



STAFF REPORT SAUSALITO CITY COUNCIL

AGENDA TITLE

Encroachment Agreement to allow the encroachment of new awnings and planters in the public right-of-way for the business located at 739 Bridgeway (APN 065-071-27), as recommended by the Planning Commission for Application No. DR/SP/CUP/EA 07-030.

RECOMMENDED MOTION

Staff recommends that the City Council adopt the attached Resolution of Approval for an Encroachment Agreement to permit the encroachment of new awnings and planters in the public right-of-way in front of the business located at 739 Bridgeway (APN 065-071-27), as recommended by the Planning Commission pursuant to Resolution No. 2008-10 for Application No. DR/SP/CUP/EA 07-030.

SUMMARY AND BACKGROUND

The applicant, Don Olsen, on behalf of property owner Walt Silva requests City Council approval of an Encroachment Agreement for new awnings and planters as part of the façade improvements approved by the Planning Commission and Historic Landmarks Board for Application No. DR/SP/CUP/EA 07-030. The proposed project is to improve the existing storefront for the new restaurant with the installation of a folding door system setback from the existing elevation, new awnings with lettered signage, and planter boxes framing an outdoor dining area. The application includes a request for a Design Review Permit and Sign and Awning Permit for the façade improvements, a Conditional Use Permit to convert an existing bar/restaurant into a restaurant with outdoor dining, and an Encroachment Agreement for the encroachment of the proposed awnings and planter boxes. Because the building is located in the Historic Overlay District, the Design Review Permit and Sign and Awning Permit were heard jointly by the Planning Commission and Historic Landmarks Board. The Conditional Use Permit and Encroachment Agreement review were conducted by the Planning Commission.

The Historic Landmarks Board and Planning Commission reviewed the application on January 23, 2008 and adopted Resolution No. 2008-09 approving the Design Review Permit and Sign and Awning Permit as proposed (Attachment 3). The Planning Commission approved the Conditional Use Permit and recommended approval of an Encroachment Agreement for the encroachments of awnings and planter boxes, as stated in the Resolution No. 2008-10 (Attachment 2).

ENGINEERING REVIEW

The City Engineer reviewed the proposed awning and outdoor dining encroachments on November 5, 2007 and expressed no concern with the encroachments into the sidewalk (Attachment 4). Per the City Engineer's recommendation, a condition of approval was added to

require a minimum passage of 48" between the sidewalk curb and the outdoor dining area at all times, which has been incorporated into the attached draft resolution (Attachment 1).

ENCROACHMENT REVIEW

Chapter 10.56 of the Sausalito Municipal Code provides that the Planning Commission shall review encroachments for structures within the public right-of-way, such as those included in Application No. DR/SP/CUP/EA 07-030, which shall be forwarded to the City Council for final decision making authority. The Planning Commission reviewed the proposed encroachments on January 23, 2008 based on the Encroachment Agreement findings listed in Zoning Ordinance Section 10.56.060.

During the Planning Commission's review, the Commission noted concern with the proposed outdoor dining area and its impacts on pedestrian circulation in the Downtown. The potential problem with cyclists parking their bikes along the planters was raised, as well as cyclists who may block foot traffic when parking their bikes against trees or parking meters. However, the portion of the sidewalk adjacent to the 739 Bridgeway storefront does not contain street trees or parking meters, and the proposed outdoor dining area provides an adequately sized 6.5' passageway for pedestrians. Ultimately, the Planning Commission agreed that the pedestrian/bicyclist circulation issues raised apply to the Downtown district as a whole, and that for purposes of the Conditional Use Permit review, the proposed outdoor dining area meets the standards outlined for outdoor dining (Zoning Section 10.44.220.C). The Commission adopted Resolution No. 2008-10 recommending that the City Council approve the Encroachment Agreement to the City Council, (Attachment 2), based on findings that the encroachments are consistent with the Downtown Historic District and will enhance the streetscape.

The following lists the requisite findings for the proposed encroachments with a description of their application to the requested encroachments:

A. The proposed encroachment is compatible with the surrounding area and will either improve or not significantly diminish visual or physical public enjoyment of the streetscape upon which the encroachment is proposed.

The awnings are compatible with the Downtown Historic District in which they are located, and will enhance the streetscape for the public's enjoyment. The planters are consistent with other outdoor dining areas in the Downtown and the addition of new outdoor dining will meet the Central Commercial zoning district's purpose to maintain an inviting shopping environment for visitors and residents.

B. The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent.

The location of the planters and awning allow for adequate safe passage of 6.5' from the curb to the edge of the dining area and is conditioned to provide a minimum of 48" passageway for pedestrians at all times. As conditioned, the dining area is not anticipated to adversely affect the usability of adjacent parcels. Awnings and outdoor dining areas are encroachments that are commonly allowed in the Downtown, and permitted through the issuance of appropriate permits. The proposed awning is consistent with other awnings approved in the Downtown.

C. The encroachment is necessary to the reasonable use and enjoyment of the property and the extent of the encroachment is justifiable.

The encroachment of the awnings is justifiable as they will enhance the façade, provide shade for the outdoor eating area, and create visual relief along the streetscape. The planters will add to the architectural character of the façade, as encouraged by Historic Landmarks Board Members, mitigate the openness of the façade when the folding doors are open, and clearly delineate the limits of the outdoor dining area to prevent chairs and tables from encroaching further than permitted. The encroachment of the planters may be considered justifiable to contain the outdoor dining area as proposed.

D. The proposed encroachment will not adversely affect the public circulation nor create or constitute a hazard to public safety.

The awnings provide the minimum 8' clearance required from the sidewalk, and are within the maximum encroachment of 5' from the building face. Both the awnings and outdoor dining area with planters allow for the minimum safe passageway of 48" necessary for handicapped persons. As conditioned, it is not anticipated that the awnings or outdoor plantings will adversely affect public circulation.

E. The value of the proposed improvement will not prejudice a policy decision to terminate the encroachment nor preclude or make difficult the establishment or improvements of streets or pedestrian ways.

Execution of an Encroachment Agreement will ensure that the improvements will not preclude future street or pedestrian improvements, and will allow the City Council to require removal of the encroachments if necessary.

FISCAL IMPACT

There is no anticipated fiscal impact for the requested Encroachment Agreement.

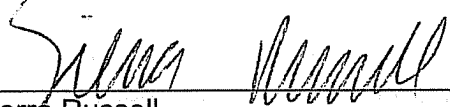
STAFF RECOMMENDATIONS

Staff recommends the City Council adopt the attached Resolution of the Sausalito City Council (Attachment 1), approving an Encroachment Agreement (Exhibit A) to allow the encroachment of new awnings and planters in the public right-of-way for the business located at 739 Bridgeway (APN 065-071-27), as indicated in the approved plans date-stamped received on January 15, 2008 (Exhibit B of Attachment 1).

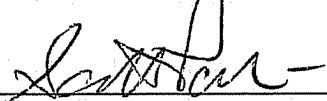
ATTACHMENTS

1. Draft Resolution of the City Council of the City of Sausalito approving an Encroachment Agreement by and between Walt Silva, property owner of 739 Bridgeway, and the City of Sausalito (Exhibit A), and as shown in the approved project plans date-stamped received January 15, 2008 (Exhibit B)
2. Planning Commission Resolution No. 2008-10
3. Planning Commission and Historic Landmarks Board Resolution No. 2008-09
4. January 23, 2008 Planning Commission and Historic Landmarks Board Joint Meeting Staff Report

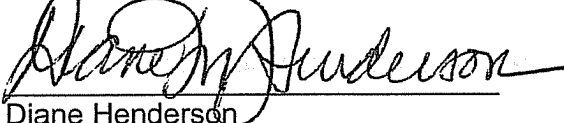
PREPARED BY:

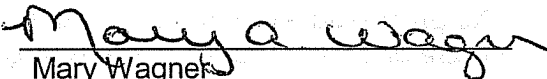

Sierra Russell
Associate Planner

SUBMITTED BY:


Adam Politzer
City Manager

REVIEWED BY:


Diane Henderson
Interim Community Development Director


Mary Wagner
City Attorney

DRAFT

RESOLUTION NO. XXXX

RESOLUTION OF THE SAUSALITO CITY COUNCIL APPROVING AN ENCROACHMENT AGREEMENT (APPLICATION NO. DR/SP/CUP/EA 07-030) TO ALLOW THE ENCROACHMENT OF NEW AWNINGS AND PLANTERS INTO THE PUBLIC RIGHT-OF-WAY FOR THE BUSINESS LOCATED AT 739 BRIDGEWAY (APN 065-071-27)

WHEREAS, an application has been filed pursuant to Sausalito Municipal Code Title 10 (Zoning) by Don Olsen, on behalf of property owner Walt Silva, requesting City Council approval of an Encroachment Agreement for two awnings and five planters encroaching into the public right-of-way adjacent to 739 Bridgeway as included in Application No. DR/SP/CUP/EA 07-030; and

WHEREAS, the Planning Commission and Historic Landmarks Board conducted a duly noticed public meeting on January 23, 2008, in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission and Historic Landmarks Board reviewed and considered the plans and materials date-stamped received January 15, 2008; and

WHEREAS, the Planning Commission and Historic Landmarks Board reviewed and considered the information contained in the January 23, 2008 staff report for the proposed project; and

WHEREAS, the Planning Commission and Historic Landmarks Board found that, as conditioned herein, the project complies with Design Review Permit and Sign and Awning Permit criteria of the Zoning Code, the Sausalito Downtown Historic District Signage Guidelines, and the General Plan as outlined in the January 23, 2008 staff report; and

WHEREAS, the Planning Commission and Historic Landmarks Board found that the proposed project is categorically exempt from the requirements of CEQA pursuant to Section 15303 (c); and

WHEREAS, the Planning Commission and Historic Landmarks Board adopted Resolution No. 2008-09 on January 23, 2008 approving the Design Review Permit and Sign and Awning Permit for Application No. DR/SP/CUP/EA 07-030; and

WHEREAS, the Planning Commission found that, as conditioned herein, the project complies with the requirements of the Zoning Code and General Plan as outlined in the January 23, 2008 staff report; and

WHEREAS, the Planning Commission found that the proposed project is categorically exempt from the requirements of CEQA pursuant to Section 15303 (c); and

WHEREAS, the Planning Commission adopted Resolution No. 2007-10 on January 23,

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2008, approving the Conditional Use Permit and recommending approval of an Encroachment Agreement for Application No. DR/SP/CUP/EA 07-030; and

WHEREAS, the City Council has reviewed and considered the Planning Commission's recommendation of the Encroachment Agreement; and

WHEREAS, the City Council has reviewed and considered the project plans date-stamped received January 15, 2008; and

WHEREAS, the City Council has received and considered written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the City Council agrees with the Planning Commission that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303 (c) and may also be considered categorically exempt pursuant to CEQA Guidelines Section 15331.

NOW, THEREFORE, THE CITY COUNCIL HEREBY approves the Encroachment Agreement for Application No. DR/SP/CUP/EA 07-030 to allow the encroachment of two awnings and five planter boxes in the public right-of-way for the business located at 739 Bridgeway (APN 065-071-27), as included in Exhibit A (Encroachment Agreement) and Exhibit B (Plans), and subject to the conditions of approval contained herein.

Section 1. Conditions of Approval

1. Approval of this application is limited to the project plans and materials titled "Piccolo Teatro" and date stamped received January 15, 2008.
2. This approval will expire in two (2) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted. A one-year extension may be granted by the Community Development Department if a request is submitted prior to the two (2) year expiration date.
3. Construction materials, equipment, vehicles, and debris boxes shall be placed to minimize obstruction of roads and gutters, shall be maintained in a clean and safe condition, and shall not be maintained in a manner that becomes a nuisance to the neighborhood.
4. Pursuant to Ordinance 1143, the operation of construction, demolition, excavation, alteration, or repair devices within all residential areas or within a 500 foot radius of residential zones shall be limited to the following hours:
 - a. Weekdays – Between 8 a.m. and 7 p.m.
 - b. Saturdays – Between 9 a.m. and 5 p.m.
 - c. Holidays – Between 9 a.m. and 7 p.m.

Such operation is prohibited on Sundays except by a homeowner residing on the property. Such

work shall be limited to 9 a.m. to 7 p.m.

5. Dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited pursuant to Sausalito Municipal Code (SMC) Chapter 11.17. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with SMC Section 11.17.060.B.
6. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Planning Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
7. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
8. In accordance with Ordinance No. 1160, the applicant shall pay any and all City costs arising out of or concerning the proposed project, including without limitation, permit fees, attorneys' fees, engineering fees, license fees and taxes, whether incurred prior to or subsequent to the date of this approval. Applicant acknowledges and agrees that City's costs shall be reimbursed prior to this approval becoming valid.
9. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
10. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Building Division must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
11. The Community Development Department is authorized to administratively approve minor modifications to the approved plans. Major design modifications to the approved project will require further review and approval by the Planning Commission.
12. The approved conditions of approval shall be copied and included as a separate page on the plan set for plan check.
13. This approval does not permit the consumption of alcoholic liquor or other alcoholic beverages

on the sidewalk. The applicant shall seek City Council approval should they wish to serve alcoholic beverages in the outdoor dining area.

14. Pursuant to Section 10.44.220.C, the outdoor dining area shall conform with the following regulations:

- a. **Safe Passage.** Safe and adequate passage of 48" width shall be provided along the sidewalk at all times. Should tree grates installed on the sidewalk reduce the passageway to less than 48", plans to provide adequate passage shall be submitted for approval to the Community Development Department.
- b. **Cleanliness.** Debris, litter or food matter shall be removed from the sidewalk, streets or surrounding property at least once each day during operating hours and at the time tables and chairs are removed from the sidewalk.
- c. **Insurance.** The Applicant shall obtain liability insurance with policy limits of at least \$500,000 per incident. The City shall be named an additional insured and the policy shall remain in force at all times that the Permit is in effect.
- d. **Hold Harmless.** The Applicant shall enter into an Encroachment Permit Agreement prepared by and satisfactory to the City Attorney. The Applicant shall agree to conform to these conditions and all applicable city ordinances. The Applicant shall also agree to indemnify the City and hold the city harmless from and against all liability arising out of the Applicant's activities under the Permit or otherwise arising out of the Applicant's placement of tables and chairs in the City sidewalk and/or from permitting the use of such tables and chairs by patrons or otherwise.
- e. **Orderliness.** All tables and chairs shall be removed from the sidewalk whenever the restaurant is closed or when the restaurant is not serving patrons on the sidewalk. The Permit shall provide for the placement of tables and chairs for the use of diners only. No entertainment shall be permitted along the sidewalk by the restaurant. No food preparation shall take place along the sidewalk, and no serving trays or bus stations shall be located along the sidewalk.
- f. **Preeminence.** The Applicant shall acknowledge that its use of the sidewalk under the Permit is subordinate to the public's right to use the sidewalk for passage and travel. Permit shall be revocable from time to time by order of the City to allow for a public event or other public use of the sidewalk subject to the Permit or if the use of the sidewalk for dining purposes conflicts with any public use of the sidewalk. The Applicant shall also acknowledge that the use of the sidewalk is subject to temporary suspension any time the City or any utility company or easement holder requires access to the sidewalk or any utility under the sidewalk, or requires use of the sidewalk in conjunction with any construction project.
- g. **Fee.** The Applicant shall be required to pay the City an annual permit fee, based on square footage of the permit area, as established by Resolution of the City Council.
- h. **Compliance with All Regulations.** The Applicant shall comply with all regulations of State Alcoholic Beverage Control and the County of Marin Department of Public Health, and any other agency that controls the operations of the restaurant.
- i. **Revocable.** All Sidewalk Dining Permits and Encroachment Permits shall be subject to permanent revocation by the City at any time.

15. The awnings and planters are subject to City Council approval of an Encroachment Agreement. The City may terminate the Encroachment Agreement for the awning and planters at any time for any reason and the applicant would be required to remove them. The business owner agrees with this policy as a condition of the project's approval.

Prior to issuance of a building permit:

16. The applicant shall inform the City Engineer on the extent of traffic on Bridgeway during construction, and the number of workers to be transferred to and from the site. A construction traffic control, parking, and staging plan and construction schedule shall be submitted for review and approval, if requested by the City Engineer. The staging plan shall show where dumpsters, equipment, and construction material are to be stored during construction and any areas within the street right-of-way to be used for off-loading material and equipment. An encroachment permit is required for any such storage in the City right-of-way.

17. The applicant shall obtain City Council approval of an Encroachment Agreement for all improvements located in the right-of-way and execute said Agreement thereby agreeing to the terms and conditions.

Prior to final of the project improvements:

18. Planning Staff shall inspect the site to ensure compliance with the conditions of approval and decision of the Planning Commission.

Section 2. Judicial Review

The time within which judicial review of this decision may be sought is governed by the provisions of section 65009 of the Government Code, section 1094.6 of the Code of Civil Procedure and all other applicable law.

RESOLUTION PASSED AND ADOPTED at the regular meeting of the City Council of the City of Sausalito on the 26th day of February 2008, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

MAYOR AMY BELSER

ATTEST: _____
CITY CLERK

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EXHIBIT A
CITY OF SAUSALITO
ENCROACHMENT AGREEMENT

This **ENCROACHMENT AGREEMENT** ("Agreement") is entered into this 26th day of January, 2008 (the "Effective Date") by and between **WALT SILVA** ("Owner") and the **CITY OF SAUSALITO**, a municipal corporation ("City").

RECITALS

The following Recitals are a substantive part of this Agreement:

A. Application No. DR/SP/CUP/EA 07-030 was submitted by Don Olsen, on behalf of property owner Walt Silva, for approval of a Design Review Permit, Sign and Awning Permit, Conditional Use Permit, and Encroachment Agreement for the conversion of an existing bar/restaurant into a new restaurant with façade improvements including new awnings and planter boxes encroaching into the public right-of-way.

B. Application No. DR/SP/CUP/EA 07-030 includes the placement of two awnings projecting five feet (5') into the sidewalk and providing a minimum clearance of eight feet (8') above the sidewalk, and planter boxes projecting four feet (4') into the public right-of-way, as part of the proposed outdoor dining area.

C. The Planning Commission and Historic Landmarks Board of the City of Sausalito did duly pass and adopt Resolution No. 2007-09 on January 23, 2008 and did thereby approve the Design Review Permit and Sign and Awning Permit.

C. The Planning Commission of the City of Sausalito did duly pass and adopt Resolution No. 2007-10 on January 23, 2008 and did thereby approve the Conditional Use Permit for a restaurant with outdoor dining and recommended approval to the City Council of an Encroachment Agreement.

D. The City Council adopted Resolution No. XXX on February 26, 2008 approving the Encroachment Agreement subject to specific conditions contained in Section 1 of said Resolution.

E. The City has the authority to regulate the use of the public right-of-way and is willing to allow Owner the encroachments as set forth on and in accordance with the Plans in accordance with Titles 10 and 17 of the Sausalito Municipal Code under certain terms and conditions as set forth below.

NOW, THEREFORE, Owner and City hereby agree as follows:

1. Description of Encroachments. The encroachment covered by this Agreement are the two awnings and planter boxes projecting within the public right-of-way as depicted on and subject to the plans date-stamped received January 15, 2008, a copy of which is attached hereto as Exhibit

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B and incorporated herein by this reference.

2. Term. The term of this Agreement is one (1) year after which it shall be automatically renewed on an annual basis unless City issues a notice of non-renewal.

3. Condition of Encroachments and Right of Way. Owner shall maintain all Encroachments and the City owned property affected thereby in good and safe condition and free from any nuisance to the satisfaction of the City Engineer.

4. Removal or Relocation. Owner acknowledges and agrees that it shall remove or relocate the Encroachment(s) at its sole cost and expense if the Encroachment(s) interferes with any lawful governmental or proprietary purpose of the City of Sausalito; is detrimental to governmental activities; and/or the right of way or street is being vacated. If the Owner fails to remove the Encroachment(s) within the time specified by the City Engineer, City may cause the work to done at the Owner's expense.

5. Taxes. Owner shall be responsible for payment of all fees and taxes charged in connection with the right, title and interest in the Encroachments.

6. Indemnification. Owner hereby agrees to indemnify, defend (with counsel reasonably acceptable to City) and hold harmless City and its elected and appointed officials, officers, employees, consultants, agents, volunteers and successors in interest from any and all claims, demands, causes of action, damages, liabilities and obligations arising from or in any way related to this Agreement and/or Owner's use of the right of way.

7. Termination. This Agreement may be terminated by either party with or without cause upon thirty (30) days written notice. Upon such termination, the Encroachment(s) must be removed as specified by and within the time required by the City Engineer. In addition, the City owned right of way must be restored to the condition required by the City Engineer. In the event that Owner fails to remove the Encroachment(s) and/or restore the right of way as required by the City Engineer within the specified time, City shall have the right to perform the work and charge Owner.

8. No Grant. This Agreement is not a grant by City of any property interest but is made subject and subordinate to the prior and continuing right of City and its assigns to lawfully use any or all of the right of way for public facilities, including but not limited to, public use as a street and for the purpose of laying, installing, maintaining, repairing, protecting, replacing and removing sanitary sewers, water mains, storm drains, gas mains, poles, overhead and underground electric and telephone wires, television and other utility and municipal uses together with appurtenances thereof and with right of ingress and egress along, over, across and in the right of way. No use of any right of way or other interest under this Agreement shall create or vest in Owner any ownership interest in the right of way; nor shall anything in this Agreement be deemed or construed to grant or create any franchise rights.

9. Condemnation. If the right of way is taken totally by condemnation, this Agreement shall terminate on the date of the taking with no compensation to Owner therefore. If a portion of the

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right of way is taken by condemnation, then this Agreement shall remain in effect as to the part not taken.

10. Standard Conditions. Owner shall comply with any and all Standard Conditions for Encroachment Permits required by the City Engineer.

11. Compliance with Laws. Owner shall comply with all applicable laws, any permit issued by the City pursuant to this Agreement and any general or specific conditions required by the City Engineer.

12. Notices. All notices required or permitted to be given under the terms of this Agreement shall be in writing and shall be deemed to be given as of the time of hand delivery to the addresses set forth below, or three (3) days after deposit in the United States mail, postage prepaid, by register or certified mail, return receipt requested, addressed as follows:

Owners:	Walt Silva	City of Sausalito
	17 Rose	Attention: City Engineer
	Sausalito, CA. 94965	420 Litho Street
		Sausalito, CA 94965

13. Assignment. This Agreement is not assignable unless City consents in writing, which consent shall not be withheld unreasonably. Such consent to assignment shall bind and insure to the benefit of the respective successors and assigns of the parties. This requirement for consent shall not apply to: (a) any disposition of all or a portion of the Property; or (b) any collateral assignment, security interest or pledge of this Agreement by Owner(s) to any lender.

14. Waivers. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any condition, or of any breach of any term, covenant, representation, or warranty contained herein, in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or breach or waiver of any other condition or of any breach of any other term, covenant, representation or warranty.

15. Severability. If one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such provision shall be deemed severable from the remaining provisions of this Agreement and shall not affect the legality, validity or constitutionality of the remaining portions of the Agreement.

16. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters addressed herein.

17. Modification. This Agreement may not be amended unless made in writing and signed by each party.

18. California Law. The interpretation and enforcement of this Agreement shall be governed by the laws of the State of California. In the event that suit shall be brought by either party to this

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Agreement, the parties agree that venue shall be exclusively vested in the State courts of the County of Marin or where appropriate, in the United States District Court, Northern District of California.

19. Attorneys' Fees. Should any legal proceeding be commenced between the parties to this Agreement seeking to enforce any of its provisions the prevailing party in such a proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorneys' fees which shall be determined by the court or forum in such a proceeding or in a separate action brought for that purpose. For purposes of this provision, "prevailing party" shall include a party which dismisses an action for recovery hereunder in exchange for payment of the sum allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action or proceeding.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement.

21. Authority. The parties represent that the individuals signing this Agreement have the authority to do so.

22. No Personal Liability. No member, official or employee of City shall be personally liable to Owner or any successor in interest in the event of any default or breach by City or on any obligation under the terms of this Agreement.

IN WITNESS WHEREOF, the parties have hereto set their signatures as of the date first above named herein.

OWNER:

CITY:

By:

Walt Silva

By:

Amy Belser, Mayor

RECOMMENDED FOR APPROVAL:

APPROVED AS TO FORM:

Todd Teachout, City Engineer

Mary Wagner, City Attorney

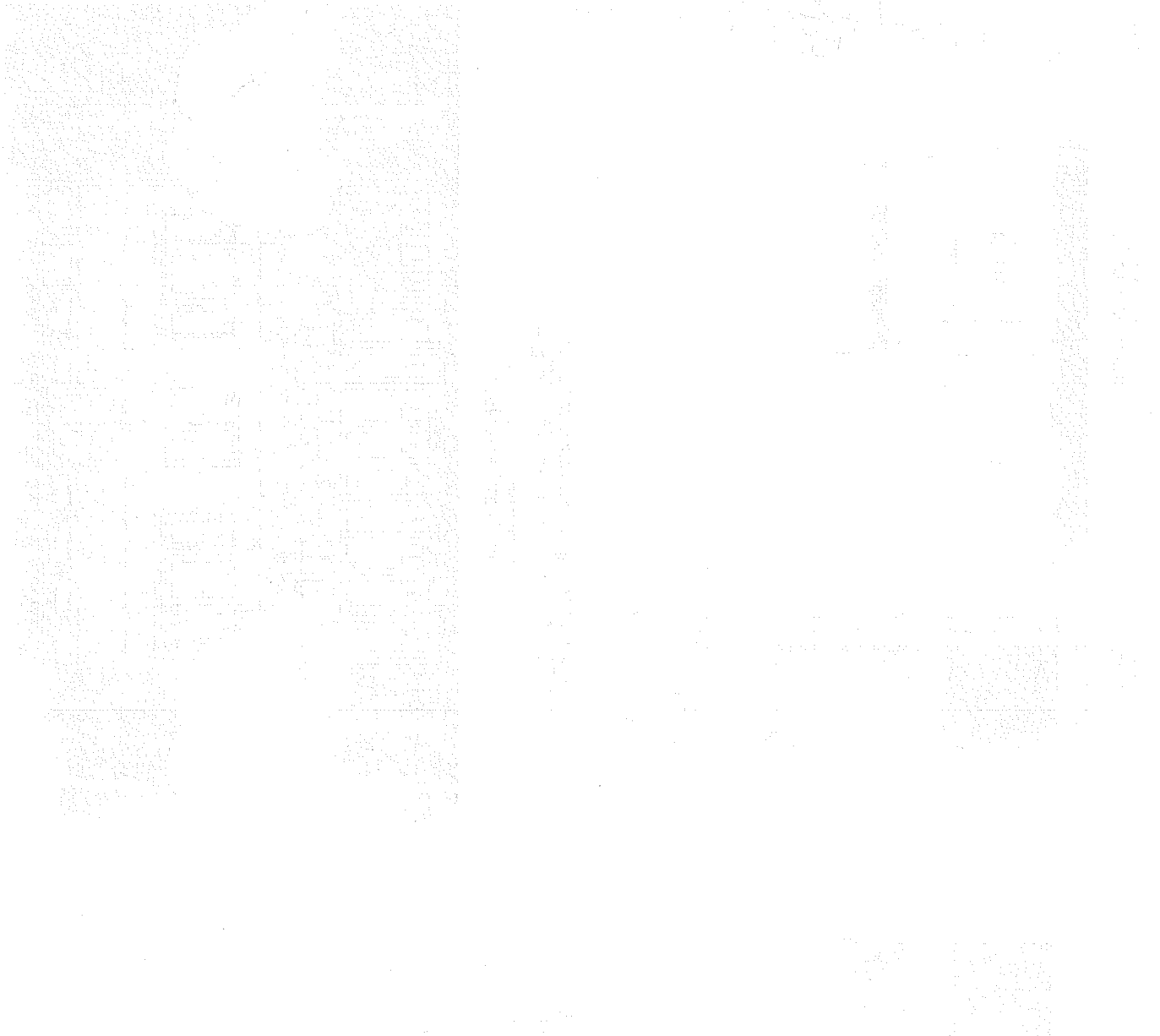
ATTEST:

City Clerk

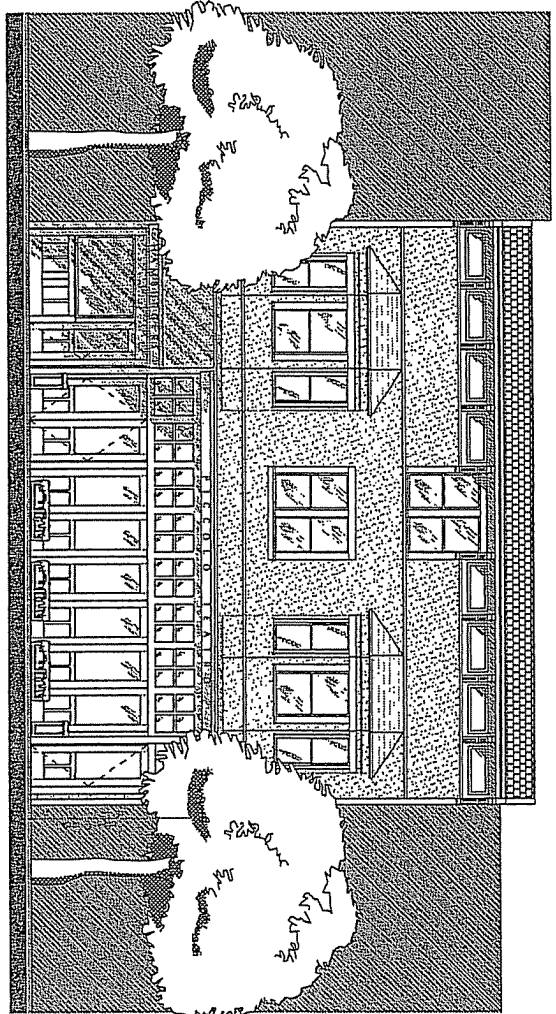
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EXHIBIT B

PLANS



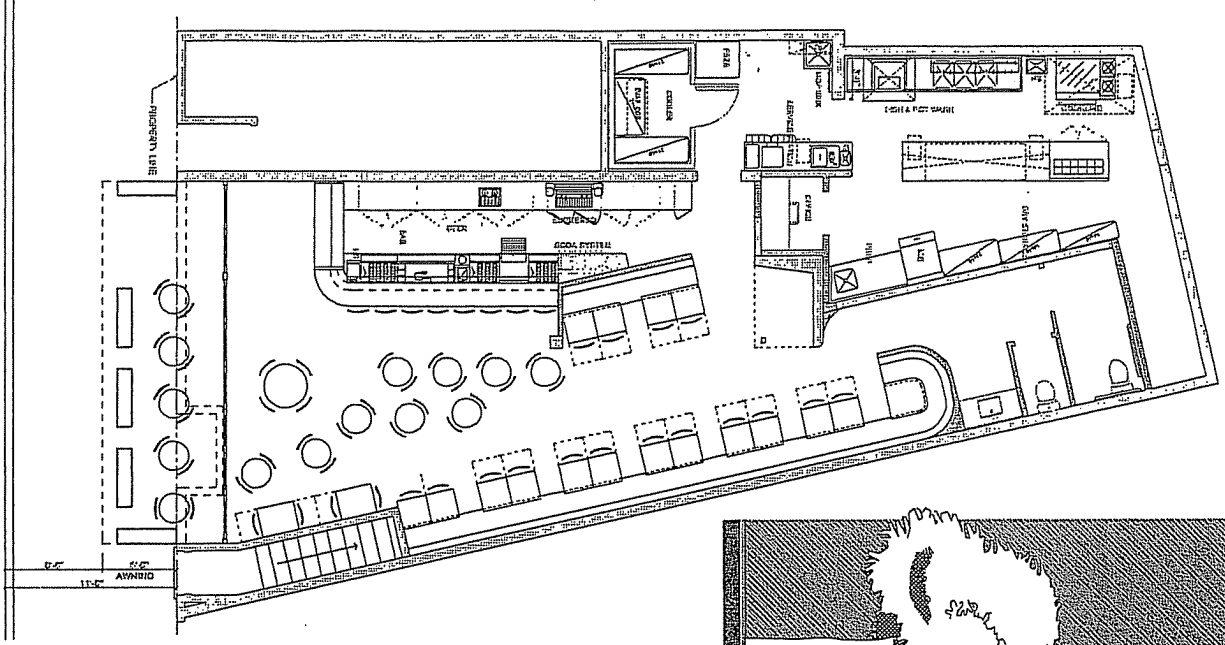
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STOREFRONT ELEVATION
SCALE 1/4" = 1'-0"

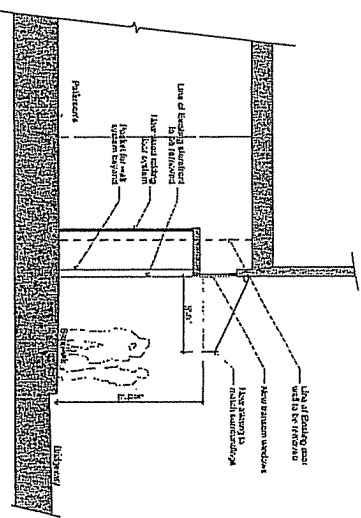
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JAN 15 2008

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT.

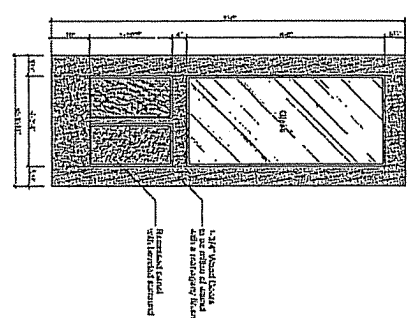


PROPOSED FLOOR PLAN
SCALE 1/8" = 1'-0"

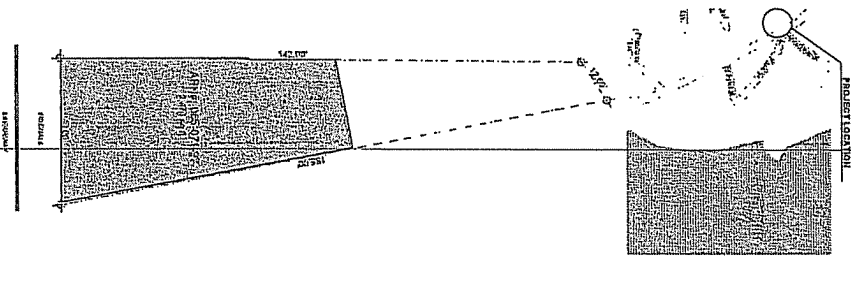
WALLS
DOORS
FLOOR FINISH



STOREFRONT SECTION
SCALE 1/4" = 1'-0"



DOOR DETAIL
SCALE 1/2" = 1'-0"



SITE PLAN
SCALE 1/8" = 1'-0"

OWNER	77 Bate Sausalito, CA 94965
CONSULTANTS	Donald Olsen Associates 488 Bridgeway, Sausalito, CA 94965 415.332.0287
PROJECT INFORMATION	DESIGNATED REZONING pending their own review of change of land use (CUL) and rezoning through the Planning Commission and City Council.
A.P.N.	065-071-29
ZONING	C-2
CONSTRUCTION TYPE	CM
PARCEL SIZE	3,584 sq ft
SHEET INDEX	
A-2	Project Site Map, Proposed Foundation, Project Information, Site Plan, Parking Station
A-1	Exterior Floor Plan, Elevation, Elevation
VICINITY MAP	

A2.0
January 9, 2008

REVISIONS	NO.

PICCOLO TEATRO
739 BRIDGEWAY
SAUSALITO, CA 94965
A.P.N. # 065-071-27

D O N A L D O L S E N
A S S O C I A T E S A R C H I T E C T S

665 Bridgeway, Sausalito, CA 94965 Tel. 415.332.0287 Fax. 415.332.8869 email. com@doarchitects.com

4/BI
16

RESOLUTION NO. 2008-10

**RESOLUTION OF THE SAUSALITO PLANNING COMMISSION
APPROVING A CONDITIONAL USE PERMIT FOR A NEW RESTAURANT SERVING
ALCOHOLIC BEVERAGES WITH OUTDOOR DINING LOCATED AT 739 BRIDGEWAY
(APN 065-071-27) AND RECOMMENDING APPROVAL OF AN ENCROACHMENT
AGREEMENT FOR AWNINGS AND PLANTERS ENCROACHING INTO THE PUBLIC
RIGHT-OF-WAY**

WHEREAS, an application has been filed by the applicant, Don Olsen, on behalf of property owner Walt Silva, requesting Planning Commission approval of a Conditional Use Permit for a new restaurant at 739 Bridgeway serving alcoholic beverages and outdoor dining, and for a recommendation of approval to the City Council for the encroachment of two awnings and five planters into the public right-of-way adjacent to 739 Bridgeway; and

WHEREAS, the Planning Commission conducted a duly noticed public meeting on January 23, 2008 in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the requirements of CEQA pursuant to Section 15303 (c); and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "Piccolo Teatro" and date stamped received January 15, 2008; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the January 23, 2008 staff report for the proposed project; and

WHEREAS the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the Zoning Code as outlined in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the General Plan as outlined in the staff report.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

1. The Planning Commission approves the Conditional Use Permit and recommends approval of an Encroachment Agreement to the City Council as outlined in the attached findings (Attachment A).
2. The Planning Commission approves the Conditional Use Permit and recommends approval of an Encroachment Agreement to the City Council, as shown in the attached project plans titled "Piccolo Teatro" and date stamped received on January 15, 2008 (Attachment B), and are subject to the attached conditions of approval (Attachment C).

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 23rd day of 2008, by the following vote:

AYES: Commissioner: Keller, Kellman, Bair, Peterson
NOES: Commissioner:
ABSENT: Commissioner:
ABSTAIN: Commissioner: Bossio



SECRETARY TO THE PLANNING COMMISSION

PLANNING COMMISSION HEARING
JANUARY 23, 2008
APPLICATION NO. DR/SP/CUP/EA 07-030
739 BRIDGEWAY
CONDITIONAL USE PERMIT AND ENCROACHMENT AGREEMENT REVIEW

ATTACHMENT A: FINDINGS

CONDITIONAL USE PERMIT FINDINGS

Pursuant to Sausalito Municipal Code Section 10.60 (Conditional Use Permits), it has been found that the permit requested may be issued based on the following findings:

- A. The proposed use is allowed with issuance of a Conditional Use Permit, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations), or Section 10.46.040 (Conditional Uses), Chapter 10.44 (Specific Use Requirements) or any other applicable section of this Title 10.

Restaurants serving alcoholic beverages are permitted in the Central Commercial Zoning District with a Conditional Use Permit (Zoning Ordinance Section 10.24.030). Outdoor dining areas in sidewalks and on private property are allowed with the issuance of a Minor Use Permit (Section 10.44.220.C), and in the case of this application, was considered as part of the Conditional Use Permit reviewed by the Planning Commission.

- B. The proposed use is consistent with the General Plan, the purposes of the Zoning Ordinance, and the purposes of the applicable zoning district.

The proposed restaurant will be the continuation of a use historic to the Downtown, which has been a bar/restaurant since 1894. The issuance of a Conditional Use Permit will bring the business into conformance with current Zoning Ordinance regulations. The project is consistent with the General Plan, particularly those related to maintaining the historic character of the Downtown, and will meet the purpose of the Central Commercial District to provide for a wide variety of retail and service businesses to serve Sausalito residents and visitors. The addition of outdoor dining will further meet the zoning district's purpose to maintain an inviting shopping environment for visitors and residents.

- C. The proposed use, together with the applicable conditions, will not be detrimental to the public health, safety, or general welfare of the City

The proposed use will operate as part of an existing bar/restaurant; however, it is proposed to be converted to primarily a restaurant use that serves alcoholic beverages. This use has been in establishment since 1894, and does not appear to have had a detrimental impact to the public health, safety, and welfare. The proposed outdoor dining area provides adequate sidewalk passage, and is conditioned to continue to provide a minimum of 48" passageway for pedestrians. As conditioned, the dining area is not anticipated to be detrimental to public safety or circulation.

- D. The proposed use complies with all of the applicable provisions of the Zoning Ordinance.

The proposed use complies with all applicable provisions of the Zoning Ordinance, including requirements for restaurants serving alcoholic beverages (Section 10.44.210.C) and outdoor dining along sidewalks (Section 10.44.220.C). The existing legal nonconformities of the structure and use will not be exacerbated or intensified with the proposed use.

- E. The proposed use or facility is properly located relative to the community as a whole and to land uses and transportation and service facilities in the vicinity.

The proposed restaurant is appropriately located in the Downtown Historic District and will continue to provide a gathering and meeting place as it has historically been used. The outdoor dining will enhance the streetscape.

- F. The size and shape of the subject property is adequate to provide features needed to ensure reasonable compatibility with land uses normally permitted in the surrounding area. Features may include but not be limited to yards, open spaces, walls and fences, parking, loading, landscaping, and such features as may be required by this Title or the Commission.

The property is adequately sized and shaped for a restaurant, as it has historically been used. The outdoor dining area will project 5' into the sidewalk, but will still allow a passageway of 6' 6". The use conversion and outdoor dining will not alter yards, open spaces, walls or fences, other than creating folding doors on the front façade, which does not appear to impact nearby land uses.

- G. Public utilities and facilities are or will be adequate to serve the proposed use, including streets and highways paved (and of adequate width) for the quantity and type of traffic it will generate.

All public utilities and facilities are adequate for the proposed use. It is not anticipated that the use will generate additional traffic impacts to Bridgeway, as the use is replacing a pre-existing legal nonconforming use with a use requiring less off-street parking.

- H. The proposed use will not materially adversely affect nearby properties or their permitted uses.

The outdoor dining area is confined to the adjacent sidewalk area along the storefront only, and will not extend to nearby properties. The use conversion involves two very similar uses. The new restaurant is not anticipated to greatly alter the previous use of a bar/restaurant, as records in the Community Development Department indicate the previous use has not adversely affected nearby properties.

- I. Findings required by Chapter 10.44 (Specific Use Requirements) for the approval of specific uses are made.

There are no additional findings required by Chapter 10.44 for restaurant uses and outdoor dining.

ENCROACHMENT REVIEW AND AGREEMENT FINDINGS

Pursuant to the City of Sausalito Municipal Code Chapter 10.56 (Encroachment Agreements), it has been found that the Planning Commission can recommend approval of the requested Encroachment Agreement based on the following findings:

- A) The proposed encroachment is compatible with the surrounding area and will either improve or not significantly diminish visual or physical public enjoyment of the streetscape upon which the encroachment is proposed.

The awnings are compatible with the Downtown Historic District in which they are located, and will enhance the streetscape for the public's enjoyment. The planters are consistent with other outdoor dining areas also.

- B) The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent.

The location of the planters and awning still allow for safe passage of a minimum of 48" along the sidewalk, from the curb to the edge of the improvements. Awnings and outdoor dining areas are encroachments that are commonly allowed in the Downtown, and permitted with the issuance of appropriate permits.

- C) The encroachment is necessary to the reasonable use and enjoyment of the property and the extent of the encroachment is justifiable.

The awnings will enhance the façade and provide shade for the outdoor eating area, as well as provide visual relief along the streetscape. The planters create variety to the façade, and, as encouraged by Historic Landmarks Board Members, will mitigate the openness of the façade when the folding doors are open.

- D) The proposed encroachment will not adversely affect the public circulation nor create or constitute a hazard to public safety.

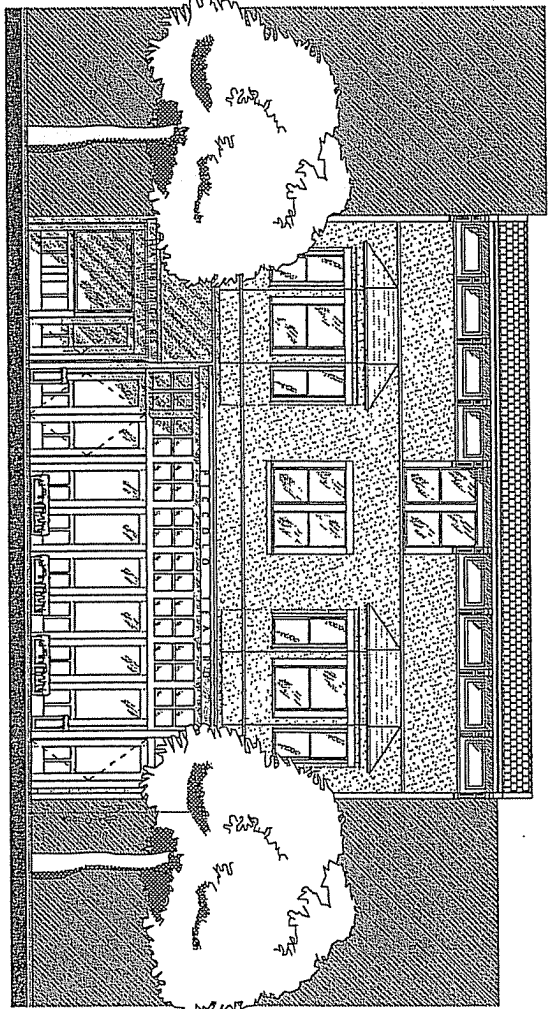
The awnings provide the minimum 8' clearance required from the sidewalk, and are within the maximum encroachment of 5' from the building face. Both the awnings and outdoor dining area with planters allow for the minimum safe passageway of 48" necessary for handicap persons.

- E) The value of the proposed improvements will not prejudice a policy decision to terminate the encroachment nor preclude or make difficult the establishment or improvement of streets or pedestrian ways.

Execution of an Encroachment Agreement will ensure the improvements will not preclude future street or pedestrian improvements, and will allow the City Council to require removal of the encroachments if necessary.

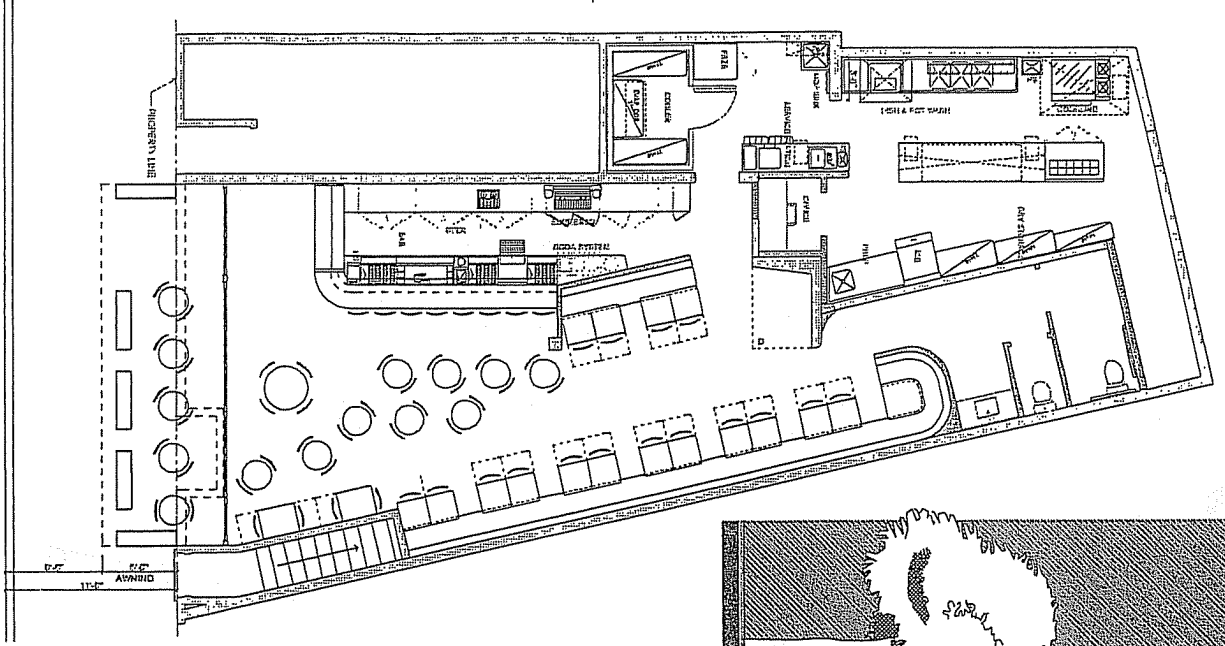
PLANNING COMMISSION HEARING
JANUARY 23, 2008
APPLICATION NO. DR/SP/CUP/EA 07-030
739 BRIDGEWAY
CONDITIONAL USE PERMIT AND ENCROACHMENT AGREEMENT REVIEW

ATTACHMENT B: PLANS AND ELEVATIONS



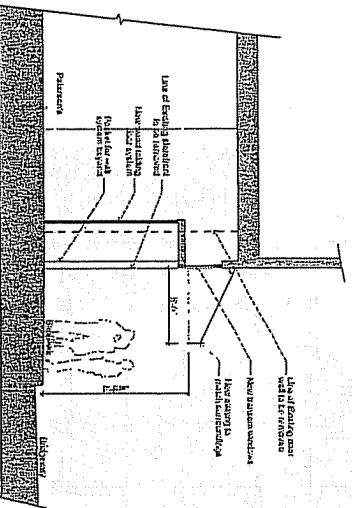
STOREFRONT ELEVATION
SCALE: 1/4" = 1'-0"

RECEIVED
JAN 15 2008
CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT.

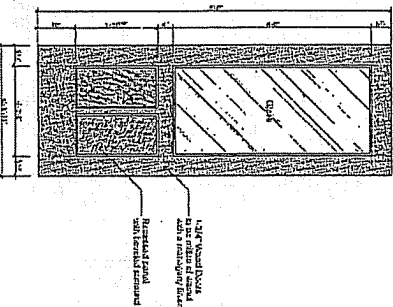


PROPOSED FLOOR PLAN
SCALE: 1/4" = 1'-0"

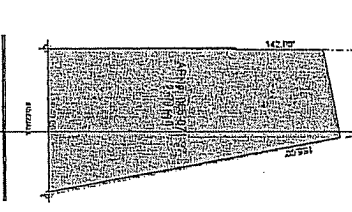
WALL LEGEND:
Glass
Solid
Structural



STOREFRONT SECTION
SCALE: 1/4" = 1'-0"



DOOR DETAIL
SCALE: 1/4" = 1'-0"



SITE PLAN
SCALE: 1/4" = 1'-0"

OWNER	17842 739 BRIDGEWAY SAUSALITO, CA 94965
CONSULTANTS	DONALD OLSEN ASSOCIATES ARCHITECTS 655 BRIDGEWAY, SAUSALITO, CA 94965 415.532.4297
PROJECT INFORMATION	DESIGN: Planning and design for the proposed new building and site work, including site plan, site plan, and site plan.
A.P.N.	065-071-027
ZONING	ISZ
CONSTRUCTION	SA
TYPE	RENOVATION
PANEL SIZE	24" x 36"
SHEET INDEX	ASS: Proposed floor plan, proposed foundation, proposed site plan, building section, and site plan. A11: Existing floor plan, existing foundation
VICINITY MAP	PROJECT LOCATION

4B1
23

DONALD OLSEN
ASSOCIATES ARCHITECTS

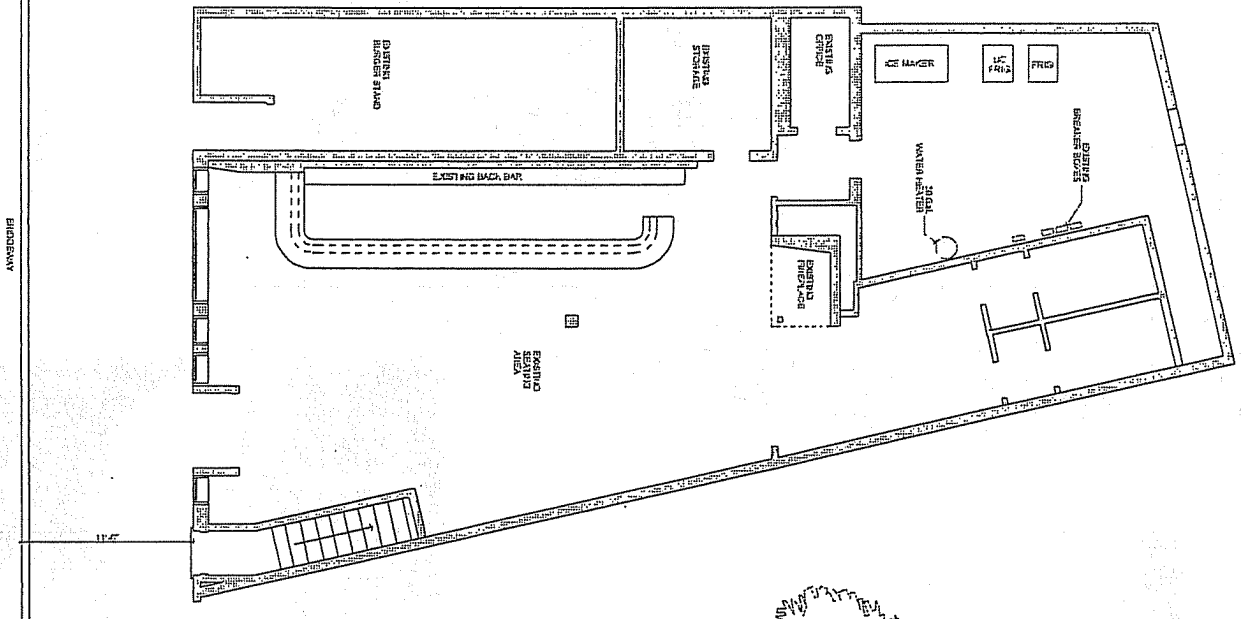
655 Bridgeway, Sausalito, CA 94965 Tel: 415.532.4297 Fax: 415.532.4850 email: don@olsonarchitects.com

PICCOLO TEATRO
739 BRIDGEWAY
SAUSALITO, CA 94965
A.P.N. # 065-071-27

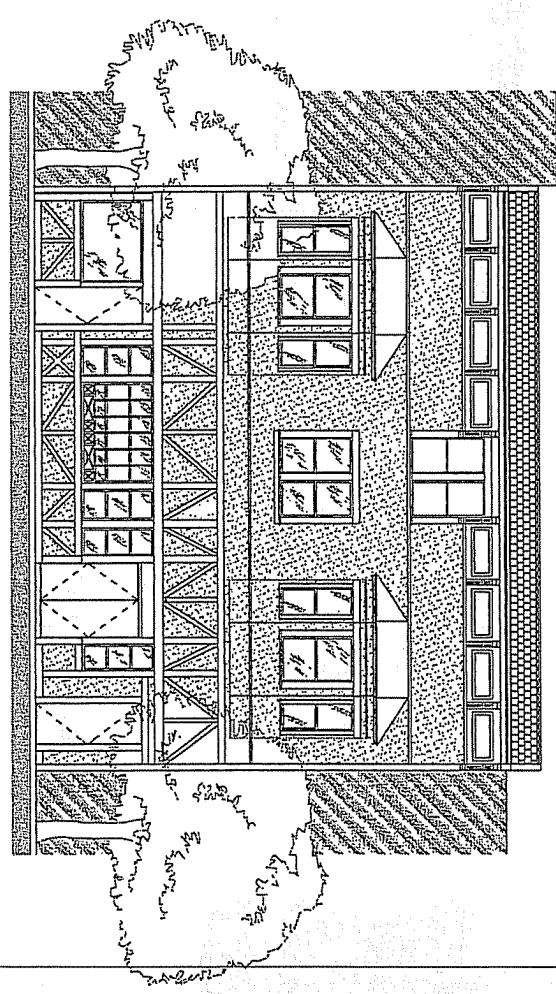
A2.0

JANUARY 9, 2008

EXISTING FLOOR PLAN



EXISTING ELEVATION



A2.1
January 9, 2008

REVISIONS	
NO.	
DATE	
BY	
DESCRIPTION	

PICCOLO TEATRO
739 BRIDGEWAY
SAUSALITO, CA 94965
A.P.N. # 065-071-27

D O N A L D O L S E N
A S S O C I A T E S A R C H I T E C T S

602 Bridgeway, Sausalito, CA 94965 tel. 415/332-0297 fax 415/332-8869 email: don@olsonjordan.com

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PLANNING COMMISSION HEARING
JANUARY 23, 2008
APPLICATION NO. DR/SP/CUP/EA 07-030
739 BRIDGEWAY
CONDITIONAL USE PERMIT AND ENCROACHMENT AGREEMENT REVIEW

ATTACHMENT C: CONDITIONS OF APPROVAL

1. Approval of this application is limited to the project plans and materials titled "Piccolo Teatro" and date stamped received January 15, 2008.
2. This approval will expire in two (2) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted. A one-year extension may be granted by the Community Development Department if a request is submitted prior to the two (2) year expiration date.
3. Construction materials, equipment, vehicles, and debris boxes shall be placed to minimize obstruction of roads and gutters, shall be maintained in a clean and safe condition, and shall not be maintained in a manner that becomes a nuisance to the neighborhood.
4. Pursuant to Ordinance 1143, the operation of construction, demolition, excavation, alteration, or repair devices within all residential areas or within a 500 foot radius of residential zones shall be limited to the following hours:
 - a. Weekdays – Between 8 a.m. and 7 p.m.
 - b. Saturdays – Between 9 a.m. and 5 p.m.
 - c. Holidays – Between 9 a.m. and 7 p.m.

Such operation is prohibited on Sundays except by a homeowner residing on the property. Such work shall be limited to 9 a.m. to 7 p.m.

5. Dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited pursuant to Sausalito Municipal Code (SMC) Chapter 11.17. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with SMC Section 11.17.060.B.
6. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Planning Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
7. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any

condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.

8. In accordance with Ordinance No. 1160, the applicant shall pay any and all City costs arising out of or concerning the proposed project, including without limitation, permit fees, attorneys' fees, engineering fees, license fees and taxes, whether incurred prior to or subsequent to the date of this approval. Applicant acknowledges and agrees that City's costs shall be reimbursed prior to this approval becoming valid.
9. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
10. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Building Division must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
11. The Community Development Department is authorized to administratively approve minor modifications to the approved plans. Major design modifications to the approved project will require further review and approval by the Planning Commission.
12. The approved conditions of approval shall be copied and included as a separate page on the plan set for plan check.
13. This approval does not permit the consumption of alcoholic liquor or other alcoholic beverages on the sidewalk. The applicant shall seek City Council approval should they wish to serve alcoholic beverages in the outdoor dining area.
14. Pursuant to Section 10.44.220.C, the outdoor dining area shall conform with the following regulations:
 - a. **Safe Passage.** Safe and adequate passage of 48" width shall be provided along the sidewalk at all times. Should tree grates installed on the sidewalk reduce the passageway to less than 48", plans to provide adequate passage shall be submitted for approval to the Community Development Department.
 - b. **Cleanliness.** Debris, litter or food matter shall be removed from the sidewalk, streets or surrounding property at least once each day during operating hours and at the time tables and chairs are removed from the sidewalk.
 - c. **Insurance.** The Applicant shall obtain liability insurance with policy limits of at least \$500,000 per incident. The City shall be named an additional insured and the policy shall remain in force at all times that the Permit is in effect.
 - d. **Hold Harmless.** The Applicant shall enter into an Encroachment Permit Agreement prepared by and satisfactory to the City Attorney. The Applicant shall agree to conform to these conditions and all applicable city ordinances. The Applicant shall also agree to indemnify the City and hold the city harmless from and against all liability arising out of the Applicant's activities under the Permit or otherwise arising out of the Applicant's placement of tables and chairs in the City sidewalk and/or from permitting the use of such tables and chairs by patrons or otherwise.

- e. **Orderliness.** All tables and chairs shall be removed from the sidewalk whenever the restaurant is closed or when the restaurant is not serving patrons on the sidewalk. The Permit shall provide for the placement of tables and chairs for the use of diners only. No entertainment shall be permitted along the sidewalk by the restaurant. No food preparation shall take place along the sidewalk, and no serving trays or bus stations shall be located along the sidewalk.
 - f. **Preeminence.** The Applicant shall acknowledge that its use of the sidewalk under the Permit is subordinate to the public's right to use the sidewalk for passage and travel. Permit shall be revocable from time to time by order of the City to allow for a public event or other public use of the sidewalk subject to the Permit or if the use of the sidewalk for dining purposes conflicts with any public use of the sidewalk. The Applicant shall also acknowledge that the use of the sidewalk is subject to temporary suspension any time the City or any utility company or easement holder requires access to the sidewalk or any utility under the sidewalk, or requires use of the sidewalk in conjunction with any construction project.
 - g. **Fee.** The Applicant shall be required to pay the City an annual permit fee, based on square footage of the permit area, as established by Resolution of the City Council.
 - h. **Compliance with All Regulations.** The Applicant shall comply with all regulations of State Alcoholic Beverage Control and the County of Marin Department of Public Health, and any other agency that controls the operations of the restaurant.
 - i. **Revocable.** All Sidewalk Dining Permits and Encroachment Permits shall be subject to permanent revocation by the City at any time.
15. The awnings and planters are subject to City Council approval of an Encroachment Agreement. The City may terminate the Encroachment Agreement for the awning and planters at any time for any reason and the applicant would be required to remove them. The business owner agrees with this policy as a condition of the project's approval.

Prior to issuance of a building permit:

16. The applicant shall inform the City Engineer on the extent of traffic on Bridgeway during construction, and the number of workers to be transferred to and from the site. A construction traffic control, parking, and staging plan and construction schedule shall be submitted for review and approval, if requested by the City Engineer. The staging plan shall show where dumpsters, equipment, and construction material are to be stored during construction and any areas within the street right-of-way to be used for off-loading material and equipment. An encroachment permit is required for any such storage in the City right-of-way.
17. The applicant shall obtain City Council approval of an Encroachment Agreement for all improvements located in the right-of-way and execute said Agreement thereby agreeing to the terms and conditions.

Prior to final of the project improvements:

18. Planning Staff shall inspect the site to ensure compliance with the conditions of approval and decision of the Planning Commission.

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RESOLUTION NO. 2008-10

**RESOLUTION OF THE SAUSALITO HISTORIC LANDMARKS BOARD AND
PLANNING COMMISSION APPROVING A DESIGN REVIEW PERMIT AND SIGN AND
AWNING PERMIT (APPLICATION NO. DR/SP/CUP/EA 07-030) FOR IMPROVEMENTS
TO THE STOREFRONT LOCATED AT 739 BRIDGEWAY (APN 065-071-27)
INCLUDING NEW SIGNAGE AND AWNINGS**

WHEREAS, an application has been filed by the applicant, Don Olsen, on behalf of property owner Walt Silva, requesting Planning Commission and Historic Landmarks Board approval of a Design Review Permit and Sign and Awning Permit for façade improvements to the building located at 739 Bridgeway, including new signage and awnings; and

WHEREAS, the Historic Landmarks Board has reviewed the application during duly noticed public meetings on November 19, 2007 and December 10, 2007 and has provided design suggestions for the design to more closely conform to the historic character of the building; and

WHEREAS, the Planning Commission and Historic Landmarks Board conducted a duly noticed public meeting on January 23, 2008 in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission and Historic Landmarks Board finds that the proposed project is categorically exempt from the requirements of CEQA pursuant to Section 15303 (c); and

WHEREAS, the Planning Commission and Historic Landmarks Board has reviewed and considered the project plans titled "Piccolo Teatro" and date stamped received January 15, 2008; and

WHEREAS, the Planning Commission and Historic Landmarks Board has received and considered oral and written testimony on the subject application and obtained evidence from site visits; and

WHEREAS, the Planning Commission and Historic Landmarks Board has reviewed and considered the information contained in the January 23, 2008 staff report for the proposed project; and

WHEREAS the Planning Commission and Historic Landmarks Board finds that, as conditioned herein, the proposed project complies with the requirements of the Zoning Code as outlined in the staff report; and


WHEREAS, the Planning Commission and Historic Landmarks Board finds that, as conditioned herein, the proposed project complies with the General Plan as outlined in the staff report.

NOW, THEREFORE, THE PLANNING COMMISSION AND HISTORIC LANDMARKS BOARD HEREBY RESOLVES AS FOLLOWS:

1. The Planning Commission and Historic Landmarks Board approve the Design Review Permit and Sign and Awning Permit as outlined in the attached findings (Attachment A).
2. The Planning Commission and Historic Landmarks Board approve the Design Review Permit and Sign and Awning Permit as shown in the attached project plans titled "Piccolo Teatro" and date stamped received on January 15, 2008 (Attachment B), and subject to the attached conditions of approval (Attachment C).

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 23rd day of 2008, by the following vote:

AYES:	Commissioner:	Keller, Kellman, Peterson, Bair
NOES:	Commissioner:	
ABSENT:	Commissioner:	Bossio
ABSTAIN:	Commissioner:	



 SECRETARY TO THE PLANNING COMMISSION

AYES:	Board Member:	Nichols, Monsef, Theodores
NOES:	Board Member:	
ABSENT:	Board Member:	Weisberger
ABSTAIN:	Board Member:	



 SECRETARY TO THE HISTORIC LANDMARKS BOARD

PLANNING COMMISSION and HISTORIC LANDMARKS BOARD JOINT HEARING
JANUARY 23, 2008
APPLICATION NO. DR/SP/CUP/EA 07-030
739 BRIDGEWAY
DESIGN REVIEW AND SIGN AND AWNING PERMIT REVIEW

ATTACHMENT A: FINDINGS

DESIGN REVIEW FINDINGS

Pursuant to Sausalito Municipal Code Section 10.54 (Design Review Procedures), it has been found that the permit requested may be issued based on the following findings:

1. The proposed project is consistent with the General Plan, any applicable specific plans and this chapter.

The project is consistent with General Plan policies, including those related to maintaining the historic character of the downtown, enhancing economic diversity, and maintaining the integrity of historic structures.

2. The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) Maintaining the prevailing design character of the neighborhood and/or district or b) Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.

The project will enhance an existing building by bringing the structure in closer conformance to its historic character through the addition of transom windows and other storefront improvements. In addition, the proposed outdoor dining area will add vitality to the streetscape with the integration of sidewalk and restaurant activities framed by decorative architectural features, including low planters and awnings. The folding doors are a distinct and creative design solution that allow a multi-purpose façade that may be closed or open. The retractable awning that can be lowered or raised also permits the storefront to vary depending on season and use.

3. The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

The project will revitalize a storefront to be cohesive with the Downtown Historic District. The scale of the restaurant is appropriate for the Downtown, and is consistent with other permitted restaurants in the vicinity. The proposed improvements to the storefront will not alter the scale of the existing structure, which is historically representative of the scale of Downtown structures.

4. The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.

The proposed use would replace another use of a similar scale and intensity. The improvements will not alter the height, bulk, or mass of the structure, and thus will not impact

public or private views.

5. The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.

The proposed project is not located on a ridgeline to create such impacts.

6. The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.

The project includes minor landscaping in low planters to enhance the existing building and provide visual relief. The proposed planters match the door design and complement the existing building and streetscape.

7. The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.

The proposed project does not adversely affect the design and location of existing buildings on the site, and thus will not affect light and air for adjacent properties. The openness of the new folding doors will be mitigated through the addition of planters, transoms, awnings, and tables and chairs.

8. Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.

The proposed project does not include new lighting or mechanical equipment. A condition of approval has been attached that any exterior lighting to be installed shall be downward facing and shall require review and approval by the Community Development Department.

9. The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window deck and patio configurations.

The outdoor dining is located to provide appropriate passage along the sidewalk, and is appropriate for the Downtown character and the restaurant use. The project will add folding doors that will provide an outdoor dining area appropriate for the Central Commercial district in which the restaurant is located.

10. Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.

The project will not alter traffic safety and ease of movement along Bridgeway. The outdoor dining area that projects into the sidewalk will provide 6' 6" of passageway for pedestrians, which will more than adequately accommodate the passage of groups and handicapped persons.

11. The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.

The proposed project does not impact existing natural features on the site.

12. The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened Review Findings).

The project is not subject to Heightened Review.

HISTORIC OVERLAY DISTRICT FINDINGS

Pursuant to Sausalito Municipal Code Section 10.46.055 (Historic Overlay District), the Historic Landmarks Board and Planning Commission may approve a Design Review Permit to allow new construction or alterations to a property within the Historic overlay district or listed on the local register, if all of the following findings can be made, to the extent applicable:

1. The proposed new construction or alteration is compatible with the architectural and historical features of the structure and/or district.

The HLB reviewed the application on November 19, 2007 and December 10, 2007 and provided recommendations to enhance the design to be more compatible with the structure's original historical design; the applicant has revised the design accordingly. With the design changes, the proposed design restores the structure to more closely resemble its historic form, with the addition of transom windows, wood paneled doors, and wood details.

2. The historical context of the original structure or district has been considered during the development and review of the proposal.

The structure's use of the subject tenant space has been a restaurant/bar since 1894, and with the conversion into a restaurant, will continue to maintain its historic use. The site has been integral to the City's history, and will continue to provide a distinct place for locals to patronize. The HLB has provided recommendations for maintaining the structure's historical integrity, to which the applicant has conformed the original design.

3. The criteria for listing the structure or site on the local register does not apply, or the Historic overlay district will not be affected by the new construction or alterations.

The criteria required for listing a structure on the local register is specified in Section 10.46.050.F, and includes that the structure or site is significant to local, regional, state, or national history. Because the structure has transformed over the years through several storefront remodels, the current storefront is not true to its historic form. The HLB has reviewed the application and has provided recommendations to restore the structure's historic façade with the proposed improvements, which resulted in the addition of transom windows, planters with wood detailing, wood paneled doors, and refinement of the adjacent tenant space with an awning and wood detailing.

4. The State Historic Building Code is being applied to minimize alterations to the original historic structure.

The State Historic Building Code is being applied for the project.

5. The Secretary of Interior Standards for Treatment of Historic Properties have been used to review and consider the new construction and proposed alterations.

The Secretary of Interior Standards for Treatment of Historic Properties has been used to review and consider the new construction and proposed alterations, including restoring decorative features of the storefront and removing architectural features from later historic periods not representative of the structure's original design.

6. Alternative uses and configurations have been considered as part of the Design Review process.

Alternative design of the storefront was originally considered by the Historic Landmarks Board. The applicant has since developed the design over several discussions with Historic Landmarks Board Members to most appropriately design the project to be compatible with the character of the original structure and the Downtown Historic District.

7. Findings specified by Chapter 10.54 (Design Review Procedures) can be made.

Staff believes that the Design Review Findings can be favorably made, as discussed in the findings above.

8. The proposed new construction or alteration will be compatible with and help achieve the purposes of the Historic Overlay District.

One of the purposes of the Historic Overlay District is to preserve structures that are unique and irreplaceable assets to the city and its neighborhoods (Section 10.46.010). The existing establishment has been an asset to the City's history as a place for gathering, and has been frequented by many distinguished and important community members. Enhancing the existing establishment will enable the continuation of its services, while improving the façade to enhance the Downtown and enliven the street. The improvements will further remove portions of the storefront that are not historic to the building, and replace them with architectural features representative of the structure's early historic periods.

SIGN PERMIT FINDINGS

Pursuant to the Sausalito Municipal Code Section 10.42 (Sign and Awning Regulations), it has been found that the permit requested may be issued based on the following findings:

1. The proposed sign complies with all applicable provisions of this Title.

The proposed signage is consistent with Sausalito Municipal Code standards and the Downtown Historic District Signage Guidelines, as outlined in the January 23, 2008 staff report.

2. The proposed sign is consistent with the applicable sign standards.

The proposed signage complies with the standards of the Sign and Awning Ordinance (SMC Section 10.42), including the maximum permitted size, lettering, design, and other requirements, as specified in the January 23, 2008 staff report.

3. The proposed sign will not adversely impact the public health, safety, or general welfare.

The proposed awnings will provide the minimum 8' clearance required above the sidewalk, and will not impact the public health, safety, or general welfare.

4. The proposed colors, design, material, and location of the proposed sign are compatible with the architectural design of the building.

The green canvas material with yellow lettering appears to be compatible with the proposed design of the storefront.

5. If the property is located within or near a residential area, the sign is harmonious with the character of the residential neighborhood.

The proposed signage is not located near a residential district, nor will it be visible from nearby residences.

6. The proposed sign is restrained in character and is not larger than necessary for adequate identification.

The proposed business identification signage is well within the maximum permitted size limits of the Zoning Ordinance Sign and Awning Standards (10.42.060.K). The awnings will not extend beyond the storefront and are restrained in character.

7. The proposed sign is consistent with the highest graphic standards and composed of durable and appropriate materials.

The canvas awnings will be made of high quality and durable materials. The lettering appears to have a decorative quality.

8. If the proposed sign is for an establishment within a commercial or industrial center, the sign is harmonious with the entire center's signage and has been subject to the commercial or industrial center's Design Review.

The proposed signage is not associated with an existing commercial or industrial center.

9. If the proposed sign is oriented toward a residential zoning district and is within 50 feet of said district, the signage is necessary for minimum business identification and will not have an adverse aesthetic effect on the residential character of the adjacent residential neighborhood.

The proposed signage is not oriented towards or within 50-feet of a residential district.

10. The proposed sign serves to primarily identify the business or type of activity being conducted on the same premises, or the product, service or interest being offered for sale or lease onsite.

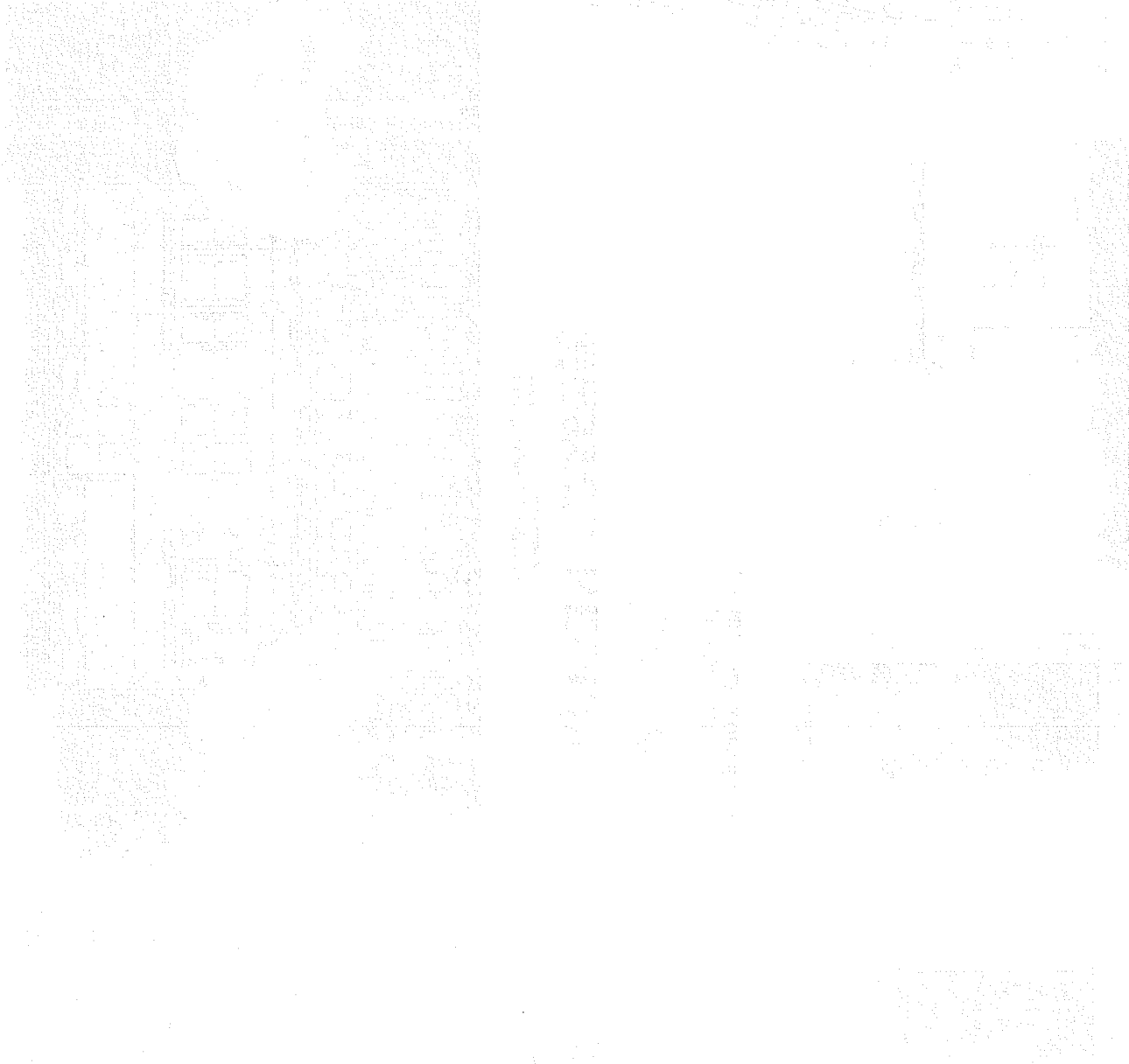
The proposed signage will only contain the lettering necessary to identify the name of the businesses (Piccolo Teatro and Hamburgers), and thus meet this requirement.

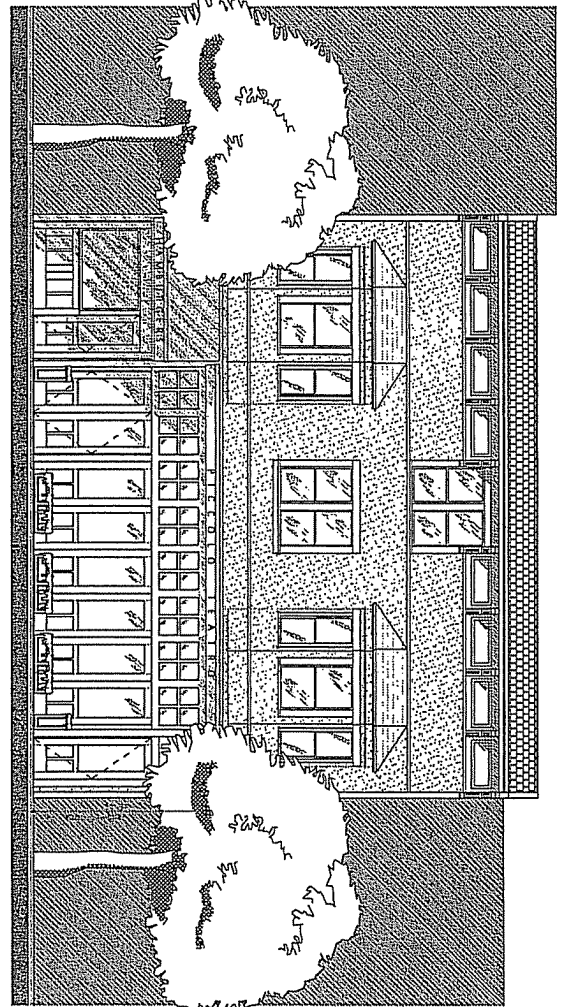
11. If the property is located within a designated historic district, or is listed on the local register, the proposed sign has been reviewed and approved by the Historic Landmarks Board and complies with the Historic District Sign Guidelines and Section 10.42.070 (Sign and Awning Standards in the Historic Overlay District and for Properties Listed on the Local Register).

The Historic Landmarks Board reviewed final proposed signage and awnings on December 10, 2007, which is consistent with their recommendations. The awnings comply with the Downtown Historic District Sign Guidelines for awnings, as well as Sections 10.42.060 and 10.42.070 of the Sausalito Municipal Code.

PLANNING COMMISSION and HISTORIC LANDMARKS BOARD JOINT HEARING
JANUARY 23, 2008
APPLICATION NO. DR/SP/CUP/EA 07-030
739 BRIDGEWAY
DESIGN REVIEW AND SIGN AND AWNING PERMIT REVIEW

ATTACHMENT B: PLANS AND ELEVATIONS

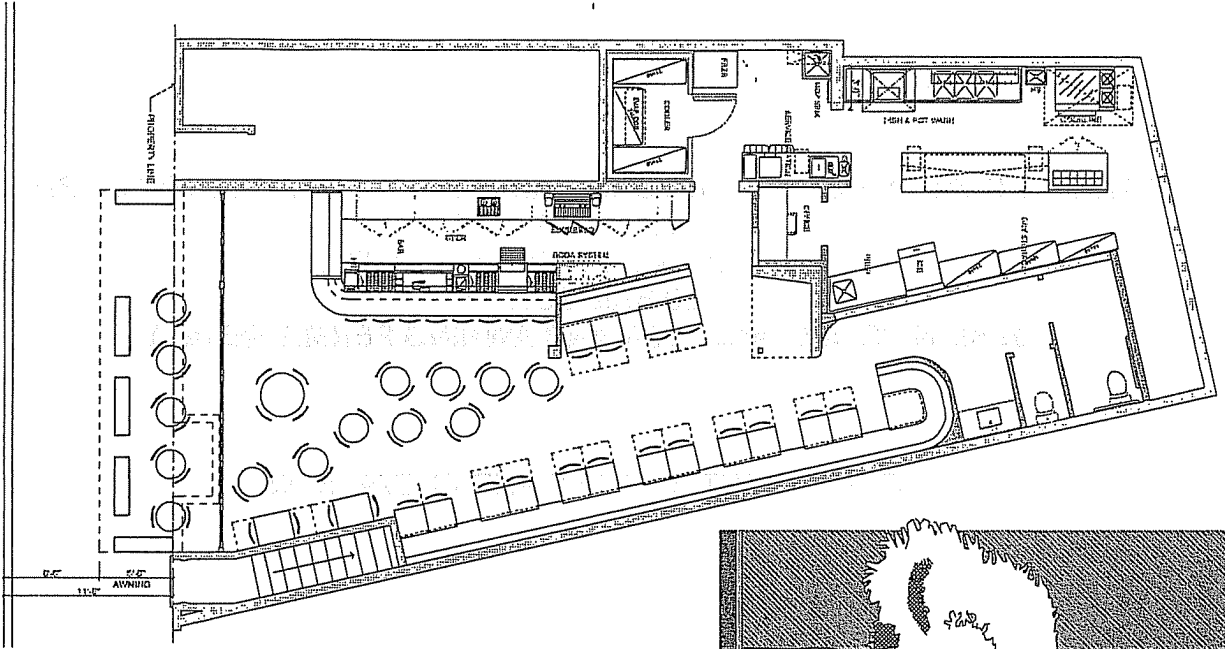




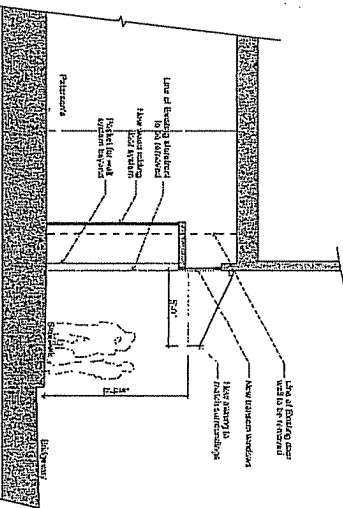
STOREFRONT ELEVATION
SCALE: 1/4" = 1'-0"

RECEIVED
JAN 13 2008

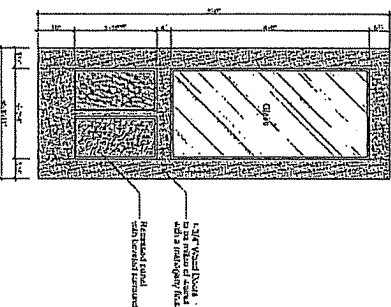
CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT.



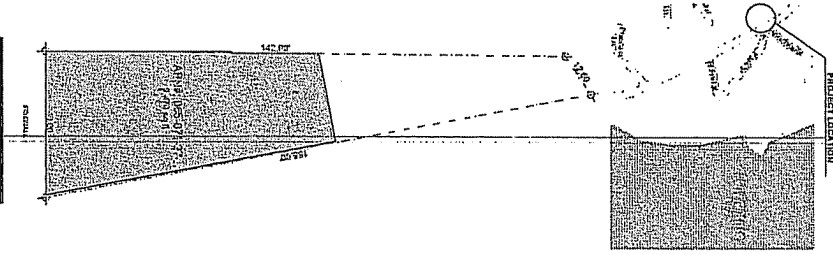
PROPOSED FLOOR PLAN
SCALE: 1/8" = 1'-0"



STOREFRONT SECTION
SCALE: 1/4" = 1'-0"



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



SITE PLAN
SCALE: 1/8" = 1'-0"

OWNER	177480
CONSULTANTS	Donatelli, Olson and Associates 288 Bridgeway, Sausalito, CA 94965 415.332.8359
PROJECT INFORMATION	DESIGN: Proposed building facade for 739 Bridgeway, Sausalito, CA 94965. The building is a three-story structure with a total area of approximately 10,000 sq. ft. The project includes the design of the storefront elevation and the interior layout. The building is located on the east side of Bridgeway, between the intersection of 7th Avenue and 8th Avenue.
A.P.N.	065-071-027
ZONING	IC-2
CONSTRUCTION	5A
PARCEL SIZE	3,200 sq. ft.
SHEET INDEX	A2.0 Proposed Floor Plan, Proposed Elevation, Proposed Section, Site Plan, Existing Section, Existing Floor Plan, Existing Elevation
VICINITY MAP	

PICCOLO TEATRO
739 BRIDGEWAY
SAUSALITO, CA 94965
A.P.N. # 065-071-27

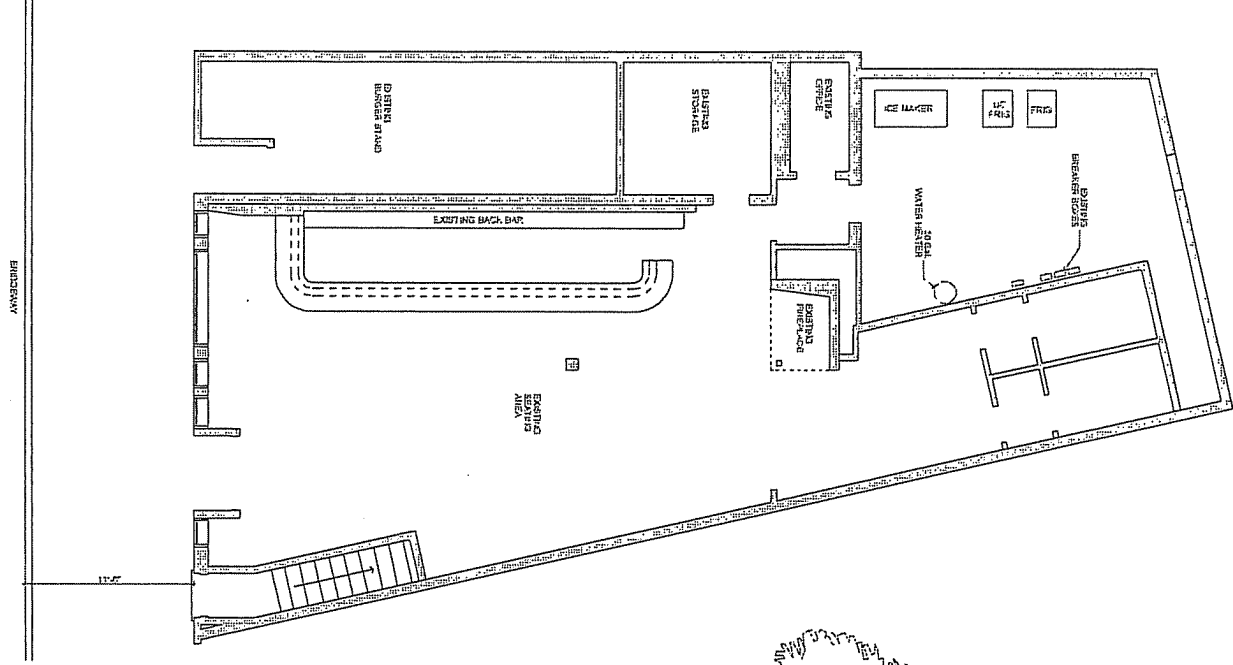
D O N A T E L L I O L S O N A
A S S O C I A T E S A R C H I T E C T S

625 Bridgeway, Sausalito, CA 94965 tel: 415.332.4207 fax: 415.332.8359 email: don@donatelliolsen.com

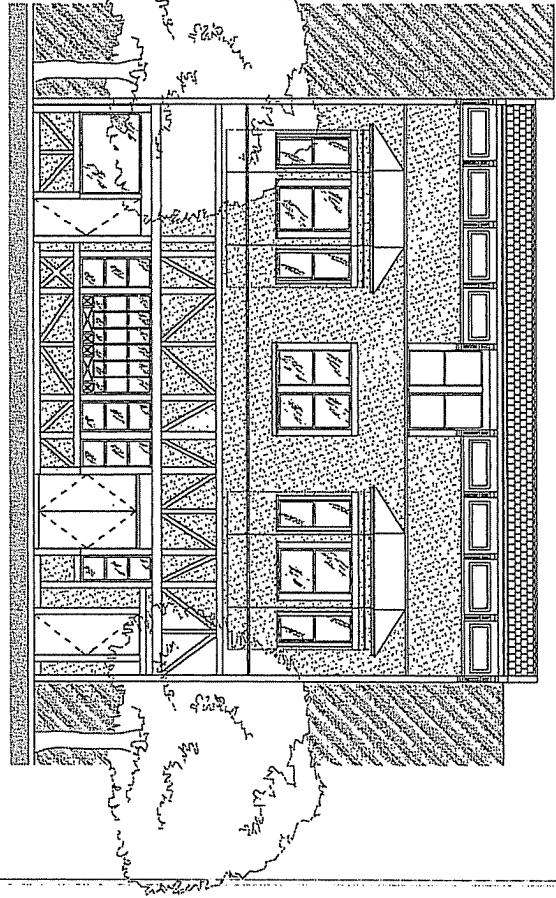
A2.0
January 9, 2008

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EXISTING FLOOR PLAN
SCALE 1/4" = 1'-0"



EXISTING ELEVATION
SCALE 1/4" = 1'-0"



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A2.1
January 8, 2008

REVISIONS	DATE	BY

PICCOLO TEATRO
739 BRIDGEWAY
SAUSALITO, CA 94965
A.P.N. # 065-071-27

D O N A L D O L S E N
A S S O C I A T E S A R C H I T E C T S

666 Bridgeway, Sausalito, CA 94965 tel. 415.332-0297 fax. 415.332-8869 email: don@donarchitects.com

PLANNING COMMISSION and HISTORIC LANDMARKS BOARD JOINT HEARING
JANUARY 23, 2008
APPLICATION NO. DR/SP/CUP/EA 07-030
739 BRIDGEWAY
DESIGN REVIEW AND SIGN AND AWNING PERMIT REVIEW

ATTACHMENT C: CONDITIONS OF APPROVAL

1. Approval of this application is limited to the project plans and materials titled "Piccolo Teatro" and date stamped received January 15, 2008.
2. This approval will expire in five (5) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted.
3. Construction materials, equipment, vehicles, and debris boxes shall be placed to minimize obstruction of roads and gutters, shall be maintained in a clean and safe condition, and shall not be maintained in a manner that becomes a nuisance to the neighborhood.
4. Pursuant to Ordinance 1143, the operation of construction, demolition, excavation, alteration, or repair devices within all residential areas or within a 500 foot radius of residential zones shall be limited to the following hours:
 - a. Weekdays – Between 8 a.m. and 7 p.m.
 - b. Saturdays – Between 9 a.m. and 5 p.m.
 - c. Holidays – Between 9 a.m. and 7 p.m.

Such operation is prohibited on Sundays except by a homeowner residing on the property. Such work shall be limited to 9 a.m. to 7 p.m.

5. Dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited pursuant to Sausalito Municipal Code (SMC) Chapter 11.17. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with SMC Section 11.17.060.B.
6. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Planning Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
7. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.

8. In accordance with Ordinance No. 1160, the applicant shall pay any and all City costs arising out of or concerning the proposed project, including without limitation, permit fees, attorneys' fees, engineering fees, license fees and taxes, whether incurred prior to or subsequent to the date of this approval. Applicant acknowledges and agrees that City's costs shall be reimbursed prior to this approval becoming valid.
9. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
10. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Building Division must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
11. The Community Development Department is authorized to administratively approve minor modifications to the approved plans. Major design modifications to the approved project will require further review and approval by the Planning Commission.
12. This approval does not authorize the installation of any signage not indicated on the approved plans or exterior lighting. A request for approval for lighting and signage shall be forwarded to the Community Development Department if the applicant or the ground floor tenant would like pursue such approvals.
13. The approved conditions of approval shall be copied and included as a separate page on the plan set for plan check.

Prior to issuance of a building permit:

14. The applicant shall inform the City Engineer on the extent of traffic on Bridgeway during construction, and the number of workers to be transferred to and from the site. A construction traffic control, parking, and staging plan and construction schedule shall be submitted for review and approval, if requested by the City Engineer. The staging plan shall show where dumpsters, equipment, and construction material are to be stored during construction and any areas within the street right-of-way to be used for off-loading material and equipment. An encroachment permit is required for any such storage in the City right-of-way.
15. The applicant shall obtain City Council approval of an Encroachment Agreement for all improvements located in the right-of-way and execute said Agreement thereby agreeing to the terms and conditions.

Prior to final of the project improvements:

16. Planning Staff shall inspect the site to ensure compliance with the conditions of approval and decision of the Planning Commission.

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STAFF REPORT

Agenda Item Number 3

SAUSALITO PLANNING COMMISSION

PROJECT: 739 Bridgeway (APN 065-071-27)
DR/SP/CUP/EA 07-030

MEETING DATE: January 23, 2008

STAFF: Sierra Russell, Associate Planner

APPLICANT: Don Olsen, Architect

PROPERTY OWNER: Walt Silva

REQUEST

The applicant, Don Olsen, on behalf of property owner Walt Silva requests Planning Commission and Historic Landmarks Board (HLB) approval of a Design Review and Sign Permit, and Planning Commission approval of a Conditional Use Permit, to convert an existing bar/restaurant into a restaurant with façade improvements and outdoor dining. The proposed project is to improve the existing storefront for the new restaurant with the installation of a folding door system setback from the existing elevation, new signage and awnings, and planter boxes framing the outdoor dining area. Because the building is located in the Historic Overlay District, the Design Review and Sign and Awning Permit for this item will be heard jointly by the Planning Commission and Historic Landmarks Board. The application also includes a request for the Planning Commission to consider a recommendation to the City Council for an Encroachment Agreement for the proposed awnings and planter boxes, which will encroach into the public right-of-way along Bridgeway.

REGULATORY FRAMEWORK

Zoning: CC (Central Commercial)
Historic Overlay District

General Plan: Central Commercial

Zoning Regulations: Historic Overlay District Findings (SMC Section 10.46.060.F)
Design Review Findings (SMC Section 10.54.050)
Sign and Awning Regulations (SMC Chapter 10.42)
Conditional Use Permit Findings (SMC Section 10.60.50)
Encroachment Agreement Findings (SMC Section 10.56.060)

Special Regulations: Downtown Historic District Signage Guidelines (adopted 1998)

CEQA: Class 3 categorical exemption pursuant to CEQA Guidelines
Section 15303 (c)

Required Permits: Design Review Permit
Sign and Awning Permit
Conditional Use Permit

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Encroachment Agreement

EXISTING SETTING

Subject Parcel: The 2,450 square foot parcel is located on Bridgeway, near the Intersection of Princess Street. The existing building covers 2,220 square feet and currently contains a bar/restaurant known as Patterson's, a takeout restaurant known as Hamburgers, and upper story residential. The subject project would convert the 1,930 square foot tenant space of Patterson's into a restaurant use with outdoor dining along the sidewalk.

Neighborhood: The subject parcel is located in the Downtown Historic District in the core of the Central Commercial Zoning District, with similar restaurant and dining uses located in proximity. Retail shops are immediately adjacent to the property.

HISTORIC BACKGROUND

Based on Sausalito Historical Society records, the building that houses Patterson's was built in 1894 in the Italianate architectural style and first housed the Railroad House restaurant and Saloon. A historic photograph dated circa 1894 illustrates the original design of the building (Exhibit 4). Bay windows were later added to the building and transom windows added, as shown in the photograph dated circa 1907 (Exhibit 5). The restaurant became a poolroom in 1924 and later was known as the Plaza Bar in the 1950's, which was a local hangout (Exhibit 6). The building façade has been modified several times from its original design and now reflects a Tudor architectural theme with the half-timbered, paned casement windows (Exhibit 7).

ROLE OF THE HISTORIC LANDMARKS BOARD (HLB) AND PLANNING COMMISSION

This application involves the review of four discretionary permits, a Design Review Permit for façade improvements, a Sign and Awning Permit, a Conditional Use Permit for a new restaurant with outdoor dining and serving alcoholic beverages in the Central Commercial District, and an Encroachment Agreement for the proposed awning and planters. Because the project is located in the Historic Overlay District, the Design Review Permit is under the authority of both the Planning Commission and the Historic Landmarks Board (HLB), and a joint meeting must be held to conduct the Design Review (Section 10.46.060.B). As stated in Section 10.50.020.B, both the Planning Commission and the HLB have authority to review the Design Review Permit, and must favorably make the findings listed in Section 10.46.060.F to approve the Design Review Permit. The Sign and Awning Permit is also being considered by both the HLB and Planning Commission, as the proposed signage and awnings are integral to the façade improvements, and thus are inherent to the Design Review. To approve the Sign Permit, both the HLB and Planning Commission must favorably make the Sign Permit findings (Section 10.42.090.D). The Conditional Use Permit and Encroachment Agreement review are under the purview of the Planning Commission. To approve the Conditional Use Permit and recommend approval of the Encroachment Agreement to the City Council, the Planning Commission must make the required findings for Conditional Use Permits (Section 10.60.050) and Encroachment Agreements (Section 10.56.060), as listed in detail in the attached draft resolution.

PREVIOUS HLB REVIEW

The Design Review application was reviewed by the HLB on November 19, 2007 and December 10, 2007, followed by a site visit with the applicant and Board Members Nichols and Theodores on

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December 18, 2007. The purpose of scheduled HLB meetings was to discuss the initial design concepts for feedback from the HLB. During the first meeting, the HLB expressed concerns that the façade improvements should resemble the early historical period of when the building was constructed, potentially through the addition of a transom or other more refined architectural details. The Board was also concerned the proposal would not maintain the character of the downtown and the streetscape along Bridgeway when the proposed folding doors were opened, as it would create a large vacuum in the center of the structure. The Board provided recommendations to the applicant, including to add transom windows and to conform to the building's historic design from the early 1900's (Exhibit 5) rather than the modern facade. The Board and applicant agreed to meet on-site to finalize discussions and an agreement on the design. Thus, the revised plans and materials submitted on January 15, 2008 reflect the design comments and recommendations by the Historic Landmarks Board.

PROJECT DESCRIPTION

Design Review

The proposed façade modifications are to install a folding door system along the front of the building that is setback four (4) feet from the existing façade located at the property line. By pushing the doors back, an outdoor dining area is created along the sidewalk, with the tables and chairs located within the property boundaries and the area for ingress/egress extending into the sidewalk. The proposal includes a set of five planters to line the outdoor dining area, with detailing similar to the wood doors. As suggested by the HLB, the doors have been designed to incorporate the transom element under the roof by adding recessed painted panels with beveled perimeters. The top pane of the door will be glass, as shown on the door detail of the plans dated January 15, 2008 (Exhibit 1, Attachment B). Above the doors and on the portion of the building that abuts the property line, transom windows are proposed and have been designed to match the structure's original transom windows, as shown in the historic photograph dated circa 1907 (Exhibit 5). The storefront section of the proposed plans (Exhibit 1, Attachment B) best illustrates the relation of the transom windows with the recessed folding doors.

Colors and Materials

The proposed folding doors are wood to be milled with a mahogany finish, as indicated on the door detail of the proposed plans. The doors will contain glass panels, and the transom windows are designed to match the wood and glass of the folding doors. The awning consists of green canvas with yellow lettering. The façade improvements include painting the building grey with a dark green trim on the windows and lavender detailing on the window frames and upper transom. All colors and materials are indicated on the color board (Exhibit 8) and will be available for viewing during the Planning Commission meeting.

Sign and Awnings

The project includes the installation of two dark green awnings, one for the Piccolo Teatro storefront and one for the takeout establishment Hamburgers. The proposed awning for Piccolo Teatro can be retracted to be positioned against the building wall, as is shown on the colored façade (Exhibit 1, Attachment B), or lowered which would cover the transom windows above the restaurant's folding doors. The proposed signage consists of yellow lettering approximately 6" tall and identifying the business names, Piccolo Teatro and Hamburgers, to be located on the valence of the awnings. The awning will project approximately 5' into the sidewalk right-of-way, and provides a minimum 8' 3" clearance from the sidewalk. The total proposed sign area is 11 square feet, which is within the maximum permitted signage of 20 square feet for the building.

Conditional Use Permit

The existing use, also known as Patterson's Bar, is currently a bar/restaurant that serves alcoholic beverages and food. The proposed use is for a restaurant that will also serve alcoholic beverages. Pursuant to Zoning Ordinance Section 10.44.210.C, bars and restaurants serving alcoholic beverages are permitted in the Central Commercial Zoning District with a Conditional Use Permit (CUP). The existing bar is thus a legal nonconforming use, as the establishment was not authorized under a CUP. In order to bring the use into compliance with the current Zoning Code, Staff recommended the applicant submit for a Conditional Use Permit rather than a Nonconformity Permit. While the applicant could have received approval for the restaurant conversion under a Nonconformity Permit, the CUP will provide a mechanism to legalize the existing use under current Sausalito Municipal Code regulations. The applicant is thus requesting a CUP for the restaurant establishment to serve alcoholic beverages.

Outdoor Dining

The project includes a proposed outdoor dining area along Bridgeway and extending into the sidewalk in front of the folding doors and restaurant entrance. Five tables are proposed with a total of 10 seats and are lined by five low planter boxes. The total area for outdoor dining consists of 200 square feet. The tables and chairs are proposed to be located within the property boundaries, while the area for ingress and egress of the dining area extends into the sidewalk. The design of the proposed outdoor dining with planters extending into the sidewalk is similar to the Poggio Restaurant outdoor dining area at 777 Bridgeway (Exhibit 9). The outdoor dining area may be permitted through the issuance of a Minor Use Permit, and subject to the requirements for outdoor dining areas as stated in Zoning Ordinance Section 10.44.220. However, the request for outdoor dining is being referred to the Planning Commission as part of the Conditional Use Permit review, as it is the highest applicable authority for the requested permits.

CEQA

The applicant proposes the conversion of an existing structure from one land use to another that involves minor modifications to the exterior, which is classified as a Class 3 exemption from CEQA pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures).

ANALYSIS

The Planning Commission and HLB must review the proposed project for its conformance with all applicable regulations of the Zoning Ordinance. Staff has outlined the following Zoning Ordinance requirements that apply to the project in the following discussion.

Conformance with Central Commercial Zoning District

The project is located in the Central Commercial (CC) Zoning District, which is intended for a wide variety of retail and service businesses to serve Sausalito residents and visitors. Restaurants are a permitted use in the CC district, and restaurants serving alcohol require a Conditional Use Permit (Section 10.44.210.C). Outdoor dining is also permitted with the issuance of a Minor Use Permit (10.24.030). The proposed restaurant would replace an existing legal nonconforming bar/restaurant, essentially legalizing the establishment. No changes are proposed to expand or otherwise alter the existing structure, other than the façade improvements.

Legal Non-conforming Off-Street Parking Requirements

The Zoning Ordinance allows for the continuation of uses that historically have not provided parking. Because the use conversion involves a use and structure that legally pre-existed the adoption of Title 10 of the Sausalito Municipal Code (Zoning), additional off-street parking is

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only required in the amount relative to the incremental change or expansion of use. As stated in Zoning Ordinance Section 10.40.110.A.5: "No part of this Section shall be construed as requiring additional off-street parking for authorized structures and uses legally existing at the time of the effective date of this title. Where any or all required off-street parking is not provided for such a use, that use may be replaced by a use requiring the same or less off-street parking."

The previous use at 739 Bridgeway consisted of a bar/restaurant with a permitted occupancy of 75 persons. The establishment has been in existence since 1894 without the provision of off-street parking. The proposed restaurant consists of 68 indoor seats units, requiring off-street parking at a ratio of one space per 4 seats, and 10 outdoor seats, which are exempt from off-street parking requirements pursuant to Zoning Ordinance Section 10.44.220.C. Because the new restaurant will replace the previous bar/restaurant with a less intensive occupancy, the new use is not expanding the previous use and does not require additional off-street parking.

Encroachment Review

The City Engineer reviewed the proposed awning and outdoor dining encroachments on November 5, 2007 and expressed no concern with the encroachments into the sidewalk (Exhibit 11). Per the City Engineer's recommendation, a condition of approval was added to require a minimum passage of 48" between the sidewalk curb and the outdoor dining area at all times, which has been incorporated into the attached draft resolution (Exhibit 2, Attachment C).

Outdoor Dining Regulations (Zoning Ordinance Section 10.44.220)

Outdoor dining areas are typically subject to approval of a Minor Use Permit by the Zoning Administrator. However, because the restaurant use requires issuance of a Conditional Use Permit, the Planning Commission is the reviewing authority for the proposed outdoor dining, which shall be reviewed as part of the Conditional Use Permit.

The proposed outdoor tables and chairs are located within the 739 Bridgeway property boundaries. However, because a portion of the outdoor dining area encroaches onto the sidewalk, the dining area is subject to the regulations for outdoor dining areas located on sidewalks (Section 10.44.220.C). The following are the project's compliance with the applicable regulations for outdoor dining areas. In addition, there are a number of conditions pertaining to the orderliness, cleanliness, insurance, required fees, and other required conditions for the outdoor dining area. These have been incorporated as conditions of approval in the attached draft resolution (Exhibit 2, Attachment C), should the Commission approve the outdoor dining area.

Outdoor Dining Regulations (10.44.220.C)	Compliance
<p>a. Safe Passage. Safe and adequate passage of 48" width shall be provided both along the sidewalk and from the curb to the sidewalk (to provide for two pedestrians walking side by side or by a single wheelchair.) No tables or chairs shall be placed or allowed to remain on any sidewalk that inhibits passage.</p>	<p>The outdoor dining area provides sidewalk passage of 6' 6", which adequately meets the safe passage requirements. Tables and chairs are to be located within the private property and outside of the sidewalk area.</p>
<p>b. Location. Permits shall only be issued to allow the use of sidewalk immediately adjacent to the restaurant seeking the permit.</p>	<p>The outdoor dining area is immediately adjacent to the proposed restaurant, and thus satisfies this requirement.</p>
<p>c. Food Service. The establishment obtaining the Permit shall be engaged in food service and shall provide such service at the tables subject to the Permit.</p>	<p>The outdoor dining will serve a restaurant providing food service, which satisfies this requirement.</p>

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<p>d. Capacity of outdoor eating area. An outdoor eating area on private property shall not exceed the most restrictive of the following limits, unless otherwise authorized by the Zoning Administrator in the required Minor Use Permit:</p> <ol style="list-style-type: none"> 1. 25 percent (25%) of the indoor dining area of the restaurant; or 2. 5 tables; or 3. A capacity of 20 people. <p>Outdoor eating areas on sidewalks are subject to the limitations outlined in Title 17 (Streets, Sidewalks, and Public Places) that govern the issuance of Encroachment Permits for sidewalk outdoor dining.</p>	<p>There are 5 tables proposed for the dining area, with a maximum occupancy of 10 persons, which is within the maximum permitted capacity specified.</p>
<p>e. Parking. Eating establishments with outdoor eating areas in public rights-of-way shall be exempt from additional parking requirements.</p>	<p>The outdoor dining area is exempt from additional off-street parking requirements, as per Section 10.44.220.E.</p>

Signage Regulations

The proposed signage, consisting of awnings with printed lettering, is subject to the standards provided in Chapter 10.42 of the City's Zoning Ordinance (Sign and Awning Regulations) and the Downtown Historic District Signage Guidelines. The following table summarizes the applicable sign and awning regulations from both. As shown in the table below, the awnings with lettered signage are compliant with all applicable requirements specified for awnings and signs in the Downtown.

	Proposed	Compliance
General Regulations (10.42.060 and 10.42.070)		
Commercial signage should be limited to 0.5 square feet of signage per lineal foot of street frontage.	11 sq. ft. (20 sq. ft. maximum permitted for the 40-foot wide structure).	Yes
The bottom of the awning shall be a minimum of eight feet (8') above the ground surface when projecting over a private or public walkway.	The awning provides a clearance of 8'3" above the sidewalk at its lowest point.	Yes
Awnings shall project no more than five feet (5') into a public right-of-way and shall project no closer than two feet (2') from the face of the curb line.	The awning does not project greater than 5' into the public right-of-way and is 6'6" from the curb.	Yes
Materials should be appropriate to historic nature of district and/or structure listed on the local register and may include carved wood signs and individual cast or cut metal letters.	The canvas awnings with printed business lettering are consistent with awnings and awning signage in the Downtown Historic District.	Yes
All signs should be of high quality workmanship, with clean and finished edges and materials.	The awnings will be made of high quality canvas material.	Yes
Colors should be appropriate to the historic district or structure listed on the local register and relative to the location, size and context of the structure, business	The dark green awnings with yellow lettering are complementary to the building's proposed color scheme, and will complement the Downtown.	Yes

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	Proposed	Compliance
or site.		
Lighting should be unobtrusive and controlled by dimmers.	No lighting is proposed.	Yes
Any sign shall be installed in a manner to minimize damage or degradation to historic buildings, consistent with the Secretary of Interior Standards.	The awnings will require minimal alteration to the building face.	Yes
Awning Sign Requirements (10.070.1)		
Size of awning signs should be limited to a letter height of 8".	The individual letters are 6" tall.	Yes
Downtown Historic District Signage Guidelines (1998)		
Lettering on the sloped portion of the awning is limited to certain sizes, and lettering on the awning valence is generally preferable than lettering on the sloped awning face.	The lettering is proposed to be printed on the awning valence.	Yes

GENERAL PLAN CONSISTENCY

To approve the proposed project the Planning Commission and HLB must determine that the project is consistent with all applicable General Plan policies. The site is located in an area designated as Central Commercial by the General Plan. Staff believes the project is consistent with the General Plan and has identified the following objectives, policies, and programs that support the proposed project.

Policy LU-2.2. Downtown Economic Diversity: Work with affected Downtown business interests to enhance the economic diversity of the area.

The project will improve an existing eating and drinking establishment, thereby strengthening its economic viability, allowing it to improve its operations and cater to a new clientele.

Policy LU-2.9. Downtown Historic Character: Protect the historical character of the Downtown area.

The proposed improvements will revitalize an historical building to resemble the structure's early historical development. The façade enhancements will alter the building to more closely conform to its historic character, which has been compromised over the years with several phases of storefront improvements. The outdoor dining area will bring vitality to the Downtown, enhancing its character and complementing the streetscape.

Objective CD-7.0. Respect and maintain the exterior integrity of structures and sites in the Historic District and of all officially designated or recognized historic structures and sites outside the district.

The project has been designed in conformance with the Secretary of Interior's Standards for the Reconstruction of Historic Buildings, as advised by the Historic Landmarks Board, by restoring the storefront's historic look with transom windows, and designing the new façade elements to match the original historic character of the building.

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Policy LU-2.20. Non-Conforming Commercial Uses and Structures. Maintain replication rights for non-conforming structures and uses in non-residential areas.

The proposed use will replace an existing use with a less intensive parking requirement. Permitting the continuation of a use that historically has not provided off-street parking is consistent with this General Plan policy to allow commercial structures to maintain their legal non-conforming entitlements when uses change.

SUMMARY

Planning Commission and Historic Landmarks Board Review

In order to approve or conditionally approve the Design Review Permit and Sign Permit, the Planning Commission and Historic Landmarks Board (HLB) must determine whether the project is in conformance with the findings listed in Sections 10.54.050 (Design Review Findings) and 10.42.090.D (Sign Permit Findings) of the Sausalito Municipal Code. Staff believes the requisite findings for the Design Review Permit and Sign Permit can be made to approve the two permits, as summarized in the following:

Design Review and Historic Overlay District Findings

- **Project Scale and Consistency with the Neighborhood:** The project will revitalize a storefront to be cohesive with the Downtown Historic District. The proposed improvements will not alter the scale of the existing structure, which is appropriate for the Downtown. The scale of the restaurant is also consistent with permitted restaurants in the vicinity.
- **Architecture and Site Design:** The project will enhance an existing building by bringing the structure in closer conformance to its historic character through the addition of transom windows, wood detailing, and other storefront improvements. The folding doors are a distinct and creative design solution, creating a multi-purpose façade that may be closed or open. The retractable awning that can be lowered or raised also permits the storefront to vary depending on season and use.
- **Compatibility with the Downtown Historic District:** The proposed design reflects the HLB recommendations to enhance the design to be more compatible with the structure's original historical design. The structure's use of the subject tenant space has been a restaurant/bar since 1894, and with the conversion into a restaurant, will continue to maintain its historic use. The site has been integral to the City's history, and will continue to provide a distinct place for locals to patronize.
- **Secretary of Interior Standards for Treatment of Historic Properties:** The Secretary of Interior Standards for Treatment of Historic Properties has been used to review and consider the new construction and proposed alterations, including restoring decorative features of the storefront and removing architectural features from later historic periods not representative of the structure's original design.

Sign and Awning Permit Findings

- **Consistency with sign and awnings standards and guidelines:** The awnings and signage comply with all applicable requirements of the SMC signage and awning requirements and the Downtown Historic District signage guidelines.
- **Colors, Design, and Materials:** The awnings will be composed of high quality canvas material, with a dark green color and yellow lettering that appears to be consistent with the design scheme of the building and surrounding properties.
- **Public Health, Safety, and Welfare:** The proposed awnings provide the minimum 8' clearance required and will not jeopardize public safety or circulation with installation through

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the issuance of a Building Permit.

Planning Commission Review

To approve or conditionally approve the Conditional Use Permit for a new restaurant serving alcoholic beverages with outdoor dining and to recommend approval of the Encroachment Agreement to the City Council, the Planning Commission must determine whether the proposed project is in conformance with the Conditional Use Permit and Encroachment Agreement findings listed in Sections 10.60.050 and 10.56.060 of the Sausalito Municipal Code. Staff believes the findings for the Conditional Use Permit and Encroachment Agreement can be favorably made and recommends approval of these permits, as summarized in the following, and outlined in greater detail in the attached resolution of approval.

Conditional Use Permit Findings

- **General Plan and Zoning Ordinance Consistency:** Staff has found the project to be consistent with the General Plan, particularly the objectives and policies related to protecting the historical character of the Downtown, and all applicable Zoning regulations. The proposal will also not intensify any existing legal nonconformities.
- **Community Impacts:** The proposed restaurant will replace an eating and drinking establishment that has operated since 1894. Property records indicate the use has not been a nuisance to neighboring properties. In addition, the new use will contain a less intensive occupancy for the dining area.
- **Property Features:** The property is adequately sized and shaped for a restaurant, as it has historically been used. The outdoor dining area will project 5' into the sidewalk, but will still allow a pedestrian passageway of 6' 6". The use conversion and outdoor dining will not alter yards, open spaces, walls or fences, other than creating folding doors on the front façade, which does not appear to impact nearby land uses.

Encroachment Agreement Findings

- **Compatibility with Surrounding Area:** The awnings are compatible with the Downtown Historic District in which they are located, and will enhance the streetscape for the public's enjoyment. The planters are consistent with other outdoor dining areas also.
- **Land Use Precedent:** Awnings and outdoor dining areas are encroachments that are commonly exercised in the Downtown, and permitted with the issuance of appropriate permits.
- **Necessity of Encroachments:** The awnings will enhance the façade and provide shade for the outdoor eating area, as well as provide visual relief along the streetscape. The planters create variety to the façade, and, as encouraged by Historic Landmarks Board Members, will mitigate the openness of the façade when the folding doors are open.
- **Hazards/Public Safety:** The awnings provide the minimum 8' clearance required from the sidewalk, and are within the maximum encroachment of 5' from the building face. Both the awnings and outdoor dining area with planters allow for the minimum safe passageway of 48" necessary for handicapped persons.

PUBLIC NOTICE AND FEEDBACK

Notice: 10 days prior to the hearing date, notice of this proposal was posted and was mailed to all residents and property owners within 300 feet of the subject parcel.

Written feedback: There has been no written feedback or public comment received for this application.

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STAFF CONCLUSIONS

Staff Recommendation: Staff finds the proposed application is consistent with the General Plan and meets the requirements of the Zoning Ordinance. Staff believes the Design Review Permit, Sign Permit, Conditional Use Permit and Encroachment Agreement findings can be made for this application and has prepared two draft resolutions of approval, one for the permits requiring joint review by the Planning Commission and HLB, and one for the permits under the authority of only the Planning Commission. In addition to these options for approval, the Planning Commission and HLB may:

1. Approve the application with modifications;
2. Continue the application for additional information and/or project revisions; or
3. Deny the application and direct Staff to return with a Resolution of Denial.

EXHIBITS

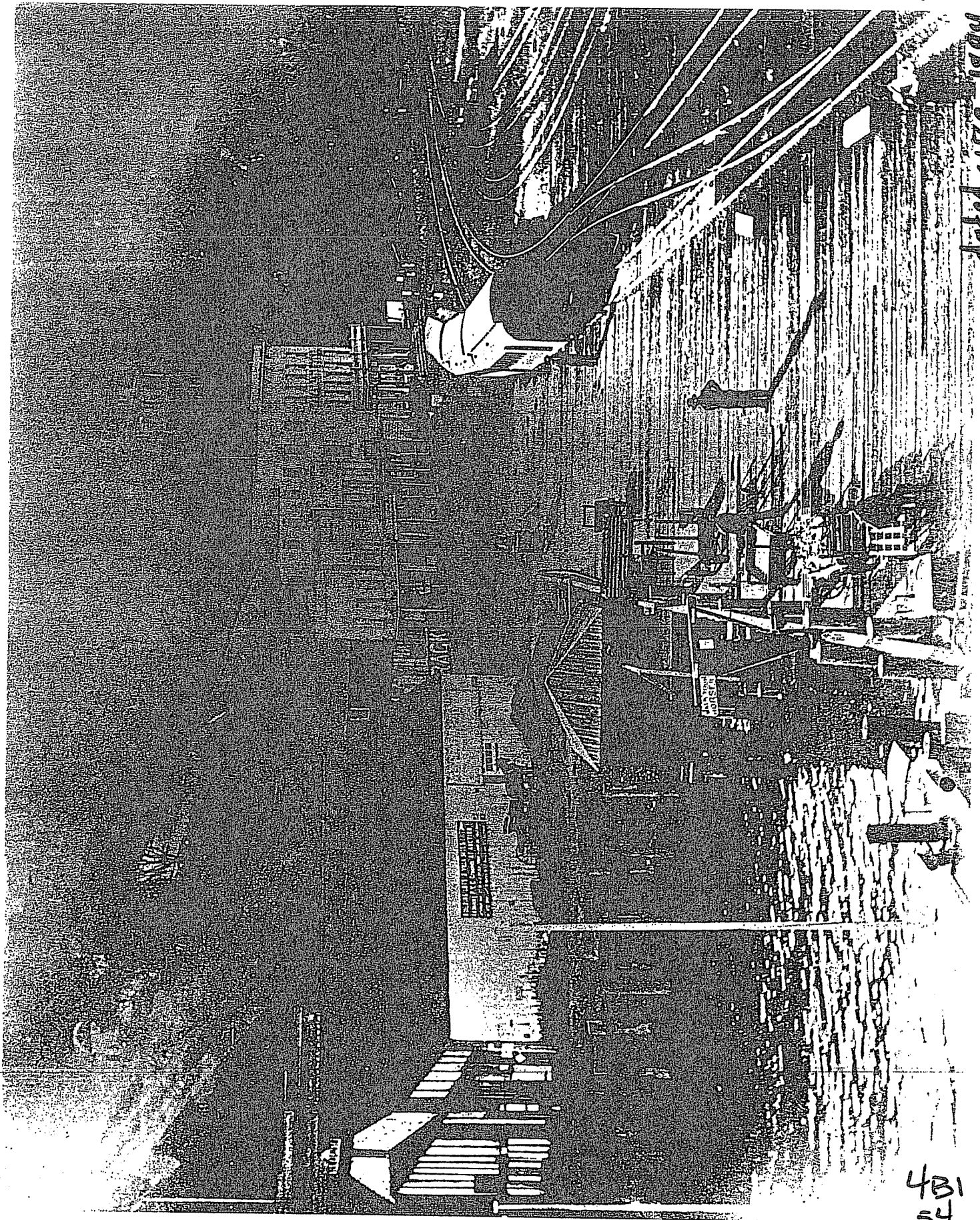
- 1) Historic Landmarks Board and Planning Commission Resolution Approving Design Review Permit and Sign Permit No. DR/SP/CUP/EA 07-030 with Attachment A – Design Review Permit, Historic Overlay District, and Sign and Awning Permit Findings, Attachment B – Plans and Elevations, and Attachment C – Conditions of Approval
- 2) Planning Commission Resolution Approving Conditional Use Permit and recommending approval of an Encroachment Agreement for application No. DR/SP/CUP/EA 07-030 with Attachment A – Conditional Use Permit and Encroachment Agreement Findings, Attachment B – Plans and Elevations, and Attachment C – Conditions of Approval
- 3) Vicinity Map
- 4) Historic photo of the 739 Bridgeway building, dated circa 1894
- 5) Historic photo of the 739 Bridgeway building, dated circa 1907
- 6) Historic photo of the 739 Bridgeway building, dated circa 1950
- 7) Current photographs of the 739 Bridgeway building
- 8) Colors and Materials Board
- 9) Poggio's outdoor dining at 777 Bridgeway
- 10) Project renderings
- 11) Engineering memorandum dated November 5, 2007

Vicinity Map



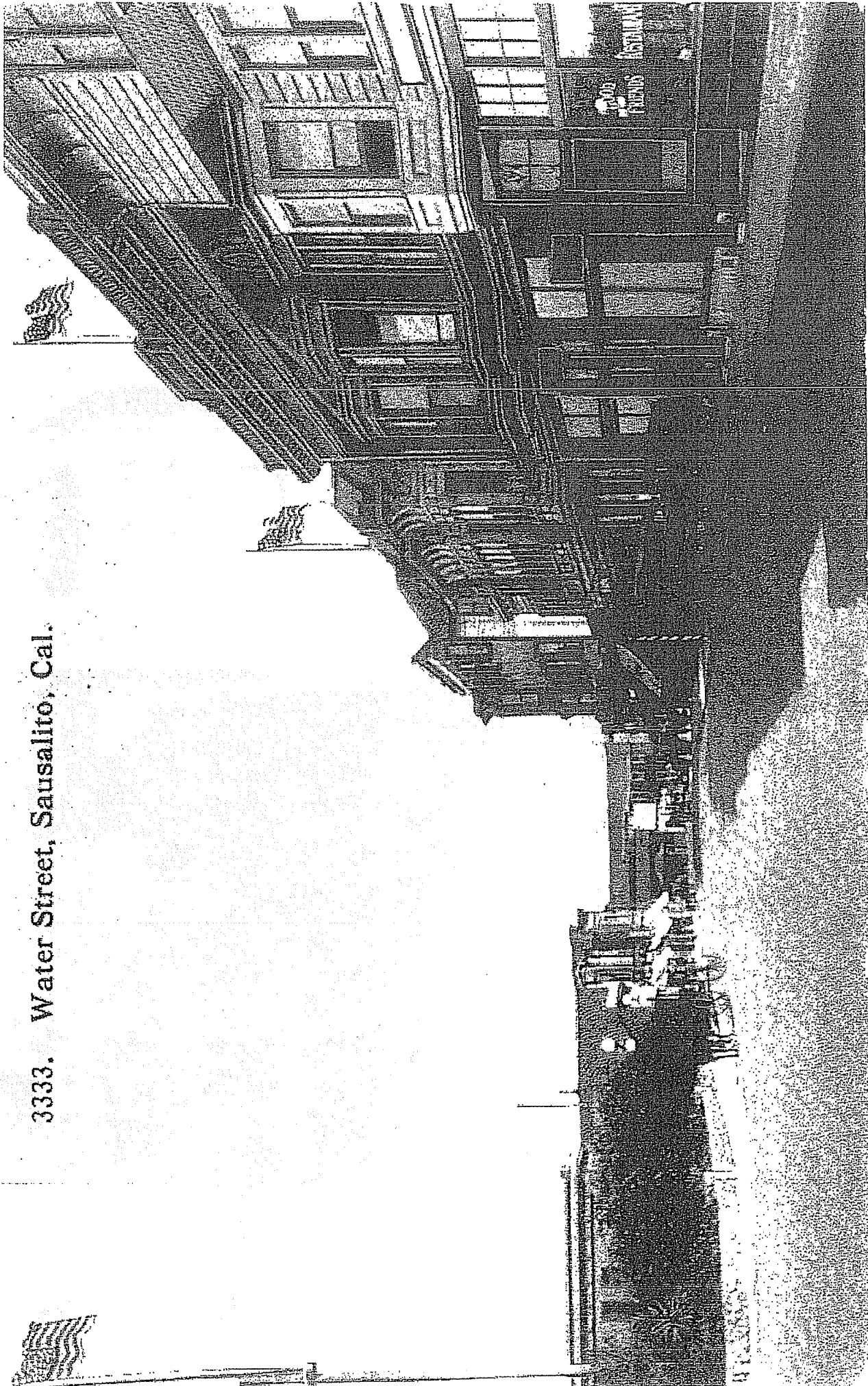
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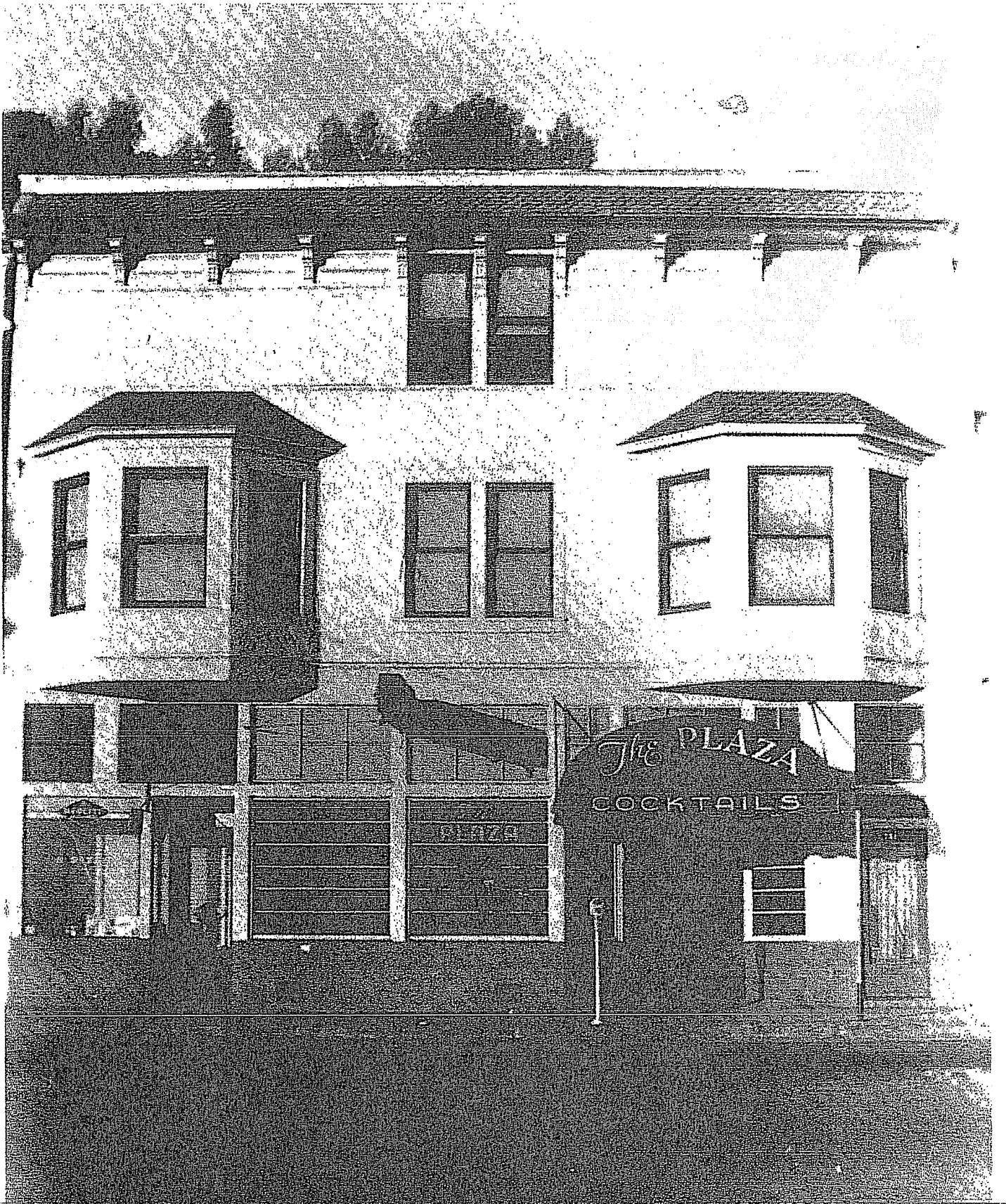
431
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3333. Water Street, Sausalito, Cal.



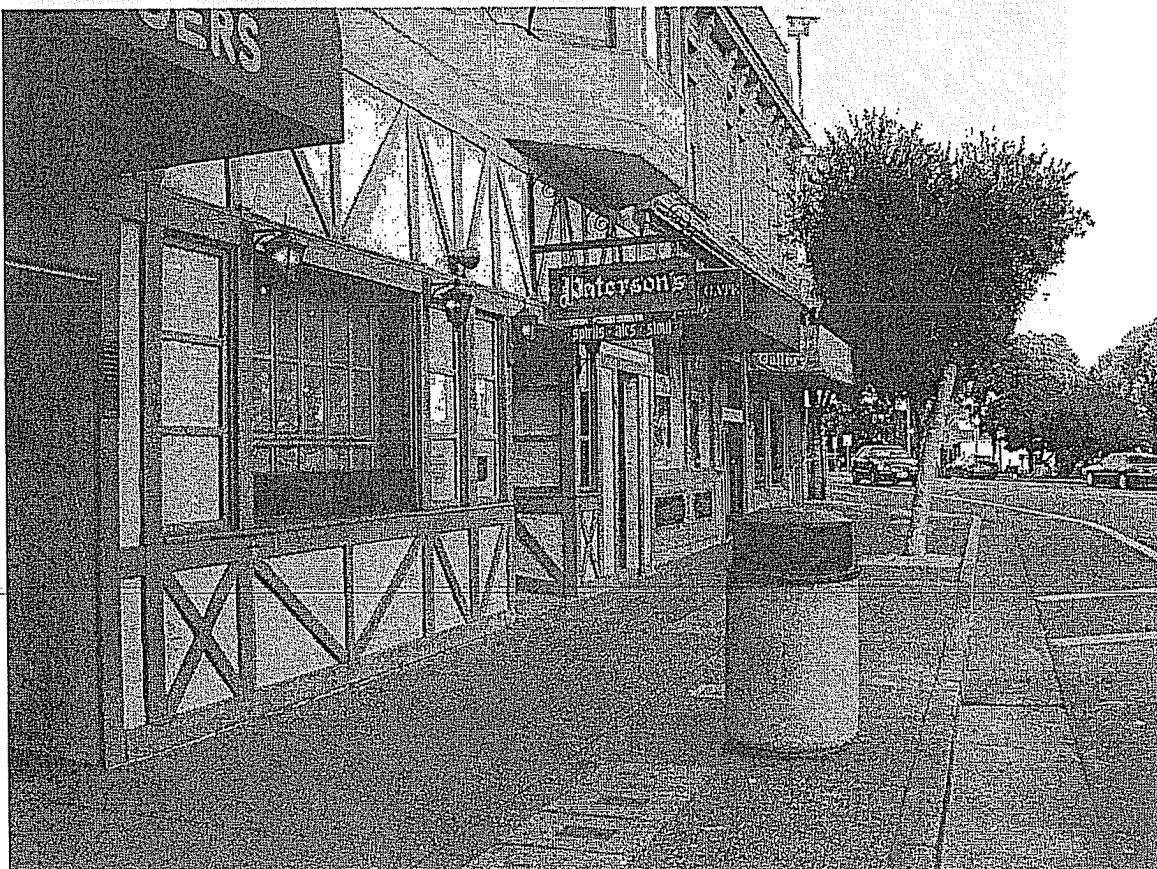
dated circa 1907

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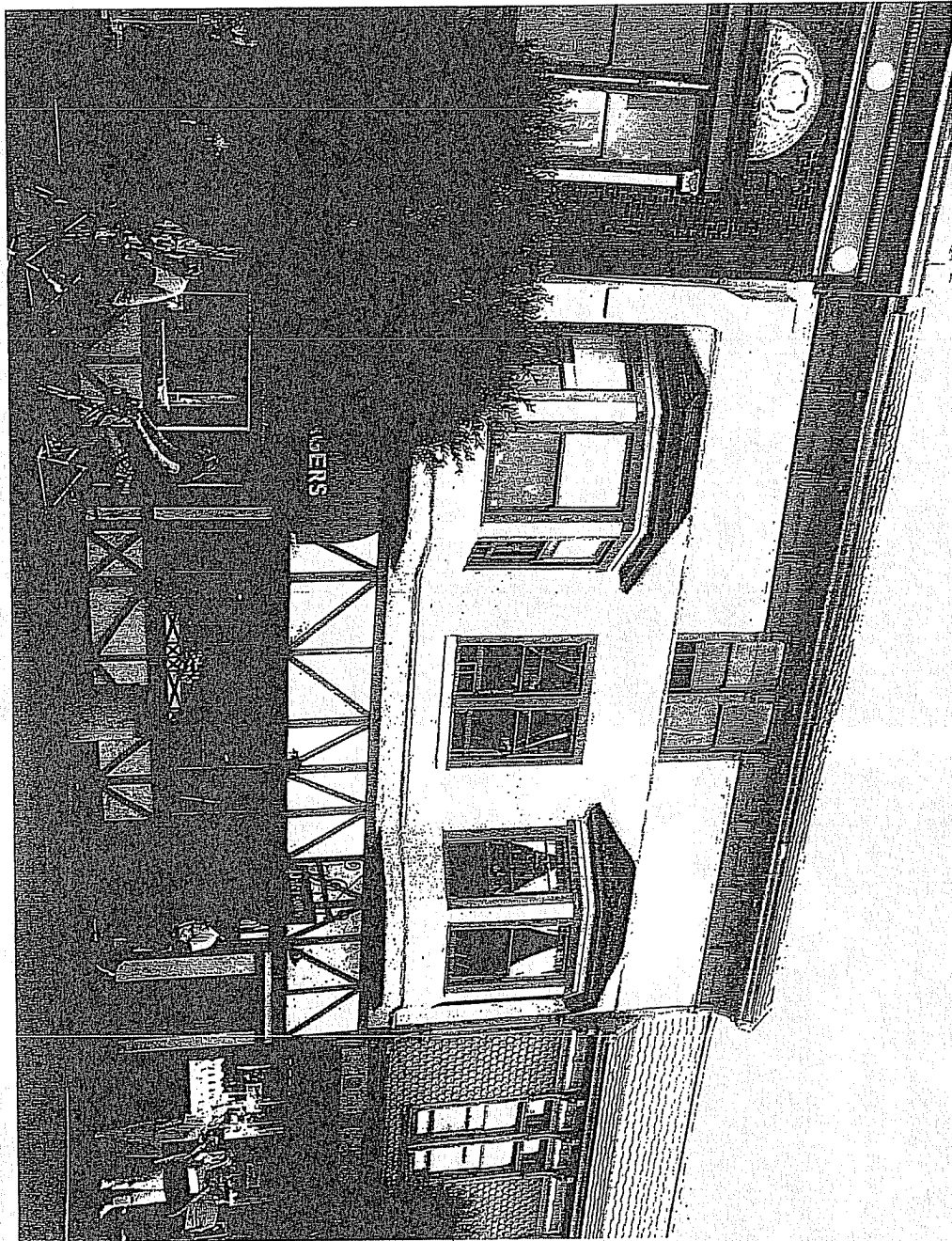


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dated circa 1950's

Exhibit 7: 739 Bridgeway Current Photographs



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COLOR BOARD

739 Bridgeway

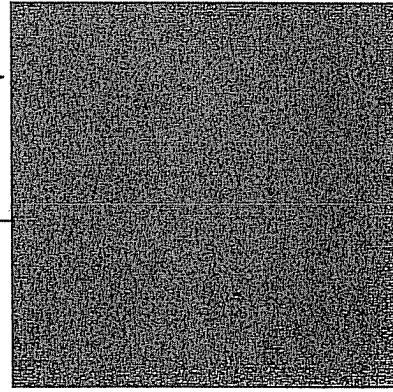
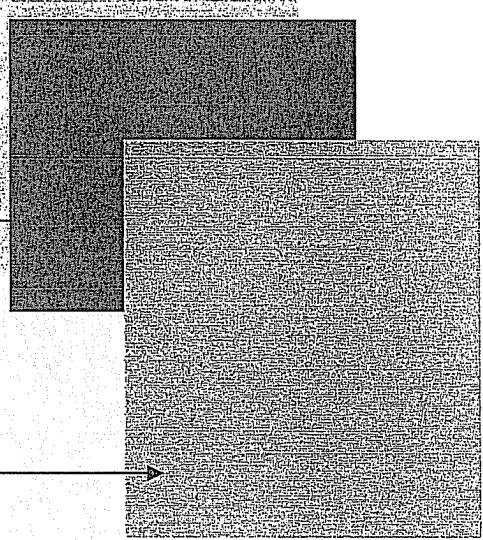
Accent Color
"Benjamin Moore"
(2072-50) Lavender Lipstick

Trim Color
"Benjamin Moore"
(2123-10) Mediterranean Tea

Trim Color
"Benjamin Moore"
(2114-40) Wet Concrete

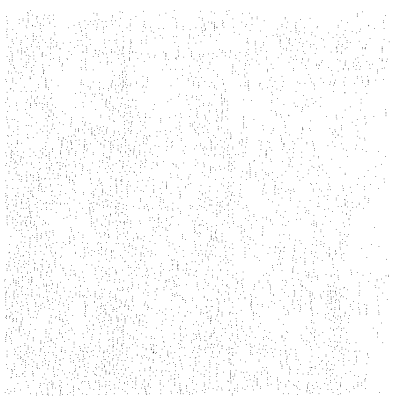
Awning Letters
"Benjamin Moore"
(2020-40) Yellow Rain Coat

Awning Fabric
"SB 4671 Fern"



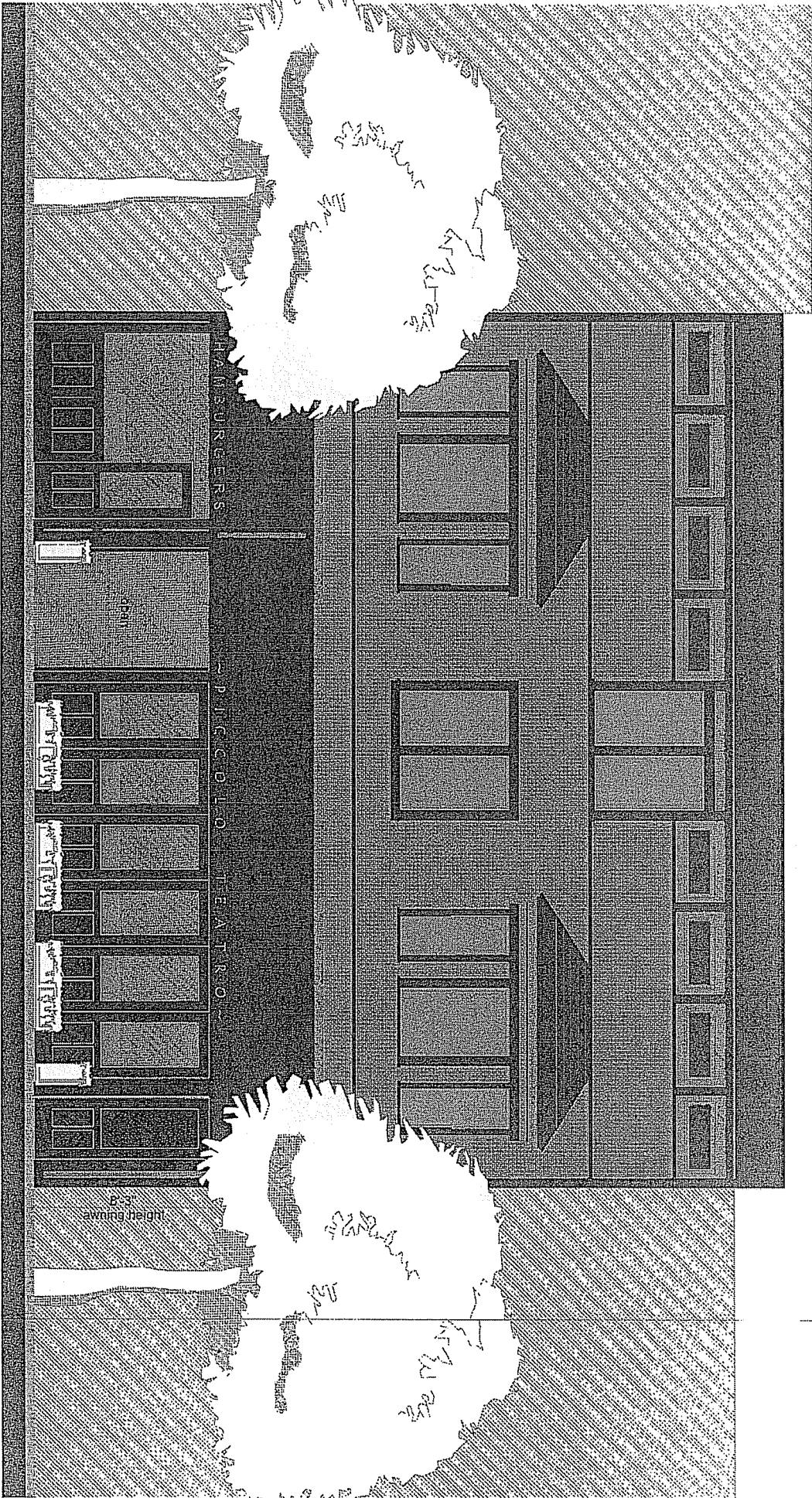
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Exhibit 8: Outdoor dining area at the Poggio Restaurant



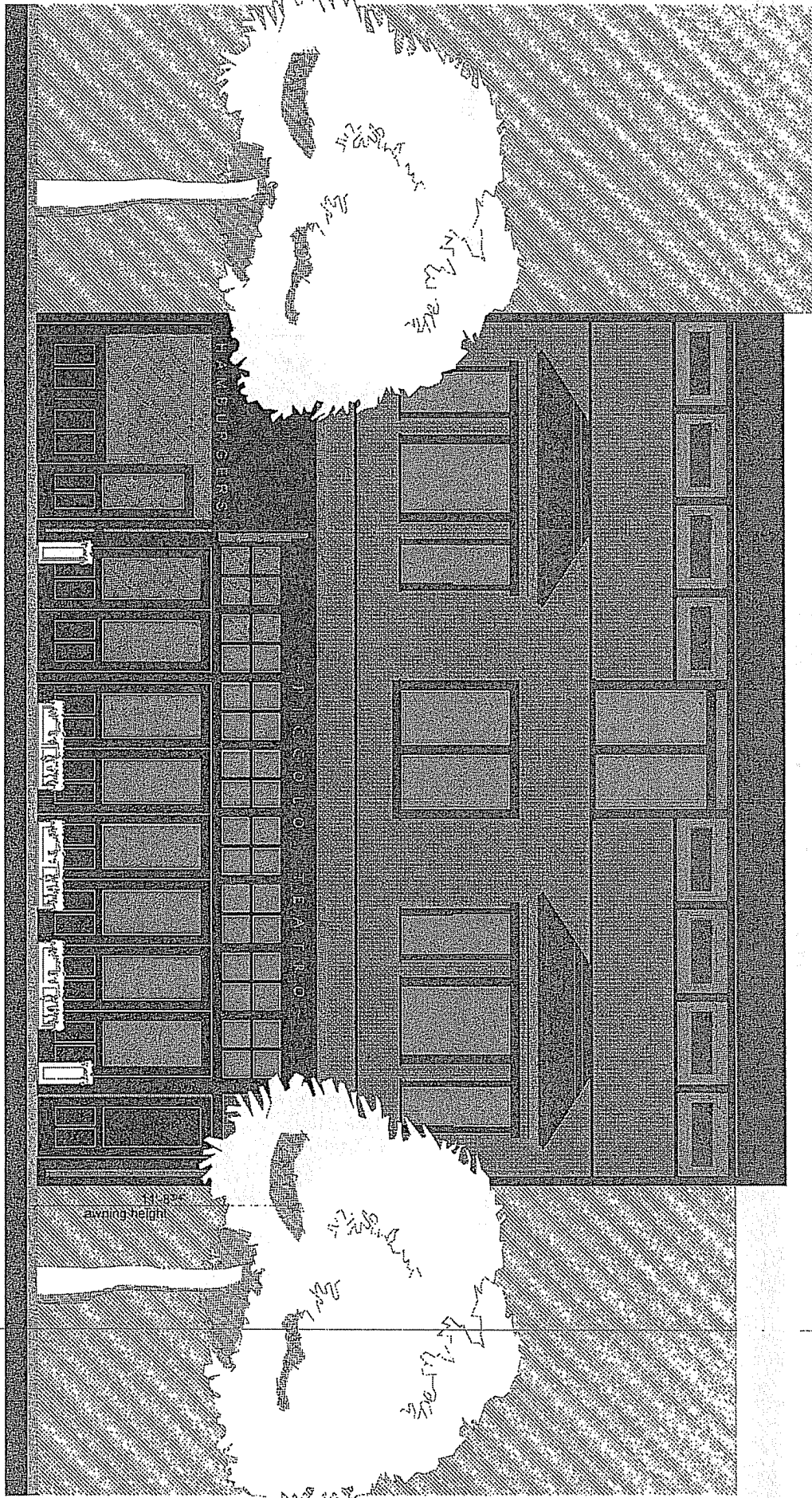
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○ STOREFRONT ELEVATION

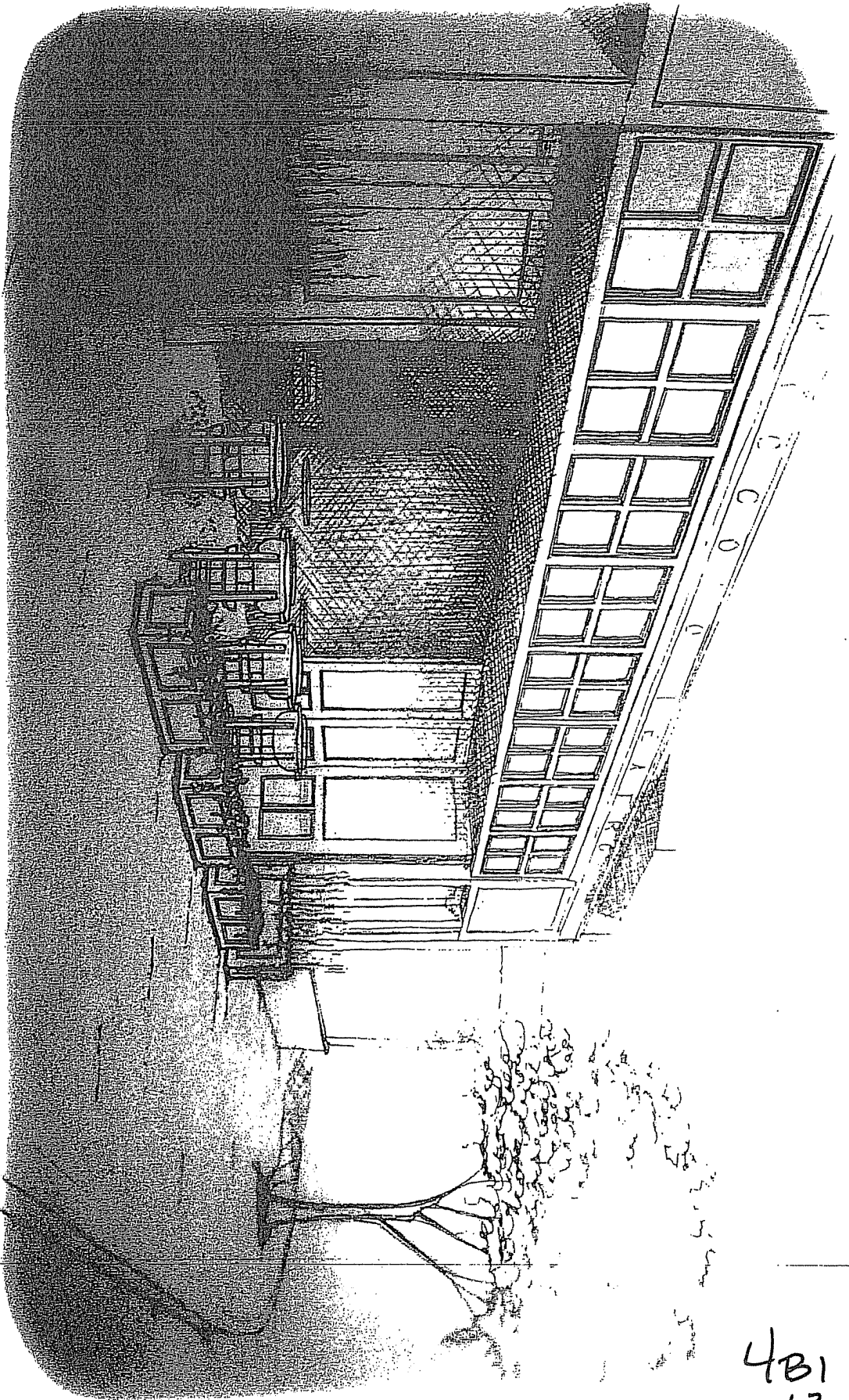


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○ STOREFRONT ELEVATION



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PICCOLO TEATRO
739 Bridgeway
SAUSALITO, CA 94966

D O N A L D O L S E N

ARCHITECT & ASSOCIATES

628 Bridgeway, Sausalito, CA 94965 Tel: 415/331-2077 fax: 415/331-2888 email: don@donaldolsen.com

MEMORANDUM

DATE: November 5, 2007
TO: Debra Lutske, Assistant Planner
FROM: Todd Teachout, City Engineer
SUBJECT: 739 Bridgeway, DR/SP 07-030 Encroachment to replace sign with awning.

The Engineering Division reviewed the following documents related to this application:

1. Restaurant Remodel 739 Bridgeway,, dated 06-18-07 by Don Olsen Associates.

Staff also went to the site.

The proposal is to remodel the building. There is currently a relatively small sign cantilevered off of the building front. This is to be replaced with an awning. Staff finds the proposal acceptable. Staff recommends approval.

