiry regarding the later hours, Mr. Houston explained that it is their intent to offer food at a later hour, an alternative to fast food or pizza, for instance.

Brad Adams, 5th Street resident, expressed his support of the applicant's request, stating that this is a good, quiet place to sit down and talk with his friends while enjoying something to eat and drink.

Jim Lissner, Hermosa Beach resident, expressed his belief that a lot of restaurants have promised the same success, only to later become problem businesses in the Plaza area; stated that there are successful restaurants which do well with limited hours; and questioned whether this restaurant can improve things on Pier Avenue. He noted his opposition to adding to the concentration of alcohol licenses in this area and noted his opposition to this request.

Amber Coddle, executive chef at Mediterraneo and Hermosa Beach resident, stated that this

restaurant serves great food; that the restaurant strives to maintain a quiet and relaxed atmosphere; and echoed the owner's comments that they do not intend for this business to become a bar or club.

Mr. Lundy pointed out that this establishment already has an alcohol license, that they are only seeking the extended hours to serve food and the alcohol to go along with the food late in the evening; and advised that this establishment has continually conformed to all imposed conditions.

Shirley Castle, Hermosa Beach resident, expressed her opposition to this request; commented on the noise, litter and other nuisance problems in this area because of the late hours; and suggested that all bars/clubs in the City be closed two hours earlier.

There being no further input, Chairman Pizer closed the public hearing.

Commissioner Kersenboom expressed his belief that this establishment has proven it can abide by the conditions of approval and that it is not one of the establishments causing problems in this area.

Commissioner Perrotti highlighted his vision of the Pier Plaza becoming a restaurant row instead of what it has evolved into -- more of a sports bar row; and stated that there are problems in this area, but pointed out that this establishment is not one that has caused any of the problems. He stated that when he has been on the Plaza, he has noticed there are still people in this restaurant eating later in the evening, that these people are not there only to drink alcohol; and stated that action should be taken against those establishments that have been cited for violations, not those that abide by the rules imposed by the City. He stated that this establishment should not be punished for the actions of those violating establishments; that this business should be given equal opportunity as those like businesses in this area; and suggested possibly limiting the hour to 1:00 A.M.

Vice-Chairman Hoffman stated that while there have been no problems with this establishment, he is concerned that extending the hours would change their clientele, whether they want it or not, because the people wandering around the Pier Plaza area at 1:00 A.M. or 1:30 A.M. aren't necessarily looking for a fine dining experience, but perhaps are looking to change their drinking venue; and that this may not be something the owner, regardless of his intentions, can necessarily control. He noted his concern that if this establishment should close down, the alcohol permit would run with the property, not the establishment, thereby allowing another establishment to occupy this space with a full liquor license and a 2:00 A.M. closing time. He suggested that the owner consider amending the lunch hour; and he mentioned that financial issues are not supposed to influence the Commission's decision.

Commissioner Allen recognized that the owner of the Mediterraneo has been an excellent citizen for Hermosa Beach and he thanked him for his past involvement with this City. He echoed Vice-Chairman Hoffman's concerns with the potential for transference of the liquor license and late closure; and stated he would consider going with a 1:00 A.M. hour instead of 2:00 A.M.

Highlighting the concern with the potential for transference of the liquor license and closing

hour, Commissioner Kersenboom suggested placing a condition upon the CUP, requiring that the establishment be reviewed every year or two; and stated that if there are violations, this would give the City leverage in pulling the CUP. He suggested that this be done with all liquor license businesses.

Chairman Pizer expressed his belief that this business has escaped problems because it has an earlier closing hour; stated that successful upscale restaurants do not need late hours to be profitable; and echoed the concerns with the potential for transference of a liquor license if this establishment fails. He added that it has been Council's policy to be more restrictive.

MOTION by Vice-Chairman Hoffman, seconded by Commissioner Allen, to **DENY** CUP 05-8 -- Conditional Use Permit amendment for a restaurant with on-sale alcohol to change the closing time from 12:00 midnight to 2:00 A.M. daily at 73 Pier Avenue, Mediterraneo. The motion carried as follows:

AYES: Allen, Hoffman, Pizer
NOES: Kersenboom, Perrotti
ABSTAIN: None
ABSENT: None

12. VAR 05-1 -- Variance to allow the construction of an 1,828 square-foot new single-family dwelling on a half-lot with a 5-foot garage setback from the street rather than 17 feet; with no guest parking; a 3-foot rear setback rather than 5 feet; and greater than 100 square feet of required open space on the roof deck at 249 26th Street.

Staff Recommended Action: To approve the requested garage setback and rear yard, and direct staff as deemed appropriate regarding the requested relief from the guest parking and open space requirements.

Senior Planner Robertson advised that the subject property is zoned R-2; that it contains 1,350 square feet; that it is a substandard sized half lot, with frontage on the street and no alley access; and stated that the lot is currently developed with a single-family dwelling that contains approximately 1,400 square feet, which is nonconforming to parking, as it contains only a substandard one-car garage. He advised that the applicant is requesting these Variances in order to allow the construction of a house containing 1,828 square feet, with two bedrooms, a family room, 3 bathrooms and a roof deck. He noted that the applicant is requesting variances from the provisions of the Zoning Ordinance; advised that the first Variance deals with parking setback; stated that the proposed setback from the sidewalk is 5 feet rather than the required 17 feet; and explained that the applicant states if required to provide the 17-foot setback, the entire ground floor would essentially be devoted to parking and that this would significantly reduce the useable floor area for the dwelling.

Senior Planner Robertson advised that the second part of the Variance is from guest parking; noted that the applicant is proposing no guest parking rather than the one required pursuant to the Zoning Code; explained that this Variance is related to the parking setback issue, as the 17-foot setback normally provides a location for at least one guest space; however, he noted it is possible with garage and floor plan modifications to provide an outdoor guest space on either side of the

KENT BURTON
BRAD N. BAKER
ALBRO L. LUNDY, III
ANNE MCWILLIAMS
LAYTON L. PAGE



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July 19, 2006

RECEIVED

JUL 19 2006

Per.....

Via Hand Delivery

City Council
City of Hermosa Beach
1315 Valley Drive
Hermosa Beach, CA 90254-3884

Re: **Mediterraneo Restaurant: Appeal of the Hermosa Beach Planning Commission Decision on September 20, 2005 to Deny the Proposed Amendment of Mediterraneo Restaurant's Conditional Use Permit to Increase Hours of Operation From 12:00 midnight to 2:00 a.m.**

Appellate Hearing Date: July 25, 2006

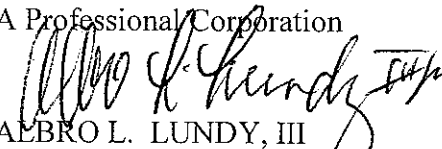
Dear Gentlepersons:

In anticipation of the upcoming City Council meeting, Appellant hereby submits the attached report and order by the Department of Alcoholic Beverage Control.

After a half day hearing, the administrative law judge issued the attached order, over the objections of the same parties who have objected at previous planning commission and council meetings. Please accept this report and order for consideration of evidence in support of claimant's petition.

Yours very truly,

BAKER, BURTON & LUNDY,
A Professional Corporation



ALBRO L. LUNDY, III

ALL:jw

REPORT ON APPLICATION FOR LICENSE

1. PENDING NUMBER 47-304813
4. DATE 4/25/05

2. DIVISION Southern Division	3. DISTRICT/BRANCH INGLEWOOD
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5. APPLICANT NAME(S) FIREROCK I INC
--

RECEIVED

6. MAILING ADDRESS (Street number and name, city, zip code) 5834 WATSON DR FT COLLINS, CO 80528	7. <input type="checkbox"/> Temp <input type="checkbox"/> Perm
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APR 26 2005

8. DBA MEDITERRANEO	9. CENSUS TRACT 6210.02
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10. PREMISES ADDRESS (Street number and name, city, zip code) 73 PIER AVE HERMOSA BEACH, CA 90254	11. GEOGRAPHICAL CODE 1924-01
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12. LICENSES APPLIED FOR 47	13. TRANSACTION TYPE (if intercounty transfer, show transferor's name) DOUBLE TRANSFER
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14. TEMPORARY PERMIT ISSUED <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Effective:	15. LICENSES ALREADY HELD 23-304813	16. EFFECTIVE DATE/ESTIMATED COMPLETION DATE ISSUANCE
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17. COPIES MAILED DATE 22-APR-2004	18. DATE PREMISES POSTED 4/24/04	19. 23985.5 DATE 8/02/04	20. DATE PREMISES INSPECTED 4/28/04
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21. WHERE POSTED FRONT WINDOW EAST OF ENTRANCE

22. PUBLICATION DATE 5/6,13,20/04	23. PUBLISHER NAME EASY READER
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24. TRANSFEROR NAME SPECTRUM FOODS INC	25. TRANSFEROR LICENSE NUMBER 47-376375 SR65 11/19/03
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26. TRANSFEROR ADDRESS (if Prem-to-Prem or Double Transfer) 15301 VENTURA BLVD SP P5 SHERMAN OAKS, CA 91403
--

RECEIVED

27. ALIEN VERIFICATION <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A	28. DATE CLEARED N/A	29. FORM NUMBER/NOTATION N/A	30. LIMITED VERIFICATION DATE N/A JUN 06 2005
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31. PENDING DISCIPLINARY ACTION AGAINST TRANSFEROR -PRO
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Dept. of Alcoholic Beverage Control Southern Division

32. TRANSFEROR'S LICENSE ORIGINALLY ISSUED DURING LAST 5 YEARS <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> N/A	33. MAIL LICENSE TO DISTRICT OFFICE NO	34. HEARING TIME 3hr
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35. FORMER LICENSEE AT THESE PREMISES SEE #5	36. LICENSE NUMBER SEE #15 to be cancelled upon issuance of 47
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37. ATTACHMENTS <input checked="" type="checkbox"/> Conditions <input type="checkbox"/> ABC-256 <input checked="" type="checkbox"/> ABC-226 <input checked="" type="checkbox"/> ABC-231 <input checked="" type="checkbox"/> ABC-243 <input checked="" type="checkbox"/> ABC-253 <input checked="" type="checkbox"/> ABC-257 <input type="checkbox"/> Other

38. REMARKS CONDITIONS IMPOSED DUE TO THE PATIO AREA AND SECTION 23958.4.
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RECEIVED

MAY 25 2005

RECEIVED

MAY 05 2005

Dept. of Alcoholic Beverage Control Inglewood Office

Dept. of Alcoholic Beverage Control Southern Division

39. RECOMMENDATION COND APR 7	INVESTIGATOR/LICENSING REPRESENTATIVE BALLM	DATE 4/25/05
RECOMMENDATION COND APR 7	SUPERVISOR AGUILARJ	DATE
RECOMMENDATION COND APR 7	DISTRICT ADMINISTRATOR CRIPPENP	DATE 4/25/05
RECOMMENDATION Cond 7 App	ASSISTANT DIRECTOR [Signature]	DATE 6/7/05

DIVISION REVIEW <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES
--

SEE ATTACHED FOR REPORT: 1. MORAL CHARACTER 2. PREMISES 3. FINANCING

Cond approval [Signature] 6/7/05
14

47-304813

FIREROCK I INC

Premises:

Premise is currently operating as a brewery and full service restaurant serving Mediterranean cuisine in compliance with Section 23038 and is located in a commercial area on a major thoroughfare. The structure of the premises is a two story free standing building, measuring approximately 106' x 32' which includes the patio at the entrance of the prem measuring approximately 15' X 15' and which can be monitored from the interior of the premises and is enclosed by wrought iron approximately 3' in height. Hours of operation are 7:00 a.m. to 2:00 a.m., daily. Entertainment provided will be in the form of recorded music and live entertainment occasionally consisting of a 3 to 6 piece jazz group. Patron capacity is for approximately 150 persons.

Licensed History:

Applied for premises has been licensed Type 23 Small Beer Manufacturer since August 1995 by the applied for applicant with no record of any disciplinary action.

Section 23790 (Zoning):

Premises complies with local zoning requirements:	X	Yes		No
Conditional use permit required:	X	Yes		No

Conditional Use Permit approved 12/09/03

Section 23789 (Consideration Points):

There is no consideration point located within 600' of the premises

Section 23958.4 (Undue Concentration/High-Crime Area):

Census Tract: 6210.02
 Population: 5675
 Number of licenses allowed: 5
 Number of existing licenses: 34
 Undue concentration exists: Yes

Law Enforcement Contact:

On 4/27/04, mailed correspondence to Sgt. Emendom of the Hermosa Beach Police Department regarding any concerns or objections to the issuance of the applied for license. No response had been received. On 4/20/05, a phone call to Sgt. Emendom of the Hermosa Beach Police Department regarding this application, his response was the applied-for location has never been a problem and no objections to issuance of the applied for license.

47-304813

FIREROCK I INC

Rule 61.4 (Residents Within 100')

No residents located within 100' of the applied for premises. Nearest resident approximately 190' east of the premises.

Protest Information:

Date application filed: 4/22/04

Number of verified protests received: 3

The protestant(s) are as follows: *James Lissner*
2715 El Oeste
Hermosa Beach 90254

Lives approximately 2 miles northeast of the applied for premises, and no visibility of the premise.

Fred Huebscher
924 16th Street
Hermosa Beach 90254

Lives approximately 1 mile northeast of the applied for premises and no visibility of the premise.

Shirley B. Cassell
611 Monterey Blvd.
Hermosa Beach 90254

Lives approximately ½ mile southeast of the applied for premises, and no visibility of the premises.

47-304813

FIREROCK I INC

Protest Issues/Grounds:

ISSUE: Undue Concentration

Response: The premise is located in Census Tract 6210.02 which allows 5 on-sale type licenses and 35 currently exist, 26 of the on-sale licenses in this census tract are located within 1,000' of the applied for premise, the additional licenses within the 1,000' radius are located in Census Tract 6211.01. The applied for premises is currently licensed with a Type 23 - Small Beer Manufacturer and will cancel upon the issuance of the applied for license. (Refer to 1,000' Map Legend) The premise is located near the Hermosa Beach Pier which is heavily traveled by tourist and frequently by local residents within the area. Due to the large number of visitors within the area the concentration of licenses is consistent with the many visitors to the area. The nearest on-sale licensee is approximately 72' W of the applied for premise and the farthest is approximately 1,000' east.

	Licensee's	Operation	File #	Addresses
1	Firerock I Inc	Brewski's	23-304813 <i>Replacing with "47"</i>	73 Pier Ave Hermosa Beach
2	Fat Face Fenner's Falloon Ltd	The Shack	47-335025	49 Pier Ave L & 53 O&P Hermosa Beach 90254
3	Takahashi Shigeki	Paradise Sushi	41-216050	53 Pier Ave, Ste. G&H Hermosa Beach
4	Venezia Carla M.	Il Boccaccio	47-301302	39 Pier Ave, Hermosa Beach
5	Cantina Real Inc	Cantina Real	47-365404	19 Pier Ave Hermosa Beach 90254
6	Thelen Quentin L.	Mermaid Restaurant	47-39231	3-11 Pier Ave Hermosa Beach
7	Poop Deck Inc	Poop Deck	42-165867	3 Pier Ave Hermosa Beach
8	Zeugas, Athanasios	Scotty's	41-400150	1100 The Strand Hermosa Beach
9	Hennesseys Tavern Inc	Henessey Tavern	47-317537	2-4-8 Pier Ave Hermosa Beach
10	Dang Tiem Thi	Hermosa Fish Mkt & Cafe	41-265376	20 Pier Ave Hermosa Beach
11	22 Pier LLC	Dragon Bar	47-397636	22 Pier Ave Hermosa Beach
12	Hennesseys Tavern Inc	Lighthouse	47-188962	30 Pier Ave Hermosa Beach
13	Zeppy's Pizzeria LLC	Zeppy's	41-393924	36 Pier Ave Hermosa Beach
14	Ro Al Inc	Patrick Malloy's	47-317239	50 Pier Ave A Hermosa Beach

ABC-220-P (12/02)

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47-304813

FIREROCK I INC

15	52 Pier Restaurant Inc	Sharkeez	48-327620	52 Pier Ave Hermosa Beach
16	Sangria Equity Partners LPship	Sangrias	47-302319	66-68 Pier Ave Hermosa Beach
17	Club Sushi Inc	Club Sushi	47-313717	1200 Hermosa Ave Hermosa Beach
18	McColgan Shane	Sharks Cove	48-302784	1220 Hermosa Ave Hermosa Beach
19	Cafe Boogaloo Lpship	Cafe Boogaloo	47-308235	1238 Hermosa Ave Hermosa Beach
20	Southern California Restaurant Endeavors LLC	Element	47-401876	1320 Hermosa Ave Hermosa Beach
21	DahDah Trading Corporation	Charly'z	47-136091	1332 Hermosa Ave 1, Hermosa Beach
22	Sribney, Michael Dennis	Pedone's Pizza	41-415653	1332 Hermosa Ave 10 Hermosa Beach
23	Cohen Harold David	La Playita Cafe	41-275526	37 14th Street Hermosa Beach
24	R&F Foods	Paisano's Pizza & Pasta	41-385142	1132 Hermosa Ave Hermosa Beach
25	JTH Enterprises Inc	Sushi Sei	41-319263	1040 Hermosa Ave Hermosa Beach
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32	Hermosa Plus Inc	Hibachi Plus Inc	41-395936	117 Pier Ave Hermosa Beach
33	Pacific Beach House LLC	Beach House	70-387801	1300 The Strand Hermosa Beach
34	Judy LPicetti	Barnacles Bar & Grill	41-355108	837 Hermosa Ave Hermosa Beach

47-304813

FIREROCK I INC

ISSUE: The premises and/or parking facilities are located or adjacent to a residential area. Issuance of this license will cause residents to be affected by increased crimes, late night noise, disturbance, and competition for parking.

Response: The premises is located within a beach area where there is a parking problem as within other beach cities. There is public parking all along Hermosa Avenue. The parking problem is more active during the evenings and on weekends. The premises is located in a commercial area. Patrons visiting this commercial area park all over the city, sometimes including residential areas. In addition, the City of Hermosa Beach has a three level parking garage located just northeast of the premises to alleviate some of the parking problems within the area. There is sufficient parking within the area of the premises, between metered parking and public parking lots. There is no evidence to support the accusations that this premise will increase crime or late night noise.

ISSUE: Rule 61.4, that the license of the premises will not interfere with the quiet enjoyment of local residences.

Response: Rule does not apply, nearest resident is approximately 190' east of the premises. Separation factors are commercial properties and a major thoroughfare. No protests were received by any nearby residents.

ISSUE: The premises will create a law enforcement problem and also add to the existing law enforcement problems and to the existing concentration of assaultive violence.

Response: The city of Hermosa Beach Police Department does not provide crime statistics to the Department on a reporting district basis. The Police Department was contacted and no objections to the issuance of the applied for license.

ISSUE: The premises is located within the immediate vicinity of religious, school, or youth facilities and normal operation of the premises will interfere with their functions.

Response: There are no consideration points located within 600' of the applied for premises.

ISSUE: Issuance of the license will add to public nuisance in the area, specifically, it will be injurious to the health of, offensive to the senses of, and obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property be an entire neighborhood.

Response: The Protestants has not submitted any evidence as to how issuance of the applied for license would add to public nuisance in the area. The premise is currently licensed with a conditional Small Beer Manufacturer license and these conditions have been carried forward to ensure that the operation of the premises does not interfere with the quiet and peaceful enjoyment of the nearby residents.

47-304813

FIREROCK I INC

ISSUE: The premise is located within and on the access route to public recreational facilities and normal operation of the premises will interfere with the functions of their recreational facilities.

Response: There are no public recreational facilities located within 600 feet of the premises. This issue is not applicable.

ISSUE: The applicant is requesting a Type 23 license that would violate the moratorium of the issuance of a new Beer and Wine Off Sale license.

Response: The applied for location is currently licensed with a Type 23 and is applying for a Type 47 On-Sale General License. This issue is not applicable.

Conclusion:

The Protestants has given no substantial evidence that the issuance of the applied for license will adversely affect the area nor does the Hermosa Beach Police Department has any objection to the issuance of the applied for license. It's the Licensing Representative's recommendation to approve the issuance of the license with imposed conditions so that the license will not interfere with nearby residents.

Needed for Hearing:

1'000' Area Map

Testimony of Investigator

Testimony of Applicant

Testimony of Protestant

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of:

FIREROCK/INC
Mediterraneo
73 Pier Ave
Hermosa Beach, CA 90254

File: 47-304813

Reg:

**PETITION FOR
CONDITIONAL
LICENSE**

For issuance of an *On-Sale General Eating Place License*

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

WHEREAS, pursuant to Section 23958 of the Business and Professions Code, the Department may deny an application for a license where issuance would result in or add to an undue concentration of licenses; and,

WHEREAS, the proposed premises are located in Census Tract 6210.02 where there presently exists an undue concentration of licenses as defined by Section 23958.4 of the Business and Professions Code; and,

WHEREAS, the petitioner(s) stipulate(s) that by reason of the aforementioned over concentration of licenses, grounds exist for denial of the applied-for license(s); and,

WHEREAS, the petitioner(s) desire to sell, serve and permit patron(s) to consume alcoholic beverages on an exterior patio; and,

WHEREAS, the Department has expressed concerns of the petitioner(s) ability to control the activity of patron(s) on said patio; and,

NOW THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

1. On the exterior patio, the petition(s) shall serve full and complete meals in compliance with Section 23038 of the Business and Professions Code until 10:00 p.m. each day of the week.
2. On the exterior patio, the petitioner shall only serve alcoholic beverages to patrons who are seated at a dining table.
3. The boundaries of this patio will be clearly defined and designated by physical barriers to separate it from the public sidewalk and adjacent private property which is not under the exclusive control of the licensee(s). These barriers and boundaries, as approved and designated on the ABC-257 dated 2/23/04 and ABC-253 dated 2/23/04.

47-304813

FIREROCK INC

Page 2

4. Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of 7:00 a.m. and 12:00 Midnight Sunday through Wednesday and 7:00 a.m. and 2:00 a.m. Thursday through Saturday.
5. The premises shall be maintained as a bona fide food restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurants.
6. No pool or billiard tables may be maintained on the premises.
7. There shall be no amplified live entertainment or dancing permitted on the premises at any time.
8. Entertainment provided shall not be audible beyond the area under the control of the licensee(s) as defined on the ABC-257 dated 2/23/04 and ABC-253 dated 2/23/04.

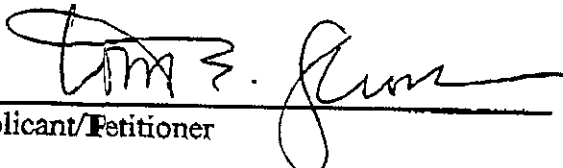
This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

Petitioner(s) stipulate(s) and agree(s) that he/she/it will not apply to the Department for removal of the condition as herein set forth unless sufficient changes occur to justify reconsideration of the need for the continuation of such conditional restrictions.

The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).

DATED THIS 25 DAY OF March, 2005


 Applicant/Petitioner

 Applicant/Petitioner

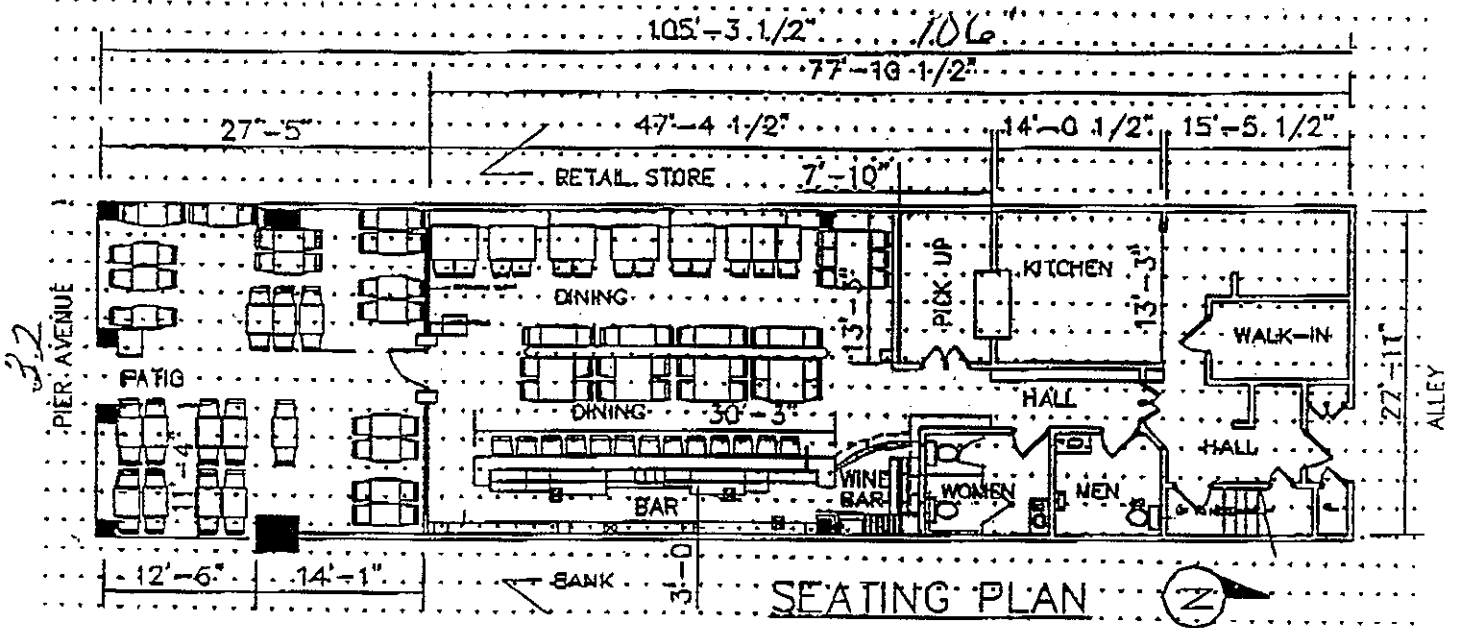
Department of Alcoholic Beverage Control LICENSED PREMISES DIAGRAM (RETAIL)

State of California
GRAY DAVIS, Governor
Business, Transportation & Housing Agency
MARIA CONTRERAS-SWEET, Secretary

1. APPLICANT NAME (Last, first, middle) FIREROCK I INC.	2. LICENSE TYPE 47
3. PREMISES ADDRESS (Street number and name, city, zip code) 73 PIER AVE., HERMOSA BEACH, CA 90254	4. NEAREST CROSS STREET Hermosa Avenue

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, *including dimensions*.

DIAGRAM



HERMOSA AVENUE ~ 100' TO THE EAST

It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required) <i>[Signature]</i>	DATE SIGNED 2-27-04
FOR ABC USE ONLY	
CERTIFIED CORRECT (Signature) <i>[Signature]</i>	INSPECTION DATE 4/28/04
PRINTED NAME [Name]	

ABC-25F (10/02)

Department of Alcoholic Beverage Control
PLANNED OPERATION (RETAIL)

SECTION I - FOR ALL RETAIL APPLICANTS

1. APPLICANT NAME(S)
FIREROCK I INC.

2. LICENSE TYPE(S)
47

3. PHYSICAL ADDRESS (street number and name, city, zip code)
73 PIER AVE., HERMOSA BEACH, CA 90254

4. NEAREST CROSS STREET
Hermosa Avenue

5. TYPE OF BUSINESS (Check one that best describes the planned operation)

<input checked="" type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Cafeteria/Holdbar	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern	<input type="checkbox"/> Fraternal Club
<input type="checkbox"/> Bed & Breakfast	<input type="checkbox"/> Theater	<input type="checkbox"/> Wine Tasting Room	
<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy
<input type="checkbox"/> Variety/Drug Store	<input type="checkbox"/> Gift Shop/Florist	<input type="checkbox"/> Convenience Market w/Gasoline	
<input type="checkbox"/> Other - describe:			

6. PATRON CAPACITY
150

7. SURROUNDING AREA

<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Rural
<input type="checkbox"/> Residential	<input type="checkbox"/> Industrial
<input type="checkbox"/> Other	

8. PROJECT IS LOCATED IN

<input checked="" type="checkbox"/> Free Standing Building	<input type="checkbox"/> Shopping Center (Name):
<input type="checkbox"/> 10 Units or Less	<input type="checkbox"/> More than 10 Units

9. FOOD SERVICE

<input type="checkbox"/> None	<input type="checkbox"/> Minimal	<input checked="" type="checkbox"/> Full Meals
-------------------------------	----------------------------------	--

10. PARKING LOT? Yes No

11. PATIO Yes No

12. WILL YOU HAVE A MANAGER? (min 5%) Yes No

13. WILL YOU HAVE A FOOD LESSEE? (min 5%) Yes No

14. MEAL TYPE

<input checked="" type="checkbox"/> Dinner House	<input type="checkbox"/> Seafood
<input type="checkbox"/> Fast Food/Deli	<input type="checkbox"/> Other:
<input type="checkbox"/> Pizza/Pasta	

15. TYPE OF FOOD

<input type="checkbox"/> American	<input type="checkbox"/> Greek	<input type="checkbox"/> Indian	<input type="checkbox"/> French
<input type="checkbox"/> Chinese	<input type="checkbox"/> Korean	<input type="checkbox"/> Italian	<input type="checkbox"/> Thai
<input type="checkbox"/> Japanese	<input checked="" type="checkbox"/> Other: <u>Mediterranean</u>		

16. HOURS OF FOOD SERVICE

BREAKFAST HOURS	
From: <u>7 am</u>	To: <u>11 am</u>
LUNCH HOURS	
From: <u>11 am</u>	To: <u>4 pm</u>
DINNER HOURS	
From: <u>4 pm</u>	To: <u>2 am</u>

17. OPERATING HOURS

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Opening Time	7 am	7 am	7 am	7 am	7 am	7 am	7 am
Closing Time	2 am	2 am	2 am	2 am	2 am	2 am	2 am

18. ENTERTAINMENT (One or more may apply. Please describe any entertainment with an asterisk (*) below)

<input type="checkbox"/> None	<input checked="" type="checkbox"/> Recorded Music	<input type="checkbox"/> Patron Dancing	<input type="checkbox"/> Card Room
<input checked="" type="checkbox"/> Recorded Music	<input checked="" type="checkbox"/> Live Entertainment	<input type="checkbox"/> Blind/Totopless/Exotic	<input type="checkbox"/> Movies
<input type="checkbox"/> Juke Box	<input type="checkbox"/> Floor/Stage Shows	<input type="checkbox"/> Pool/Billard Tables	<input type="checkbox"/> Hot Spot/Lottery
<input checked="" type="checkbox"/> Other: <u>occasional</u>	<input type="checkbox"/> Karaoke	<input checked="" type="checkbox"/> Amateur/Pro Sports Events	<input type="checkbox"/> Video/Coin-Operated Games

*Description: 2-6 piece jazz group

19. PHYSICAL IS LOCATED ON

<input type="checkbox"/> Major Thoroughfare	<input type="checkbox"/> Secondary Street	<input type="checkbox"/> Single Story	<input checked="" type="checkbox"/> Two-Story
<input checked="" type="checkbox"/> Other: <u>Pedestrian Plaza</u>		<input type="checkbox"/> Multi-Story - Number of stories:	

20. PASSE-THROUGH WINDOW? Yes No

21. FOOD BAR? Yes - how many: 1 No

22. WHAT PERCENTAGE OF YOUR TOTAL SALES WILL BE ALCOHOLIC BEVERAGE? **0% 40**

FOR ABC USE ONLY

23. INFORMATION GIVEN (A-27, R-107, Sec. 23121.5, Sec. 23121.6, etc.)

24. DATE OFFERED TO CLIENT

ABC-257 (REVERSE) (1002)

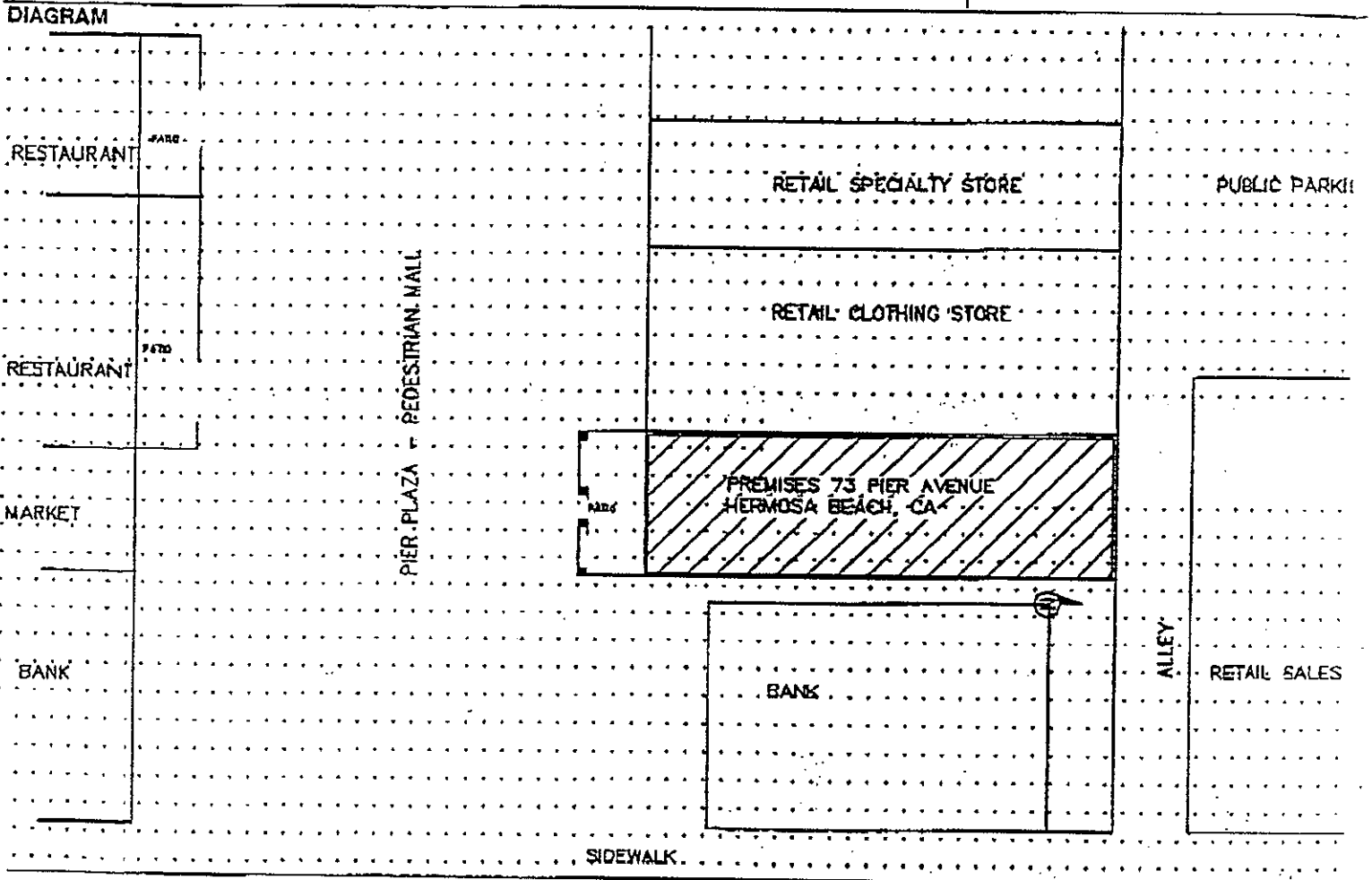
Department of Alcoholic Beverage Control
SUPPLEMENTAL DIAGRAM

State of California
GRAY DAVIS, Governor
Business, Transportation & Housing Agency
MARIA CONTRERAS-SWEET, Secretary

Instructions to Applicant:

Draw a sketch of the area on which the licensed premises is or will be located. Show adjacent structures and nearest cross streets. *If this is an event for a daily license, catering authorization or miscellaneous use, show the area where sales and consumption of alcoholic beverages will occur. Post a copy of this diagram with Daily License, Catering Authorization or Event Authorization where the event is held. Sales and consumption of alcoholic beverages must be confined to the area designated in the diagram and supervised to prevent violations of the Alcoholic Beverage Control Act.*

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3. PREMISES ADDRESS (Street number and name, city, zip code) 73 PIER AVE., HERMOSA BEACH, CA 90254	4. NEAREST CROSS STREET



HERMOSA AVENUE - 100' TO THE EAST



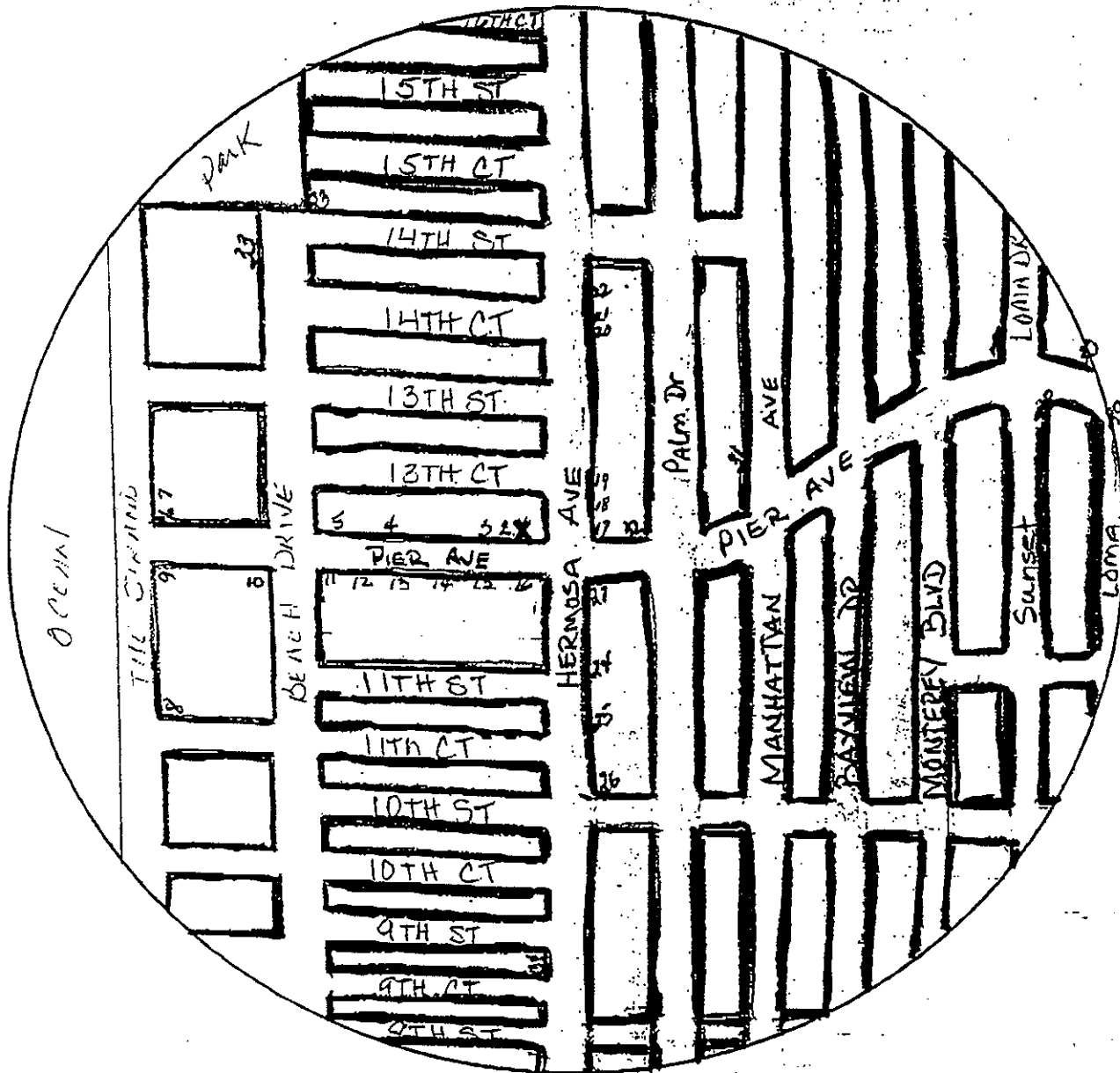
AREA MAP FIREROCK I, dba "MEDITERRANEO"
73 PIER AVENUE, HERMOSA BEACH, CA

I have read the above instructions and I declare under penalty of perjury that the above diagram is true and correct.

APPLICANT SIGNATURE <i>[Signature]</i>	DATE SIGNED 2-23-04
---	-------------------------------

FOR ABC USE ONLY		
CERTIFIED CORRECT (Signature) <i>[Signature]</i>	PRINTED NAME Ball	INSPECTION DATE 2/28/04

1000' AREA SKETCH



APPLICANT

FIREROCK I INC

73 Pier Ave

Hermosa Beach 90254

LEGEND

*See "1000-Foot Area _____-Sale List"

- Green _____ Residential
- Red _____ Business
- Yellow _____ Hospital
- Purple _____ Church
- Blue _____ School
- Brown _____ Park
- Blue/Red X _____ Premises
- P _____ Protestant

Licensing Representative: BALL

Date: Feb '05

Note: Map not drawn to scale

Firerock I Inc
Legend - File #47-304813

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Firerock I Inc
Legend - File #47-304813

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34	Judy L Picetti	Barnacles Bar & Grill	41-355108	<u>837 Hermosa Ave</u> Hermosa Beach

Subject: FW: Mediterraneo

-----Original Message-----

From: F.O. Huebscher [mailto:fred@politicalscientists.com]

Sent: Monday, October 10, 2005 10:57 PM

To: Michael Keegan; JR Reviczky; Art Yoon; Steve Burrell; Pete Tucker

Subject: Mediterraneo

Dear Councilmembers,

I am writing to urge you to uphold the Planning Commission's decision to deny Mediterraneo's request to extend their operating hours to 2 A.M. Allowing Mediterraneo to stay open until 2 A.M. is an open invitation to trouble. The restaurant could very well turn into another "bar masquerading as a restaurant" just like Patrick Malloy's. We have enough establishments serving alcohol on the Pier Plaza until 2 A.M. We don't need another one which will cause more potential problems.

Sincerely,
Fred Huebscher
924 16th St.
Hermosa Beach, CA 90254

SUPPLEMENTAL
INFORMATION 5C

KENT BURTON
BRAD N. BAKER
ALBRO L. LUNDY, III
ANNE MCWILLIAMS
LAYTON L. PACE



ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION
515 PIER AVENUE
HERMOSA BEACH CA 90254-3889
TELEPHONE: 310 • 376-9893
FACSIMILE: 310 • 376-7483

October 6, 2005

Via Hand Delivery

City Council
City of Hermosa Beach
1315 Valley Drive
Hermosa Beach, CA 90254-3884

RECEIVED
OCT 06 2005
COM. DEV. DEPT.

Re: **Mediterraneo Restaurant: Appeal of the Hermosa Beach Planning Commission Decision on September 20, 2005 to Deny the Proposed Amendment of Mediterraneo Restaurant's Conditional Use Permit to Increase Hours of Operation From 12:00 midnight to 2:00 a.m.**

Appellate Hearing Date: October 11, 2005

Dear Gentlepersons:

The basis for Mediterraneo Restaurant's appeal of the Planning Commission's decision is fairness. During the year and a half of Mediterraneo's operation, its owner, manager and employees have strived to create a restaurant and bar of which the City of Hermosa Beach can be proud. This restaurant has sought to change the negative image that exists in the minds of Hermosa Beach residents regarding Pier Plaza. The restaurant has become an oasis in the Plaza, where mature patrons can enjoy a fine dining experience in a relaxed atmosphere, where they can enjoy excellent wines and spirits in a safe, non-intimidating environment. Mediterraneo is exactly the type of restaurant that the citizens of Hermosa Beach had hoped for, a restaurant that they could truly enjoy.

As the Council well knows, our community desires a new culture in the Plaza. Mediterraneo has been a pioneer in trying to create that culture. It should be lauded for those efforts as opposed to being penalized for the misdeeds of others.

But, Mediterraneo needs to be profitable to survive. The Council is well aware that the survival of restaurants such as Mediterraneo is tenuous at best. Mediterraneo must create a place where people want to come and spend their money. It is crucial to the survival of the restaurant that Mediterraneo is able to provide its patrons with an evening out that does not have to end at 11:45 p.m. That is simply not a reasonable hour to close for the mature clientele attracted to

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Mediterraneo's new concept in the Plaza.

Mediterraneo's personnel have been told by our patrons on countless occasions that they wished the restaurant could stay open later. These customers enjoy themselves responsibly in our safe, relaxing environment. But they find their enjoyment arbitrarily cut short, despite having made a significant financial investment to go out for an evening to a fine restaurant, ending much too early for sensible adults. When Mediterraneo closes, our patrons are forced to go elsewhere or go home early. Under these circumstances, Mediterraneo cannot compete with fine dining restaurants in other beach cities, most of whom are open until 2:00 a.m.

The Plaza will never attract type of businesses and patrons which will change the culture of the Plaza until the City Council realizes that it must make the financial accommodations to such restaurants as Mediterraneo so that they can survive. These accommodations are certainly in the best interest of the citizens who live in Hermosa Beach, who are the true constituents of this Council.

As set forth in the Conditional Use Permit Amendment Report by Ken Robertson, Senior Planner, and Sol Blumenfeld, Director of Community Development Department, the Community Development Department stated concerning Mediterraneo that "since the opening of the restaurant, there have been no reported problems with respect to noise or other violations of the C.U.P." **A copy of the Conditional Use Permit Analysis by the Hermosa Beach Planning Commission dated September 12, 2005 is attached hereto.** Moreover, in the twelve years that this same owner ran Brewski's, the predecessor to Mediterraneo, there were no problems with Brewski's, as well. This is a testament to the owner, manager, and the employees' commitment to creating a safe, attractive, upscale restaurant and bar, with the particular goal of attracting local, responsible patrons from the Hermosa Beach community as its customers.

Enclosed herewith is also a copy of the Mediterraneo Restaurant menu, indicating the high quality and exacting standards under which the restaurant operates, including the restaurant mission statement, as well as the seating plan for the restaurant. Any members of the Council who have visited Mediterraneo Restaurant know that Mediterraneo has maintained a standard of excellence, safety, and professionalism, completely in compliance with the goals of the City Council and the Planning Commission to create a Pier Plaza of which this City can be proud. Mediterraneo stands as a beacon to encourage other restaurants of similar quality to join our community. Mediterraneo does not want to stand alone and recognizes that for Mediterraneo to ultimately be successful, the Plaza must attract other restaurants like Mediterraneo, with Mediterraneo's same goals.

Mediterraneo's goals are completely consistent with Council's stated goals for the Plaza.

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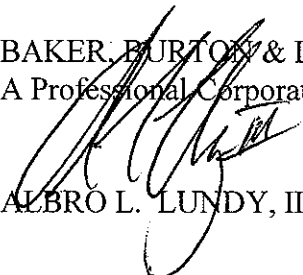
Mediterraneo asks that this Council make a conscious statement to other potential fine restaurants that the City of Hermosa Beach supports the efforts of restaurants like Mediterraneo to change the Plaza, to make it safe, to make it a place where the residents of Hermosa Beach truly want to go and feel secure and comfortable on a Friday or a Saturday night.

The message to other potential fine restaurants considering Hermosa Beach and to the citizens of Hermosa Beach must be that the Council rewards the behavior of businesses that are concerned about the people of Hermosa Beach. Mediterraneo has been a model for such restaurants and it should be rewarded for its conduct and commitment to this community.

Fairness and justice require this Council to grant Mediterraneo's Conditional Use Permit Amendment to increase its hours of operation from 12:00 midnight to 2:00 a.m., seven days per week.

Yours very truly,

BAKER, BURTON & LUNDY,
A Professional Corporation



ALBRO L. LUNDY, III

ALL:jw

September 12, 2005

Honorable Chairman and Members of the
Hermosa Beach Planning Commission

Regular Meeting of
September 20, 2005

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT 05-8
LOCATION: 73 PIER AVENUE
APPLICANT: MEDITERRANEO RESTAURANT
REQUEST: CONDITIONAL USE PERMIT AMENDMENT FOR A RESTAURANT WITH
ON-SALE ALCOHOL TO CHANGE THE CLOSING TIME FROM 12:00
MIDNIGHT TO 2:00 A.M. DAILY

Recommendation

To direct staff as deemed appropriate.

Background

PROJECT INFORMATION:

ZONING:	C-2 Restricted Commercial
GENERAL PLAN:	General Commercial
LOT AREA:	2,802 square feet
AREA OF ESTABLISHMENT: (NO CHANGE IN TOTAL)	Approx 3,300 square feet (Interior) 740 square feet (Outdoors))
PARKING:	No on site parking
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

The restaurant is located on the north side of Pier Plaza, in the prior location of "Brewski's," and has been operating as "Mediterraneo," a sit-down restaurant since early 2004. The Planning Commission approved a Conditional Use Permit (CUP) amendment in October, 2003 to allow on-sale alcohol in connection with the opening of the new restaurant, and to allow interior modifications to the former restaurant which was a brewpub limited to on-sale beer and wine only and live entertainment. The conditions relating to hours of operation included a general closing time of 2:00 A.M. and hours for live entertainment closing at 1:15 A.M. On reconsideration, the City Council, on December 9, 2003 sustained the Commission's decision to allow on-sale alcohol, but imposed a more restrictive 12:00 midnight closing time.

The Planning Commission granted a Conditional Use Permit in 1994 for on-sale beer and wine for Brewskis. In 1997 the Commission approved a CUP amendment for on-sale general alcohol and non-amplified live entertainment. The 1997 CUP for on-sale general alcohol was never implemented.

Analysis

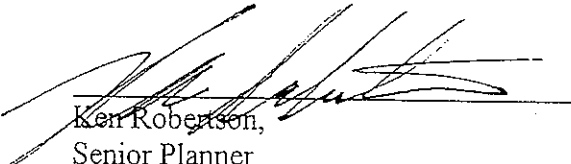
The applicant is requesting the closing time as previously imposed by the City Council be changed to 2:00 A.M. pursuant to the original action of the Planning Commission. This time change is the

only change being requested at this time. The City Council imposed the 12:00 midnight restriction based on the applicant's description of the new restaurant as an upscale sit-down restaurant, and therefore did not see the need for later hours, which would most likely create a bar or night club atmosphere.

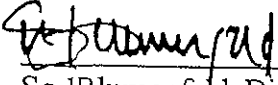
Since the opening of the restaurant, there have been no reported problems with respect to noise or other violations of the CUP. Other restaurants in the Pier Plaza have the following limits on operating hours and on live entertainment:

Restaurant	Hours Specified in CUP	Date	CUP type
Hennessey's	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1997	Full Alcohol w/ Live entertainment
The Mermaid	Not specified	1990	Full Alcohol
Cantina Real	8:00 A.M. – 12:00 Midnight	1979	Full Alcohol
Fishmarket Café	Not specified	1983	Beer and Wine
Dragon	7:00 A.M. – 2:00 A.M. 7:00 P.M. – 1:15 A.M. live entertainment	2003	Full Alcohol w/ Live entertainment
The Lighthouse	No general hours specified 2:00 P.M. – 1:30 A.M. live entertainment	1991	Full Alcohol w/ Live entertainment
Zeppy's	7:00 A.M. – 10:00 P.M. beer and wine	2000	Beer and wine
Il Boccaccio	8:00 A.M. – 1:30 A.M.	1993	Full Alcohol
Patrick Malloys	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1998	Full Alcohol w/ Live entertainment
Aloha Sharkeez	Not Specified	1968	Full Alcohol
Fat Face Fenner's	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1999	Full Alcohol w/ Live entertainment
Paradise Sushi	11:00 A.M. – 11:00 P.M.	1985	Beer and Wine
Sangria	7:00 A.M. – 2:00 A.M. 2:00 P.M. – 1:15 A.M. live entertainment	1996	Full Alcohol w/ Live entertainment

Since the restaurant, as modified, continues to involve live entertainment, the attached resolution includes a condition for live entertainment in the same manner of the 1997 CUP to limit the entertainment to non-amplified music. The conditions also include a requirement that the applicant prepare an acoustic study pursuant to current noise ordinance requirements, only if they change the live entertainment from non-amplified to amplified music.


Ken Robertson,
Senior Planner

CONCUR:

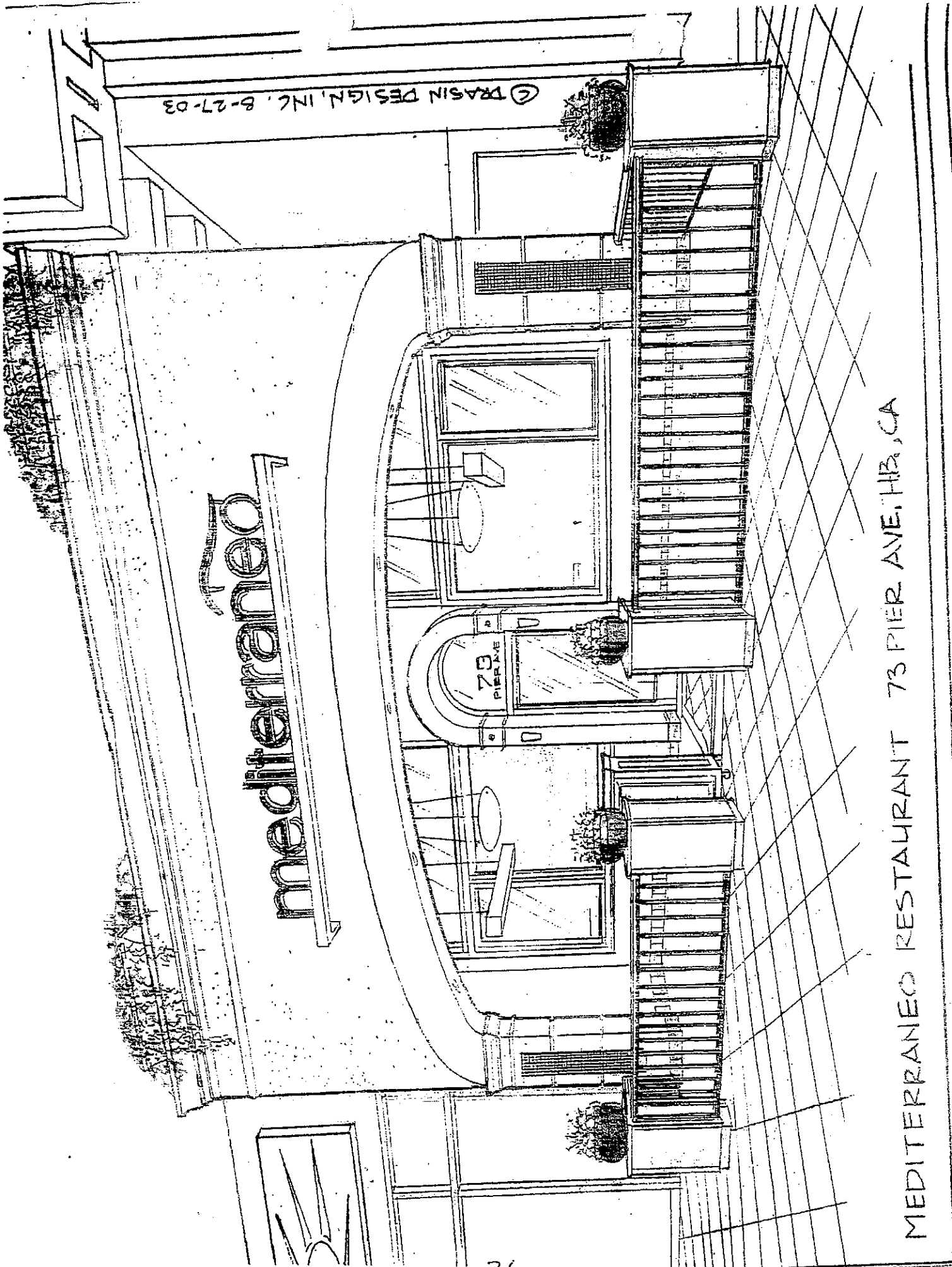

So Blumenfeld, Director
Community Development Department

Attachments

1. Proposed Resolution
2. Location Map

mediterraneo

73 Pier Avenue
Hermosa Beach, CA

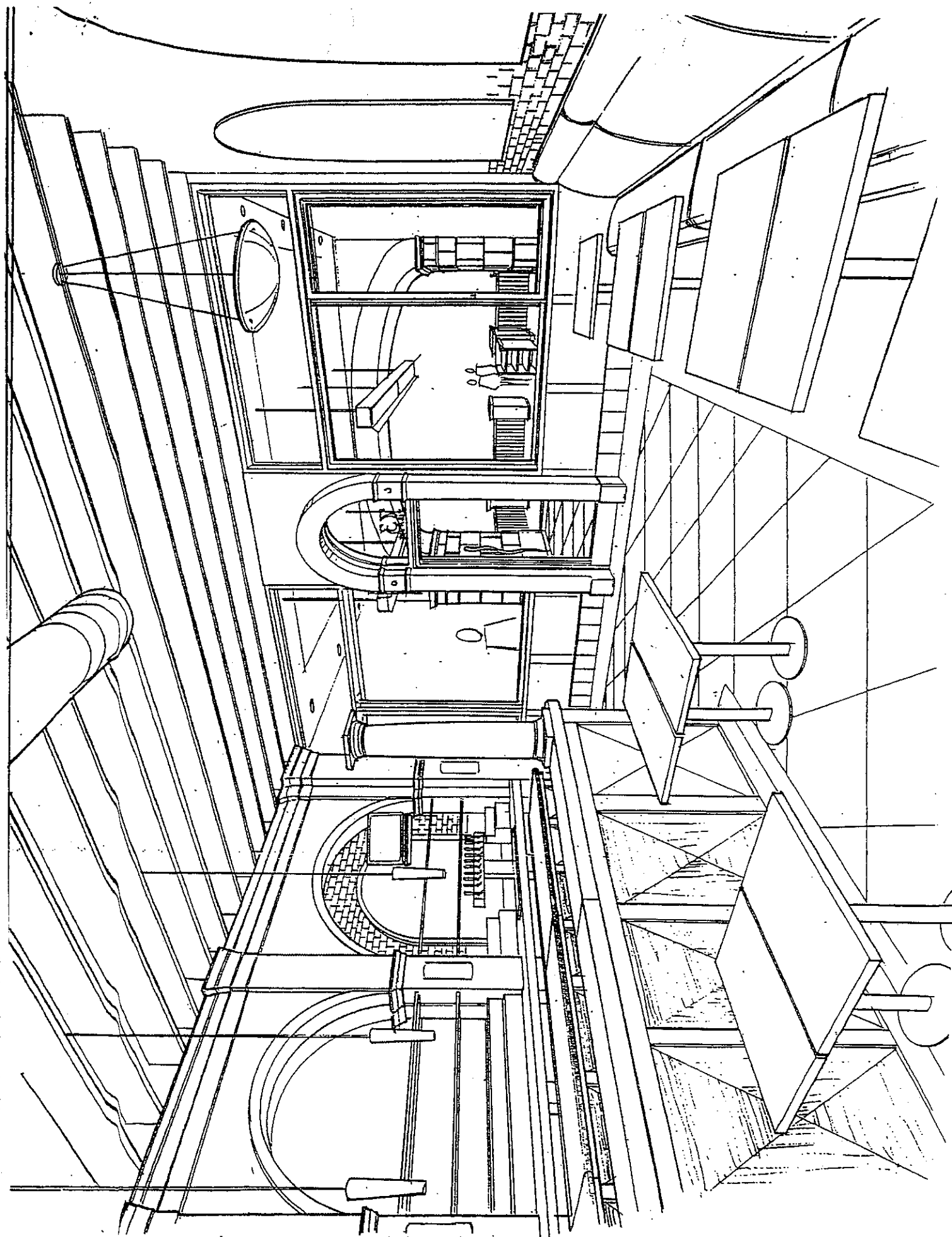


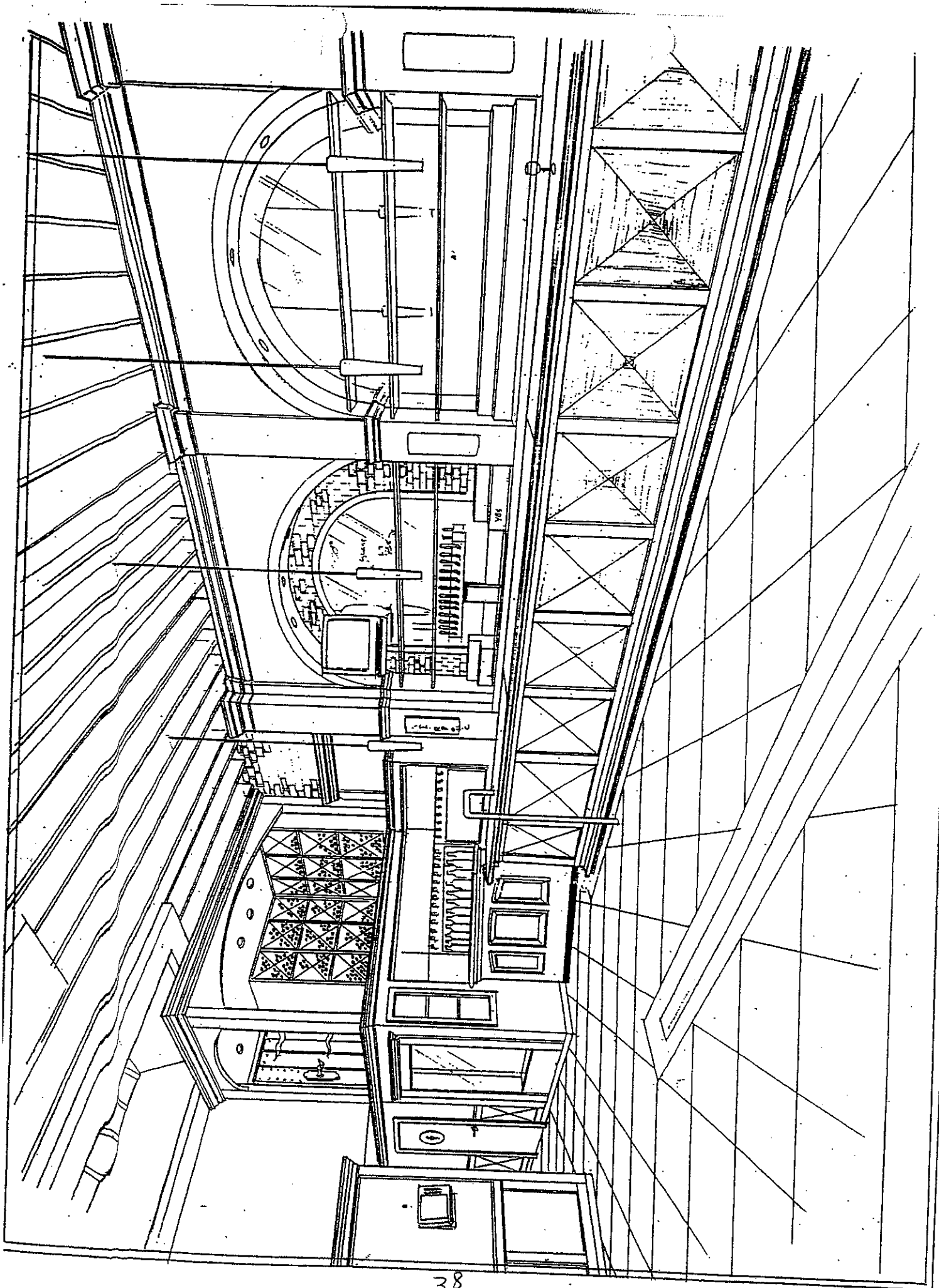
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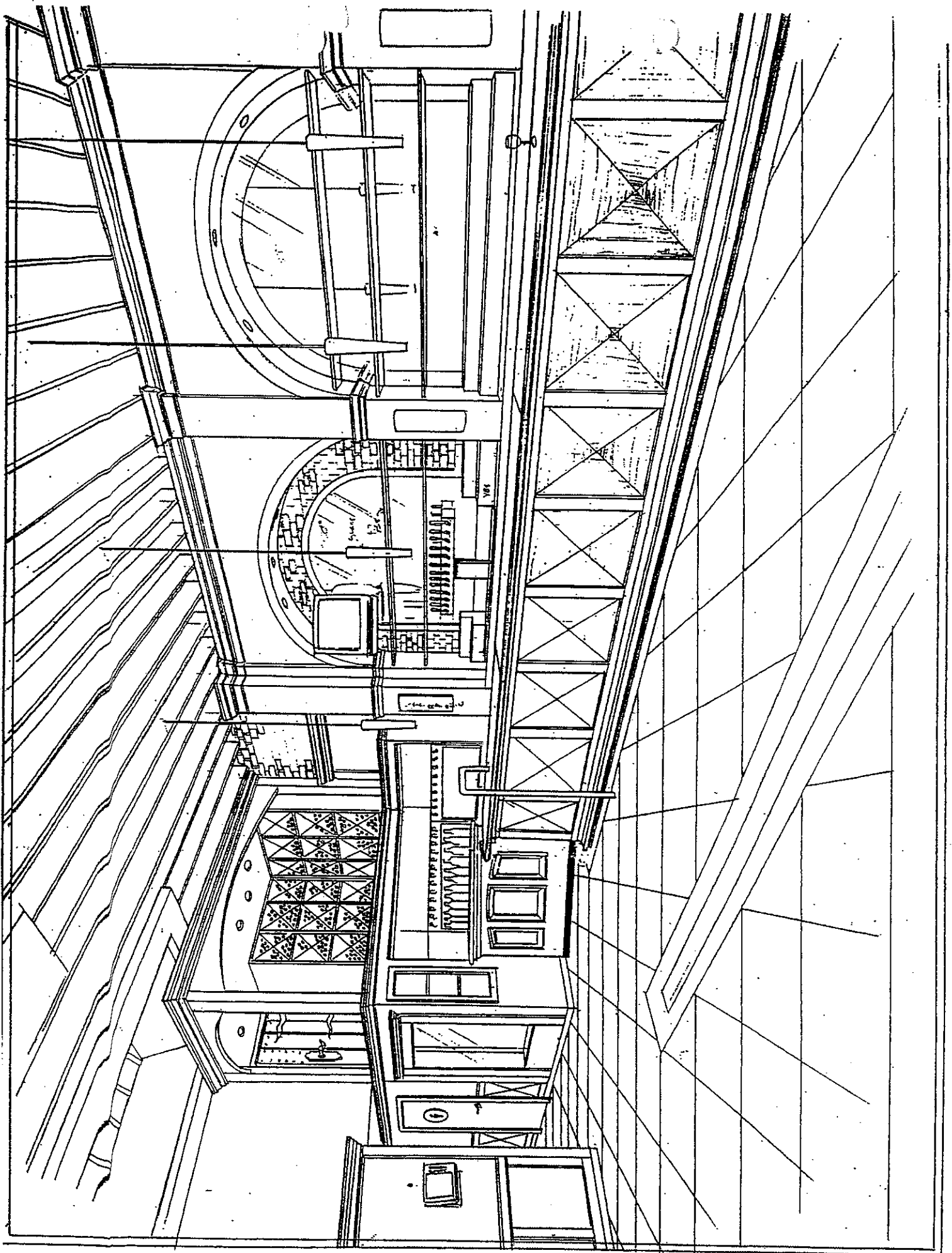
mediterraneo

73
PIERRE

MEDITERRANEO RESTAURANT 73 PIER AVE. HB, CA







Mission Statement

To create a restaurant with a relaxed atmosphere that focuses on the quality aspects of cuisine, wine, and spirits. Fashioning a feeling of Mediterranean living through simplicity, dining, and passion for the tastes of the kitchen and the bar.

Key To Our Success

Chef Antonio Race has a long-standing philosophy of creating an atmosphere of learning and growth. All employees will be provided with continuous education throughout their employment. Consistently writing papers and attending classes on food, wine, and spirits. Not only will they know what we carry but how it is made, where it comes from, and the history behind it. Chef Race believes that sharing this passion and knowledge will create something unique that will be seen and felt by everyone that visits.

Mediterraneo is not just another job or restaurant; it will be a place of passion and knowledge for food, wine, and spirits.

The Menu of Mediterraneo

The concept of the menu is very simple, in execution and interpretation. Chef Race has a southern Italian mind when it comes to cooking, using a philosophy of healthy simple foods for a reasonable price. World class cuisine has always been his standard, high prices are not. The menu will offer a wide variety of world class cuisine from Italy, Greece, France, and Spain. The kitchen will serve a full menu from 11:30 am to 10:00 pm and the tapas menu will be available from open to close, providing an option for a late evening dining. Mediterraneo's goal is to show our passion for food by creating world class healthy cuisine.

Antipasti

Baby shrimp stuffed Avocado \$7
Fresh avocado stuffed with juicy shrimp, fresh tomatoes finished with parsley and lemon

Gamberi Diavola \$7
Sautéed shrimp served in a fresh homemade spicy tomato sauce, garlic, and fresh herbs

Prosciutto-wrapped Asparagus \$7
Thin slices of Prosciutto wrapped around spears of asparagus and topped with Parmigiano Reggiano

Antipasto All'Antonio \$8
Sautéed scallops and shrimp in a spicy basil cream sauce, 'A house classic'

Calamari \$8
Grilled calamari marinated in extra virgin olive oil with hot pepper rings and fresh squeezed lemon finished with parsley

Mediterraneo \$8
Combination of our delightful vegetables prepared Mediterranean style—broccoli, mushrooms, roasted peppers, spinach, carrots, zucchini, eggplant, and onions

Carpaccio \$9
Thinly sliced raw beef laid on a bed of baby greens, drizzled with extra virgin olive oil, and served with Parmigiano Reggiano

Di Mare \$9
Seafood medley: Shrimp, scallops, and calamari in a light lemon sauce

Tapas...Vegetables

\$3

Mushrooms

Sautéed with Balsamic vinegar

Red Bell Peppers

Roasted and marinated in olive oil

Spinach

Sautéed with extra virgin olive oil

Asparagus Ladolemono

Fresh asparagus with lemon oil dressing

Beans

White beans tossed with fresh tomatoes and basil

Zucchini

Grilled and marinated with extra virgin olive oil and fresh mint sauce

Melitanosalata

Puree of eggplant

Mediterranean Olives

Combination of Italian, Greek, Spanish, and French olives

Dolmades Yialandzi

Stuffed grape vine leaves with rice

Bruschetta

Roasted bread topped with Roma tomatoes, garlic, olive oil, and fresh olives

Eggplant

Grilled and rolled with fresh mozzarella and basil and then baked

Pate

Ask your server about our French pate selection

Tapas...Fish, Meats, and Cheese

\$4

Salmon Capaccio

House cured Salmon with capers and red onions

Gambas

Chilled shrimp

Kalamarakia

Spicy squid braised in white wine, Cyprus style

Scallops

Grilled and tossed in a light lemon dressing

Mussels

Sautéed in a white wine sauce

Anchovies

Imported Mediterranean anchovies filets

Seafood Bruschetta

Roasted bread topped with seafood in tomato sauce

Soppressata

An Italian cured style of salami

Saucisson

Cured salami imported from France

Salchichon

Cured sausage imported from Spain

Parmigiano Reggiano

Semi-hard cheese from free-range cows, imported from Italy

Brie

Soft cheese imported from France

Salads

House Salad \$4

Romaine, fresh squeezed lemon juice, extra-virgin olive oil and sea salt

Insalata Italiana \$6

Baby greens, fresh tomato, and carrots with red wine vinaigrette topped with Parmigiano Reggiano

Horiatiki Salata \$6

Tomatoes, onions, cucumbers, Kalamata olives, feta cheese, and bell peppers tossed with romaine lettuce

Salade Nicoise \$7

Lettuce, tomatoes, red pepper, onions, cucumbers, black olives, and tuna tossed with boiled potatoes, green beans, and eggs. Anchovies added as an option.

Ensalada Mixta \$7

Lettuce, cucumbers, fresh tomatoes, mushrooms, olives, corn, asparagus, proscuitto, grilled chicken, and Manchego cheese

Caprese Salad \$7

'A classic from southern Italy'
Fresh Mozzarella, tomatoes, and basil

Caesar Salad \$8

Romaine lettuce with a creamy dressing of Parmigiano Reggiano, finished with croutons and topped with a choice of grilled chicken or shrimp

Mediterraneo Seafood Salad \$9

Baby greens and fresh tomatoes tossed with chilled calamari, shrimp, mussels, and salmon drizzled with extra-virgin olive oil and lemon dressing

Panini

Rigoletto \$7

Sautéed spinach and fresh mozzarella makes this panino very juicy

St. Tropez \$7

Grilled eggplant, zucchini, roasted peppers, and Brie

Vivaldi \$7

Grilled chicken breast, roasted pepper sauce, provolone, and romaine lettuce

Athens \$8

Grilled lamb wrapped in a fresh pita with shaved cucumbers, tomatoes, lettuce, and Tzatziki

Napoli \$8

Imported Parma Prosciutto with fresh mozzarella, tomato and basii
'A classic from Naples Italy'

Barcelona \$8

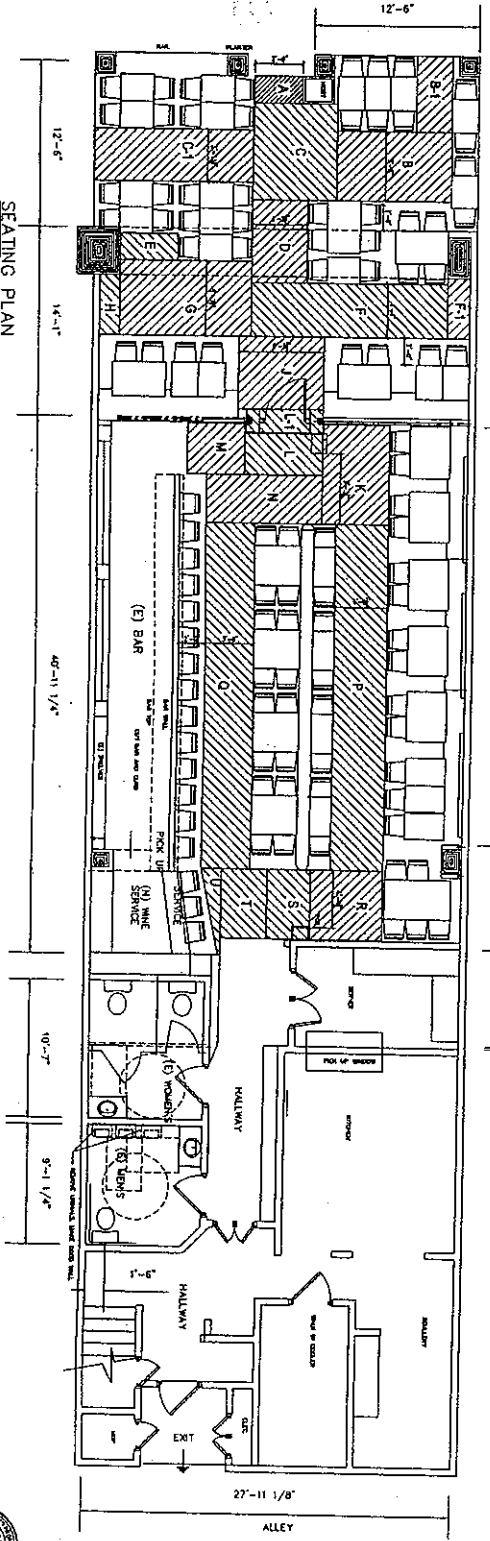
An outstanding roast beef with romaine lettuce, tomatoes, carrots, asparagus, and Manchego cheese

*All panini are served with a side of potato salad and/or house salad.

Dinner Main Course

Gnocchi alla Sorrentina	\$11
House-made gnocchi in a fresh roma tomato sauce dressed with mozzarella and basil	
Tortellini alla Panna	\$13
Meat tortellini sautéed with mushrooms, peas, and ham in a creamy wine sauce with shaved Parmigiano Reggiano cheese	
Penne all'Antonio	\$15
Pasta tubes sautéed in a light pink cognac sauce with scallops, shrimp, and dash of crushed red pepper	
Pollo Mediterraneo	\$15
Chicken breasts sautéed in a pink sauce made from sun-dried tomatoes topped with shrimp, served with a side of pasta	
Pollo Sette Colli	\$15
Chicken breast topped with roasted peppers and mozzarella in a light white wine sauce served with a side of pasta	
Pescatore	\$16
Small rigatoni pasta with shellfish in a rich, fresh Roma tomato sauce, garlic, and fresh parsley	
Salmone all'Antonio	\$17
One of Antonio's best creations! Fresh salmon filet sautéed in lemon sauce and served with grilled seasonal vegetables	
Mixed Grill Mediterraneo	\$19
Combination of shellfish and fish grilled to perfection, Mediterranean style, complemented with grilled, seasonal vegetables	
Grilled Swordfish	\$19
Fresh swordfish grilled and laid on a bed of roasted pepper sauce served with a side of grilled vegetables	
Steak Porcini	\$21
An outstanding tender cut of grilled New York steak atop a creamy cognac porcini mushroom sauce served with potato dumplings	

SEATING PLAN
1/4" = 1'-0"
SCALE TO BE OBSERVED



OCCUPANCY:
NOTE: PATRONS ONLY
STAFF IS NOT INCLUDED

BAR SEATS - 17
RESTROOMS - 12
TOTAL - 29

SCHEDULE OF AREA CALCULATION:

A	20' x 8'	= 160 sq ft
B	5' x 8'	= 40 sq ft
B-1	5' x 8'	= 40 sq ft
C	7' x 5' x 6' x 5'	= 150 sq ft
C-1	3' x 11' x 10' x 5'	= 440 sq ft
D	9' x 5' x 4' x 5'	= 200 sq ft
E	6' x 5' x 4' x 5'	= 150 sq ft
F	4' x 5' x 4' x 5'	= 100 sq ft
F-1	4' x 5' x 4' x 5'	= 100 sq ft
G	5' x 7' x 8' x 10'	= 350 sq ft
H	4' x 11' x 4'	= 154 sq ft
I	5' x 4' x 8' x 5'	= 160 sq ft
J	7' x 5' x 5' x 1'	= 175 sq ft
K	5' x 8' x 5' x 3' x 1'	= 120 sq ft
L	14' x 8' x 4' x 5'	= 224 sq ft
M	3' x 4' x 5' x 4' x 5'	= 150 sq ft
N	3' x 4' x 5' x 4' x 5'	= 150 sq ft
O	26' x 5' x 4' x 5'	= 1040 sq ft
P	5' x 5' x 5' x 4'	= 250 sq ft
Q	5' x 5' x 5' x 4'	= 250 sq ft
R	5' x 5' x 5' x 4'	= 250 sq ft
S	5' x 5' x 5' x 4'	= 250 sq ft
T	5' x 5' x 5' x 4'	= 250 sq ft
U	5' x 11' x 4' x 7'	= 385 sq ft
TOTAL		7427 SQ FT.



DATE	10/11/05
BY	LSK
CHECKED	LSK
SCALE	1/4" = 1'-0"
PROJECT	SEATING AND OCCUPANCY PLAN
NO. OF SHEETS	1
THIS SHEET NO.	A-11
DATE	10/11/05

LOUIS SKELTON, ARCHITECT
2537 O PACIFIC COAST HIGHWAY - # 1160
TORRANCE, CALIFORNIA 90505
e-MAIL: lska@yehoo.com
(310) 375-9992 FAX (310) 376-7995

MEDITERANEO
73 PIER AVENUE
HERMOSA BEACH, CA

SEATING AND OCCUPANCY PLAN
BUILDING AS BUILT

NO.	1
DATE	10/11/05
BY	LSK
CHECKED	LSK
SCALE	1/4" = 1'-0"
PROJECT	SEATING AND OCCUPANCY PLAN
NO. OF SHEETS	1
THIS SHEET NO.	A-11
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