

**CITY OF ALBANY
PLANNING AND ZONING AGENDA
STAFF REPORT**

Agenda date: 2/9/2010
Prepared by: JB

ITEM/ 6a
SUBJECT: **Planning Application 09-071. Conditional Use Permit/Entertainment Permit.**
The subject property is a restaurant on the corner of Solano and San Pablo. The applicant is requesting City approval to allow an extension of live and amplified entertainment hours on Wednesday through Sunday nights to 1:30 am. Furthermore, for live entertainment, the applicant is requesting permission for up to ten musicians to perform.

SITE: 1106 Solano/901 San Pablo

APPLICANT/OWNER: Juan Romo for Monteros Restaurant

ZONING: Solano Commercial

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission approve the request for extension of live and amplified entertainment hours on Wednesday through Sunday nights to 1:30 am and grant permission, for live entertainment, for up to ten musicians to perform.

BACKGROUND/PROJECT DESCRIPTION

The subject property is a restaurant with a general liquor license on the corner of Solano and San Pablo. The applicant is requesting City approval to allow an extension of live and amplified entertainment hours from the current 1:00 am to a proposed 1:30 am on Friday and Saturday nights. In addition, on Wednesday, Thursday, and Sunday nights, an extension is requested from the current 10:00 pm to a proposed 1:30 am. Furthermore, for live entertainment, the applicant is requesting permission to for up to ten musicians to perform.

There has been a significant history of Planning and Zoning and City Council actions related to the applicant's operations. In summary:

- March 11, 1997 - Planning and Zoning Commission approval of CUP to allow beer and wine consumption at 1006 Solano Avenue
- June 26, 2001 - Planning and Zoning Commission approval of CUP, design review, and parking waiver to allow expansion of the restaurant into 901 San Pablo
- June 17, 2002 - City Council approval of live entertainment (Staff Report Attachment 5)

- November 10, 2003 – Major law enforcement incident associated with rental of the restaurant to a party promoter.
- December 1, 2003 – City Council revocation of the entertainment permit for 90 days (Staff Report Attachment 6).
- March 15, 2004 – City Council reinstatement of the entertainment permit (Staff Report & Minutes of Meeting Attachment 7).
- September 16, 2004 – Notice of complaint of excessive noise.

Environmental Analysis

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15301, "Existing Facilities" of the CEQA Guidelines, which exempts projects that involve negligible expansion of an existing use.

Discussion

The application is the first to be implemented pursuant to the recent amendments to the Planning and Zoning Code, which provides for the Planning and Zoning Commission, rather than the City Council, take action on applications for entertainment permits.

According to the Albany Police Department, in recent years, there have not been incidents at Monteros that would be relevant to the consideration of an extension of entertainment hours. In addition, according to the Albany Fire Department, previous fire code violations have been addressed. Furthermore, Community Development Department staff have not received complaints during the past several years, nor has staff been contacted in response to the public notice regarding this application.

In addition to re-approval and refinement of previously approved conditions of approval, staff recommends that an additional condition of approval requiring the applicant to assign staff to patrol nearby residential areas at closing time to ensure that patrons do not carry on conversations or activities in the immediate residential areas that might be disturbing to residents.

It should be noted that this location has been established in the General Plan and zoning ordinance as a commercial node. Thus, an approval of the proposed extension of hours should not be viewed as a precedent for approval of entertainment hours in other commercial areas of the City.

Appeals:

The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.

Attachments:

1. Analysis of Compliance with Zoning Requirements
2. Findings
3. Conditions of Approval
4. Application and Applicant's Submittal
5. City Council Staff Report June 17, 2002
6. City Council Staff Report December 1, 2003
7. City Council Staff Report March 15, 2004
8. Floor plans and elevation drawings - 2002

ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts and Permitted Uses

General Plan: Commercial/Commercial Node
Zoning: SPC (San Pablo Commercial)/Commercial Node Overlay District

20.16 Land Use Classifications

Restaurant with live entertainment and alcohol service

Surrounding	North - SPC	East - SPC
Property Use	South - SPC	West - SPC

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table Of Site Regulations By District.

Not applicable.

20.24.030 Overlay District Regulations.

The application is located in the Commercial Node Overlay District, which is intended to be applied to limited areas for the purposes of intensifying retail, commercial and mixed use activities around major intersections; reinforcing existing and developing concentrations of pedestrian-oriented uses; and defining the major commercial areas in Albany through distinctive design standards for specific locations.

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

Not applicable.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances Between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

Not applicable.

20.24.130 Accessory Buildings.

Not applicable.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

Not applicable.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

See discussion of Discussion.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on January 29, 2010 in the form of mailed notice to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review.

Not applicable.

ATTACHMENT 2 - FINDINGS

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

<i>Required Finding</i>	<i>Explanation</i>
<p>1. <i>Necessity, Desirability, Compatibility.</i> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for General Commercial. Additionally, the project meets City zoning standards for location, intensity and type of development. The site is an existing commercial building and the extension of operating hours will help support and retain an existing business.</p>
<p>2. <i>Adverse Impacts.</i> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i> b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i> c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i> d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i> 	<ul style="list-style-type: none"> a. The proposal is in scale and harmony with existing development in the vicinity of the site. It is an already developed site. b. At the hours of proposed entertainment, on-street parking is often available in the Solano commercial district. c. No noxious or offensive emission such as noise, glare or dust will occur from the granting of conditional use permit. d. It is an existing site without need for additional landscaping, services areas and lighting. Design review approval and a building permit for signage has already been obtained by the property owner.
<p>3. <i>Consistency with Zoning Ordinance, General Plan and Specific Plan.</i> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area.</p>

ATTACHMENT 3 - CONDITIONS OF APPROVAL

1. The permit approval is to allow live and amplified entertainment to 1:30 am on Wednesday through Sunday nights.
2. For live entertainment, the applicant is requesting permission to for up to ten musicians to perform.
3. The City may monitor the impacts on parking and traffic on the adjoining businesses and residential neighborhood as a result of having live entertainment. If it is determined that having live music/entertainment or dancing is creating a parking or traffic problem this permit will be brought back to the Council for review and possible modification or revocation.
4. Noise levels generated by the live music/entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows in the portion of the restaurant where the live music/entertainment is being conducted shall remain unlocked but closed at all times. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise.
5. This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control, and Albany Municipal Code related complaints concerning the operation of the restaurant. Applicant/permit holder shall be responsible for paying any administrative costs incurred by the City to review this permit.
6. This entertainment permit shall be restricted to those events that are directly sponsored by Montero's. Live music and entertainment shall be prohibited at any private parties.
7. Any further violation of this permit and/or the conditions of approval shall result in permit being brought back to the City for immediate revocation.
8. At closing time, the applicant shall provide a staff person to patrol nearby residential areas to ensure that patrons are not loitering on residential streets/sidewalks.

Date Received: 12/1/09
 Planning Application No.: 09-071
 Fee Paid: 1784.00
 Receipt # 60861



City of Albany



PLANNING APPLICATION FORM (GENERAL PROJECTS)

<p>For PLANNING & ZONING COMMISSION action:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Conditional Use Permit* <input type="checkbox"/> Design Review (residential, residential additions, commercial, office and multi-family*,) <input type="checkbox"/> General Plan Amendment from _____ to _____ <input type="checkbox"/> Parcel Map/ Tentative Map/ Vesting Tentative Map, Lot Line Relocation <input type="checkbox"/> Parking Exceptions/Reductions <input type="checkbox"/> Precise Development Plan <input type="checkbox"/> Second Unit Use Permit * <input type="checkbox"/> Variance * <input type="checkbox"/> Zone Change from _____ to _____ <input type="checkbox"/> Other: 	<p>For ADMINISTRATIVE action:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Admin. Lot Line Relocation <input type="checkbox"/> Home Occupations <input type="checkbox"/> Sign Review <input type="checkbox"/> Other:
--	--

* Please complete the appropriate Supplemental Questionnaire.

The City of Albany Municipal Code has certain requirements for Planning Applications. Your answering the following questions will help staff assess how to process your application. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissioners will likely make at least one field visit to your house and neighborhood.

Job Site Address: <u>1106 SOLANO AVE</u>		Zone: _____
Property Owner(s) Name: <u>Esther F. Nagao</u>	Phone: <u>444-7000</u> Fax:	Email: <u>e_torei@hotmail.com</u>
Mailing Address: <u>5421 BROADWAY</u>	City: <u>OAKLAND</u>	State/Zip: <u>CA 94618</u>
Applicant(s) Name (contact person): <u>JUAN ROMO</u>	Phone: <u>510-205-9067</u> Fax: <u>510-558-8667</u>	Email: <u>Juanromo@sbcglobal.net</u>
Mailing Address: <u>1106 SOLANO AVE</u>	City: <u>ALBANY</u>	State/Zip: <u>CA 94706</u>

PROJECT DESCRIPTION (Please use back of sheet or attach extra sheets, if necessary): see attached description

GENERAL INFORMATION (Please fill out this section if you are asking for approval of a project that will require construction):

Item	Existing	Proposed
Lot size (square feet)		
Size of structure(s) or commercial space (square feet)		
Height and No. of stories		
Lot coverage ¹		
Floor Area Ratio (FAR) ²		
Impervious Area ³		
Slope Density ⁴		
No. of dwelling units		
Parking ⁵ Number of off-street spaces		
Number of spaces in garage		
Size of spaces		

¹ Lot Coverage applies to all zoning districts. It is defined as the land area covered by all the structures on a site, including all projections, except portions of uncovered decks, porches or landings, balconies, or stairways that are less than six feet above grade and are not enclosed by walls on more than two sides; eaves, trellises and similar structures that do not have solid roofs.

² Floor Area Ratio (FAR) is defined as the proportion of building floor area per area of the parcel of land upon which the building rests. See the informational handout "How to Calculate Floor Area Ratio" for details on what is included and excluded.

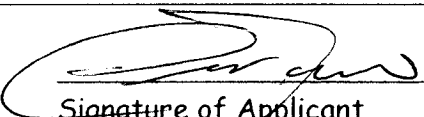
³ Impervious Area includes the total square footage of building footprint(s), driveway(s), patio(s), parking lots, walkway(s), and any other impervious surfaces.

⁴ Slope Density requirements apply in the HD Zoning District pursuant to Measure K. See handout on how to measure slope density in this area.

⁵ Minimum parking requirements were enacted under Measure D. This Measure requires that all residential development must have a minimum of two off-street parking spaces. Some exceptions may apply to your project, see residential development handout.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? In some instances, you may be required to provide a title report.

Signature of Property Owner



Signature of Applicant

Date

Date

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m. on Mondays, 8:30 a.m. through 5:00 p.m. on Tuesdays through Thursdays, and 8:30 a.m. to 12:30 p.m. on Fridays at 979 San Pablo Avenue, 2nd Floor, Albany, CA 94706; TEL: (510) 528-5760.

PROJECT DESCRIPTION (Please use back of sheet or attach extra sheets, if necessary): see attached description

GENERAL INFORMATION (Please fill out this section if you are asking for approval of a project that will require construction):

Item	Existing	Proposed
Lot size (square feet)		
Size of structure(s) or commercial space (square feet)		
Height and No. of stories		
Lot coverage ¹		
Floor Area Ratio (FAR) ²		
Impervious Area ³		
Slope Density ⁴		
No. of dwelling units		
Parking ⁵ Number of off-street spaces		
Number of spaces in garage		
Size of spaces		

- ¹ Lot Coverage applies to all zoning districts. It is defined as the land area covered by all the structures on a site, including all projections, except portions of uncovered decks, porches or landings, balconies, or stairways that are less than six feet above grade and are not enclosed by walls on more than two sides; eaves, trellises and similar structures that do not have solid roofs.
- ² Floor Area Ratio (FAR) is defined as the proportion of building floor area per area of the parcel of land upon which the building rests. See the informational handout "How to Calculate Floor Area Ratio" for details on what is included and excluded.
- ³ Impervious Area includes the total square footage of building footprint(s), driveway(s), patio(s), parking lots, walkway(s), and any other impervious surfaces.
- ⁴ Slope Density requirements apply in the HD Zoning District pursuant to Measure K. See handout on how to measure slope density in this area.
- ⁵ Minimum parking requirements were enacted under Measure D. This Measure requires that all residential development must have a minimum of two off-street parking spaces. Some exceptions may apply to your project, see residential development handout.

Restrictions: Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? In some instances, you may be required to provide a title report.

Esther Nagao
 Signature of Property Owner
Dec 4, 2009
 Date

[Signature]
 Signature of Applicant
10.01.09
 Date

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m. on Mondays, 8:30 a.m. through 5:00 p.m. on Tuesdays through Thursdays, and 8:30 a.m. to 12:30 p.m. on Fridays at 979 San Pablo Avenue, 2nd Floor, Albany, CA 94706: TEL: (510) 528-5760.



City of Albany



SUPPLEMENTAL QUESTIONNAIRE

CONDITIONAL USE PERMIT
(e.g., commercial, institutional, assembly uses
& non-administrative home occupations)

The City of Albany Municipal Code has certain requirements for approving Conditional Use Permits. Your answers to these questions will help staff assess how to process your application. Please understand that this supplemental questionnaire will help staff to further work with you. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissions (if applicable) will likely make at least one field visit to the Site and neighborhood.

1. What is (was) the use in this building/tenant space prior to your proposal?
SAA SAME
2. What are you proposing? SEE ATTACHMENT
3. Proposed hours/days of operation? SEE ATTACHMENT
4. Maximum number of employees expected on site at any one time? 7
(include owners/partners)
5. For instructional uses/assemblies of people/classes, etc. what is the maximum number of participants expected on site at any one time? N/A
6. For restaurants and cafes, will beer/wine/liquor be served? YES

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m., Mondays, 8:30 a.m. through 5:00 p.m. Tuesday through Thursday, and 8:30 a.m. to 12:30 p.m. on Fridays at 979 San Pablo Avenue, Albany, CA 94706 (510) 528-5760.

Montero's Café, Inc.

Application For Entertainment
in a Place Serving Food And Refreshments

Juan Romo

residence address: 6080 North Arlington Blvd San Pablo, CA 94806
Tel. 510-205-9067

Business address:

Montero's Café 1106 Solano Ave Albany, CA 94706
Tel. 510-524-1270 - Fax. 510-558-8667

Description Of Entertainment

Wednesday Nights: recorded amplified Latin music
Disc Jockey

Thursday Nights: recorded amplified Latin music
Disc Jockey

Friday Nights: Live Salsa Music
Number Of People Engaged On the Salsa Nights, 8 to 10 musicians
String Guitarist, Congas, key boards, trumpets, Vocalists.

Saturday: Live Salsa Music
Number Of People Engaged On the Salsa Nights, 8 to 10 musicians
String Guitarist, Congas, key boards, trumpets, Vocalists.

Sunday Nights: Live Shows
Live Flamenco and Belly Dance Shows Starting at 6:00PM Ending At 8:30PM
Followed by International recorded Amplified Music with Disc Jockey

Date And Hours Of The Entertainment

Wednesday Nights
Recorded Music From 10:00PM to 1:30AM

Thursday Nights
Recorded Music From 10:00PM to 1:30AM

Salsa Nights: Friday and Saturday Nights
Every Friday & Saturday Night Starting With Salsa Lessons @ 8:30pm For One Hour,
Followed By Live Salsa Bands That Will Perform Until 12:30 AM
Followed With Recorded amplified Music Until 1:30 AM

Sunday Nights
Flamenco and Belly Dance Show to Start at 6:00PM Ending at 8:30PM
Followed by International recorded Amplified Music
with Disc Jockey From 10:00PM To 1:30AM

Nature Of Applicant Business

Latin Food - Restaurant - Café -

Montero's Café inc. / Juan Romo Has applied for such a permit Before and is
in very good standing with all departments with the city of Albany.

Montero's Café
1106 Solano Ave
Albany Ca. 94706
510-524-1270

Montecristo Taqueria
1446 University Ave
Berkeley, CA 94702
510-486-0321

Talavera Taqueria
1561 Solano Ave
Berkeley, CA 94708

CURRENT CUP, Right NOW (FRIDAY TILL 1:00 AM)
(SATURDAY TILL 1:00 AM) (SUNDAY TILL 10:00 PM)

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Prepared Date: 6/04/02
Agenda Date: 6/17/02
Reviewed By: BP

TO: City Council
FROM: Dave Dowswell, Planning Manager
SUBJECT: Entertainment Permit for Montero's Restaurant – 901 San Pablo Avenue (Former Captain Video)

RECOMMENDATION

Staff recommends the City Council approve the Entertainment Permit, as per Section 5-11.6 of the Albany Municipal Code, subject to the attached Conditions of Approval.

PROJECT DESCRIPTION

The owner of the Montero's Café at 1106 Solano Avenue is requesting approval to have live entertainment in the expanded portion of the restaurant (formerly Captain Video, 901 San Pablo Avenue). The request is to have Salsa lessons and recorded music Friday and Saturday nights from 8:00 P.M. to 1:00 A.M. and two Flamenco shows on Sunday nights, one at 7 P.M. and the other at 9 P.M. Eventually, the owner wishes to have live Salsa bands perform on Friday and Saturday nights from 9:00 P.M. to 1:00 A.M. (Attachment A).

BACKGROUND

On June 26, 2001, the Planning Commission approved Conditional Use Permit (CUP) 01-023 to allow a restaurant with a State liquor license in a C-2 Zoning District. The CUP was approved subject to a number of conditions. The CUP also included approval of a parking waiver of five spaces. At the time that the CUP was approved the applicant/owner had not indicated that he intended to have live music. It was not until sometime later, when the plans to remodel the interior of the old Captain Video were submitted, that the owner indicated that he wanted to offer live music.

According to Section 5-11.6 of the Albany Municipal Code "No person shall provide or permit any entertainment in a bar, cocktail lounge, tavern, café, restaurant, hotel, motel hall or public place where food, alcoholic or other beverages, or other refreshments are served unless such person shall first obtain a permit to do so from the City Council as hereinafter provided." A copy of the application requirements is attached (Attachment B).

DEPARTMENT COMMENTS

Police

Chief Murdo and Lieutenant Bone each commented on the application. Chief Murdo discussed the historical aspect of this site and the potential that history (noise complaints, parking problems, and criminal activity) may repeat itself (Attachment C). Lieutenant Bone suggested the following possible criteria that might be used to trigger a review of the permit:

1. Noise complaints emanating from the business or surrounding areas including, but not limited to, sidewalks and parking lots associated with the business.
2. Traffic and/or parking violations.
3. Criminal complaints.
4. Alcoholic Beverage Control complaints.
5. Albany Municipal Code complaints.

If the Police Department receives complaints relating to the live entertainment the Police Department would notify the Community Development Department, which would in turn notify the Council. The Council could then revisit the permit and consider adding new conditions, such as requiring licensed security officers be on site when live music is being played. The Council could also revoke the permit.

Fire

We have no comment on this permit.

Building

We have no comment on this permit.

DISCUSSION

The City's laws allow for live entertainment in restaurants. The area where the live entertainment will take place is in the expanded portion of the restaurant, previously occupied by Captain Video. Despite the history of the 901 San Pablo Avenue, as discussed in the memo (Attachment A) from the Chief of Police, Staff has no evidence that the expanded restaurant or the proposed use will have any negative impacts (noise, parking or traffic) on the adjoining businesses or neighborhood.

The City's parking regulations require one parking space for each 300 feet of restaurant and one parking space is required for each 100 feet of public assembly, which would include a dance hall. According to the Zoning Ordinance, if a restaurant or bar offers live entertainment no additional parking is required. Additional parking can be required if the new expansion (banquet area) is used entirely for dancing. When live bands begin to play at the restaurant, parking could become a problem because of the number of nighttime uses in the area (other restaurants and the theater). Staff would recommend a condition be placed on the permit stating that when live Salsa bands begin to play at the restaurant the parking situation shall be monitored to determine if having live bands with dancing is having any adverse impacts on the adjoining businesses and neighborhood.

Staff is also concerned about the potential noise impacts of the live entertainment. The City has specific noise standards that this business must meet. The maximum allowable decibels permitted in a C-1 Zoning District between 10 p.m. and 8:00 a.m. is 60 decibels. It is quite possible that the noise level outside of the restaurant could exceed this decibel level, especially if windows or doors are left open. It is not clear from the plans if there will be air conditioning in the expanded area. Staff is recommending a condition be placed on the permit stating that the noise levels generated by the live entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows to the portion of the restaurant where the live entertainment is being conducted shall remain unlocked but closed at all times.

The Police Department also mentioned a number of additional types of complaints that could occur as a result this use (criminal, Alcoholic Beverage Control, and Albany Municipal Code). As a precaution they recommend a condition be placed on the permit stating that this permit be subject to Council review and possible revocation if criminal, alcohol or other Albany Municipal Code complaints are received by the Police Department.

Conditions of Approval

1. The permit approval is to allow live entertainment on the days and times as described in the staff report dated June 17, 2002, and in Attachment A.
2. Prior to having Salsa bands performing live at the restaurant the applicant/owner shall contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses as a result of having live entertainment. If it is determined that having live entertainment with dancing is creating a parking or traffic problem this permit will be brought to the Council for review and possible revocation.
3. Noise levels generated by the live entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows to the portion of the restaurant where the live entertainment is being conducted shall remain unlocked but closed at all times.
4. This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control, and Albany Municipal Code related complaints concerning the operation of the restaurant.

ATTACHMENTS

- A. Description of the proposed entertainment
- B. Copy of Section 5-11.6 and 5-11.7 of the Albany Municipal Code
- C. Memo from Police Chief Murdo dated May 22, 2002

A

May 6, 2002

Application For Entertainment
in a Place Serving Food And Refreshments.

Montero's Café, Inc.

Juan Romo
residence address:
6425 Central Ave #105
El Cerrito, CA 94530
510-525-0165
510-205-9067

CITY OF ALBANY
MAY 08 2002
COMMUNITY DEVELOPMENT
DEPARTMENT

Business address:
Montero's Cafe
1106 Solano Ave
Albany, CA 94706
510-524-1270
Fax 649-7584

Description Of Entertainment:

- Flamenco Night
- Salsa Night

Number Of People Engaged On a Flamenco Show Are Four (4)
1- String Guitarist
2- Vocalist
3- One, Some Times Two Dancers

Date and Hours Of The Entertainment Of :

Flamenco Night.
Every Sunday Night
7 O'clock Show
&
9 O'clock Show

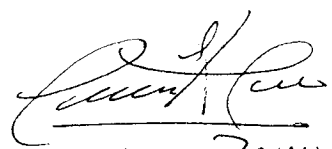
The Flamenco Shows are For 1 Hour Each
And Will Not Have Admission/Fee.

Date And Hours Of The Entertainment Of :

Salsa Night.
Every Friday & Saturday Night Starting With:
Salsa Lessons @ 8pm For One Hour,
Followed By Recorded Music Until 1:00 AM
Salsa Night Will Eventually Invite Live Performances Of
Well Known Salsa Bands, That Will Perform Until 12:30 AM
Followed With Recorded Music Until 1:00 AM

Nature Of Applicant Business
Mexican/Spanish - Restaurant / Café

Montero's Café / Juan Romo
Has Never Applied For Such A Permit Before,
So It Has Never Been Denied Or Suspended.


JUAN ROMO

Montero's Café
1106 Solano Ave
Albany Ca. 94706
510-524-1270

Monteros Café
1401 University Ave.
Berkeley Ca. 94702
510-841-1544

Montero's Coffee Bar
1401 University Ave. #B
Berkeley Ca. 94702

Monte Cristo Taqueria
1446 University Ave
Berkeley, CA 94702
510-486-0321

Fax 510- 649-7584

E-mail monteroromo@aol.com

5-11.5 Permit for Charitable Purposes. Any such dance given by a lodge, club, or benefit association, as described in subsection 5-11.4, shall first obtain a permit from Community Development and Environmental Resources to hold such nonprofit event. All other events for profit only shall be held after payment of the fee referred to in the preceding section and after a permit has been received from Community Development and Environmental Resources. (Ord. #80-08; 1958 Code §9.5; Ord. #97-08)

5-11.6 Entertainment Permits Required in Place Serving Food or Refreshments. No person shall provide or permit any entertainment in a bar, cocktail lounge, tavern, cafe, restaurant, hotel, motel, hall or public place where food, alcoholic or other beverages, or other refreshments are served, unless such person shall first obtain a permit to do so from the City Council as hereinafter provided. (Ord. #80-08; 1958 Code §9.6)

5-11.7 Application for Entertainment Permits. Applicants for entertainment permits shall file a written and signed application with the City Clerk showing the following:

a. Full legal name and permanent residence address, including business address, if any, phone numbers for home and work, of applicant(s) and all persons directly or indirectly interested in the permit.

b. A reasonable description of the entertainment, including type of entertainment, approximate number of persons engaged in the entertainment, and any further information about the entertainment and/or entertainers as the City Council may deem necessary.

c. The date, hours and location where such entertainment is proposed, and the admission fee, if any, to be charged.

d. A statement of the nature and character of applicant's business, if any, to be carried on in conjunction with such entertainment.

e. Whether or not the applicant or anyone having a beneficial interest in the permit, directly or indirectly, has had a permit for the same or similar business suspended or revoked anywhere, and, if so, under what circumstances.

f. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of applicant's business, as the City Council or License Collector may deem necessary.

g. The Fire Department and Building Department shall furnish information on zoning and occupancy requirements.

A copy of the application shall remain on the premises and available upon request by any Police Officer and/or Fire Official.
(Ord. #80-08; 1958 Code §9.7; New)

5-11.8 Reserved.¹

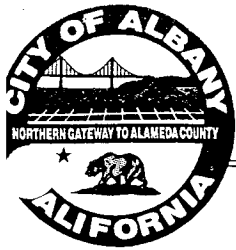
5-11.9 Administration; Rules and Regulations; Adoption of Rules and Regulations. The City Council, or their duly authorized representative, is empowered to adopt reasonable rules and regulations or to impose reasonable conditions upon any permit issued for the purpose of implementing this section, with copies of such rules, regulations, or conditions to be provided to those permittees affected thereby and violation of such rules and regulations or conditions shall be deemed grounds for suspension or revocation of a permit. A copy of such rules and regulations shall be conspicuously posted in every room of the establishment wherein entertainment takes place. Such rules and regulations shall not be printed in type less than nine point. (Ord. #80-08; 1958 Code §9.9)

5-11.10 Hours of Operation. No person shall carry on or assist in carrying on or operating a public dance, cabaret or place of entertainment to which the public may be invited at any time between the hours of 2:00 a.m. and 8:00 a.m. (Ord. #80-08; 1958 Code §9.10)

5-11.11 Exception, Permission Required. Any person who shall desire to carry on or conduct an amusement or entertainment or dance for one night only, during the hours prohibited by subsection 5-11.10, may apply in writing to Community Development and Environmental Resources for permission to do so. Community Development and Environmental Resources may grant such permission to such applicant, in writing, when in its discretion the conduct of such amusement or entertainment at such time shall not be detrimental to the public health, safety, morals or welfare. Community Development and Environmental Resources shall either grant or deny such application within three (3) weekdays after such application has been received; and if permission has not been granted within such period, such application shall be deemed to have been denied. (Ord. #80-08; 1958 Code §9.11; Ord. #97-08)

5-11.12 Exception, Application to Council. Any person who shall desire to carry on or conduct any amusement or entertainment or dance during the hours prohibited by subsection 5-11.10 and for a longer period than one (1) night, shall file a written application therefor with the City Clerk for presentation to the City Council. Such application shall contain a detailed statement of the type of amusement or entertainment or dance which the

¹Editor's Note: Former subsection 5-11.8, Investigation by Chief of Police: Denial or Issuance of Permit, previously codified herein and containing portions of 1958 Code §9.8 and Ordinance No. 80-08, was repealed in its entirety by Ordinance No. 97-08.



Albany Police Department

1000 SAN PABLO AVE. • ALBANY, CALIFORNIA 94706-2295

LARRY MURDO
Chief of Police

(510) 525-7300
FAX (510) 525-1360

TO: Dave Dowsell
FROM: Larry Murdo
DATE: May 22, 2002
SUBJECT: MONTEREO'S ENTERTAINMENT ISSUES;

Dave;

Thank you for advising me of the proposal of empowering Montereo's restaurant to expand into the old Captain Video site to host live bands and dancing. Hey, how about this fact...many, many years ago at that same site (Captain Video) was the infamous nightclub named the Lucky 13. Well, I can speak about issues emanating from the operations of such a business since, in that era for you see, I was a musician that frequently performed at the Lucky 13.

After my performing years had concluded and I began to perform as an Albany Police Officer I frequently responded to calls-for-service to that same business. Well, as a musician, I personally observed unlawful activity occurring frequently within the premises, usually sales & usage of controlled substances, violent physical altercations, and frequently being requested to reduce the volume of music being created since the electronically produced music disturbed nearby neighbors.

As an officer, I frequently was requested to respond to the business due to a physical altercation that emanated either inside the business or, with similar frequency, began as a disagreement within the business and was then taken directly off the premises to engage in a physical altercation. Our agency, as a usual procedure, directed our officers to walk about the immediate area of the business and visually peer into parked vehicles. Our purpose was simple, if we could perceive a dangerous weapon while performing such a duty it would empower us to initiate appropriate police action.

I will communicate this simple but effective procedure yielded the discovery of many firearms and produced many arrests and subsequent vehicle searches. Of course, with great frequency, I and other officers, were requested to perform a "walk-through" at the request of management due to their trepidations that potential issues may be brewing and the appearance of uniformed officers may chill any potential violent action (this was not always successful).

Of course, we were very often requested by nearby residents to have the volume of music emanating from the business reduced since it was disturbing the perceived quality of life within the immediate neighborhood.

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.



PRINTED ON RECYCLED PAPER

— Why the history lesson? Simple, I believe it quite foreseeable that history may well repeat itself at the site if the permits are pursued, acquired, and entertainment begins. We now operate within a much more viscerally violent society and, foreseeably, the firearms we once observed within a parked vehicle many now be concealed upon a person, providing swift access.

I will predict with great confidence that the quality of neighborhood life perception issue will resurface under any operating condition. How to properly ameliorate this condition may well be the focus of public meetings. In any event, I perceive potential issues that will demand the service of the Albany Police Department should this business be permitted to engage in this proposed activity.


Larry Murdo

CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT

Prepared Date: 11/24/02 03
Agenda Date: 12/1/02 03
Reviewed By: ac

TO: City Council
FROM: Dave Dowswell, Planning Manager
SUBJECT: Reconsideration of Entertainment Permit for Montero's Restaurant – 901 San Pablo Avenue (Former Captain Video)

RECOMMENDATION

That the City Council revoke the Entertainment Permit, as per Section 5-11.13 of the Albany Municipal Code, for failure to comply with the conditions of approval, and restrict the owner from re-applying for a new Entertainment Permit for a period of one year.

ALTERNATIVES

If the Council wishes to consider alternative actions, staff recommends the following options:

1. Suspend the Entertainment Permit for a period of time; one year is recommended.
2. Amend the Entertainment Permit to include the following additional condition:
 - a. Any future violations of the City's Entertainment Permit regulations or conditions of approval will result in immediate revocation of the permit.

BACKGROUND

On June 26, 2001, the Planning Commission approved Conditional Use Permit (CUP) 01-023 to allow a restaurant with a State liquor license in a C-2 Zoning District. The CUP was approved subject to a number of conditions. The CUP also included approval of a parking waiver of five spaces. At the time the CUP was approved, the applicant/owner had not indicated that he intended to have live music. It was not until sometime later, when the plans to remodel the interior of the old Captain Video were submitted, the owner indicated he wanted to offer live music.

According to Section 5-11.6 of the Albany Municipal Code "No person shall provide or permit any entertainment in a bar, cocktail lounge, tavern, café, restaurant, hotel, motel hall or public place where food, alcoholic or other beverages, or other refreshments are served unless such person shall first obtain a permit to do so from the City Council as hereinafter provided." Attached is a copy of the application requirements (Attachment A).

On June 17, 2002, the City Council issued Montero's Restaurant an Entertainment Permit. The permit allows Salsa lessons and recorded music Friday and Saturday nights from 8:00 P.M. to 1:00 A.M. and two Flamenco shows on Sunday nights, one at 7 P.M. and the other at 9 P.M. The permit was issued, subject to complying with the following conditions:

1. The permit approval is to allow live entertainment on the days and times as described in the staff report dated June 17, 2002, and in the application description dated May 6, 2002.
2. Prior to having Salsa bands performing live at the restaurant, the applicant/owner shall contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses as a result of having live entertainment. If it is determined that having live entertainment with dancing is creating a parking or traffic problem this permit will be brought to the Council for review and possible revocation.
3. Noise levels generated by the live entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows in the portion of the restaurant where the live entertainment is being conducted shall remain unlocked but closed at all times. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise.
4. This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control, and Albany Municipal Code related complaints concerning the operation of the restaurant. Applicant/permit holder shall be responsible for paying any administrative costs incurred by the City to review this permit.

DISCUSSION

On Monday, November 10, 2003, a hip-hop party with a disc jockey was held in the banquet room at Montero's. During the event the Police Department had to be contacted when persons attending the event became rowdy and fights occurred. Ultimately, close to 60 police officers from neighboring jurisdictions and the California Highway Patrol were used to restore order. Police Chief Bone prepared a memorandum that summarizes the events of that night (Attachment B)

Mr. Romo apparently made no arrangements for security or crowd control. Staff understands that he contracted with a third party who has held other events elsewhere. This promoter apparently has had similar problems as to what occur in Albany. It did not seem that Mr. Romo made any effort to find out about the promoter's reputation to determine the appropriateness of contracting with this person.

On November 13, 2003, a letter was sent to Mr. Romo, the owner of Montero's, advising him that based on the November 10 event, there might be grounds for revoking his Entertainment Permit (Attachment C).

On November 17, 2003, the Planning Manager and Police Chief met with Mr. Romo to discuss the November 13 letter and the possibility of revoking his Entertainment Permit.

ANALYSIS

Section 5-11.13 of the Albany Municipal Code (Entertainment Permit) states "A permit may be revoked or suspended by the City Council, after a hearing, if any of the provisions of this section are violated or if any grounds for denying a permit are found to exist."

Before holding the hip-hop party no attempt was made by Mr. Romo to contact the City to ask if this type of event was permitted under the provisions of his Entertainment Permit. Staff is extremely concerned about the possibility of there being another event at Montero's requiring Police Department assistance where the outcome might not be as fortunate. Based on the events of November 10, 2003, staff believes the applicant violated Condition No. 4. Furthermore, the applicant violated Condition No. 1 by conducting an event, the type of which was not approved and on a night that was not approved for live entertainment. For the afore-mentioned reasons staff believes there are grounds for revoking the Entertainment Permit. If the City Council decides to revoke the permit, staff recommends that a time period be designated for which the owner may not re-apply for a new permit; staff recommends one year.

If the City Council wishes an alternative course of action to revocation, Council could suspend the permit for a fixed period. Staff would recommend a one-year suspension, or at the minimum no less than six months. The City Council could also choose not to revoke or suspend the permit. If the City Council chooses not to revoke the permit it is recommended the following additional condition be added:

1. Any future violations of the City's Entertainment Permit regulations or conditions of approval will result in immediate revocation of the permit.

ATTACHMENTS

- A. Copy of Section 5-11 of the Albany Municipal Code
- B. Memo from Police Chief Bone dated November 24, 2003
- C. Letter to Mr. Romo dated November 13, 2003

5-10 RESERVED.¹**5-11 AMUSEMENT AND ENTERTAINMENT PREMISES.²****5-11.1 Definitions.** As used in this section:

Cabaret shall mean any place conducting a public performance for direct or indirect profit, including every public vaudeville or other performance or diversion in the way of acting, singing, declamation, or dancing, either with or without instrumental or other music, conducted by professionals, amateurs or patrons, and under the direction or control of the owner, operator or management, in connection with the serving or selling of food, alcoholic beverages, any other refreshment or merchandise at any room in any bar, cocktail lounge, tavern, cafe, restaurant, hotel, motel, hall, or any other public place. Every form of entertainment is included.

Dance hall shall mean any place or hall where public dances are held.

Entertainment shall mean every form of live entertainment, music, solo band or orchestra, act, play, burlesque show, fashion show, review, pantomime, scene, song or dance act or song and dance act, or performance participated in by one (1) or more persons for the purpose of holding the attention and interest of, diverting or amusing guests or patrons, and shall include any such forms of live entertainment when used in connection with, or as a means to attract or hold the attention of such guests or patrons for the purpose of advertisement, demonstration or display of goods, wares, merchandise, or services, or monetary compensation, of whatever kind.

Mechanical music machine shall mean any phonograph or other mechanical device of whatever kind, which upon the insertion of a coin, slug, token or similar representation of value into the machine, or any device connected therewith, or by the payment of any price, operates or may be operated for the audible emission of songs, music, or similar entertainment or amusement.

Private dance shall mean any dance other than a public dance with or without charge for admission or participation.

¹Editor's Note: Former Section 5-10, Mechanical and Electronic Amusement Devices, was repealed in its entirety 7-17-00 by Ord. #00-05.

² Editor's Note: For provisions concerning Peep Show Establishments, see Section 5-12 of this Chapter. As to Tent Theatre Permits, see Section 5-17.

Public dance shall mean any dance to which the public, regardless of restrictions as to age, or similar modifiers, is admitted, with or without charge for admission or participation.

(Ord. #80-08; 1958 Code §9.1)

5-11.2 Permit Required to Conduct or Maintain. It shall be unlawful for any person to conduct a public dance for profit or nonprofit, or to maintain a dance hall, or cabaret, or place where entertainment is provided for profit within the City on a regular basis without having first obtained a permit from Community Development and Environmental Resources. Fees from a temporary entertainment or dance shall be set by the City Treasurer. (Ord. #80-08; 1958 Code §9.2; Ord. #97-08)

5-11.3 Fee. Every person who maintains or conducts a public dance hall, cabaret, or place of amusement shall pay a fee as set by the City Treasurer. Such fee shall be payable to the City Treasurer after a permit to operate the same has been issued by Community Development and Environmental Resources. If a permit is revoked for any reason, an application for a refund of the fee on a proportional basis, may be made at the City Treasurer's Office. (Ord. #80-08; 1958 Code §9.3; Ord. #97-08)

5-11.4 Exemptions for Charitable Purposes or Sponsored by the City. Subsections 5-11.2, 5-11.3 and 5-11.6 shall not apply to any dance given by any lodge, club, church, or other benefit association, given for charitable or benevolent purposes, nor to any dance sponsored by the City, except as provided in subsection 5-11.5 of this Chapter.

Other activities which are excluded from this section are as follows:

- a. The "no fee" use of a radio, television receiver, music recording machine, or similar device in any establishment(s).
- b. The fee use of a mechanical music machine or jukebox in any establishment(s).
- c. Any entertainment provided for members and their guests at a private club, where admission is not open to the public and the private club is in current compliance with all applicable laws and ordinances with respect to such clubs.
(Ord. #80-08; 1958 Code §9.4)

A copy of the application shall remain on the premises and available upon request by any Police Officer and/or Fire Official.
(Ord. #80-08; 1958 Code §9.7; New)

5-11.8 Reserved.¹

5-11.9 Administration; Rules and Regulations; Adoption of Rules and Regulations. The City Council, or their duly authorized representative, is empowered to adopt reasonable rules and regulations or to impose reasonable conditions upon any permit issued for the purpose of implementing this section, with copies of such rules, regulations, or conditions to be provided to those permittees affected thereby and violation of such rules and regulations or conditions shall be deemed grounds for suspension or revocation of a permit. A copy of such rules and regulations shall be conspicuously posted in every room of the establishment wherein entertainment takes place. Such rules and regulations shall not be printed in type less than nine point. (Ord. #80-08; 1958 Code §9.9)

5-11.10 Hours of Operation. No person shall carry on or assist in carrying on or operating a public dance, cabaret or place of entertainment to which the public may be invited at any time between the hours of 2:00 a.m. and 8:00 a.m. (Ord. #80-08; 1958 Code §9.10)

5-11.11 Exception, Permission Required. Any person who shall desire to carry on or conduct an amusement or entertainment or dance for one night only, during the hours prohibited by subsection 5-11.10, may apply in writing to Community Development and Environmental Resources for permission to do so. Community Development and Environmental Resources may grant such permission to such applicant, in writing, when in its discretion the conduct of such amusement or entertainment at such time shall not be detrimental to the public health, safety, morals or welfare. Community Development and Environmental Resources shall either grant or deny such application within three (3) weekdays after such application has been received; and if permission has not been granted within such period, such application shall be deemed to have been denied. (Ord. #80-08; 1958 Code §9.11; Ord. #97-08)

5-11.12 Exception, Application to Council. Any person who shall desire to carry on or conduct any amusement or entertainment or dance during the hours prohibited by subsection 5-11.10 and for a longer period than one (1) night, shall file a written application therefor with the City Clerk for presentation to the City Council. Such application shall contain a detailed statement of the type of amusement or entertainment or dance which the

¹Editor's Note: Former subsection 5-11.8, Investigation by Chief of Police: Denial or Issuance of Permit, previously codified herein and containing portions of 1958 Code §9.8 and Ordinance No. 80-08, was repealed in its entirety by Ordinance No. 97-08.

applicant desires to carry on or conduct and a statement of the reasons which, in the applicant's opinion, warrant the granting of same. Such application shall be filed with the City Clerk at least fourteen (14) days prior to the date upon which the applicant desires the granting of such permission. Thereupon, the City Clerk shall refer the application to the Chief of Police or his agent for investigation pursuant to subsection 5-11.8 and his recommendation to the Council. The Council may grant such permission to applicant when, in its discretion, the nightly conduct of such amusement or entertainment or dance shall not be detrimental to the public health, safety, morals or welfare. (Ord. #80-08; 1958 Code §9.12)

5-11.13 Revocation or Suspension of Permit. A permit may be revoked or suspended by the City Council, after a hearing, if any of the provisions of this section are violated or if any of the grounds for denying a permit are found to exist. (Ord. #80-08; 1958 Code §9.13)

5-12 RESERVED.

5-13 MASSAGE ESTABLISHMENTS, MASSAGE TECHNICIANS AND MASSAGE SERVICES.

5-13.1 Legislative Purpose. The purpose and intent of the City Council in enacting this section is that the public health, welfare, safety and interest require the licensing and regulation of the establishments, services, and persons herein defined, by providing minimum building, health and sanitation standards for such establishments, and by providing minimum qualifications for person performing such services. (Ord. #73-05, §1; 1958 Code §21.40; Ord. #97-010)

5-13.2 Definitions. As used in this section:

Applicant shall mean any person who applies for a permit and business license as required by this section.

Employee shall mean any person, other than a massage technician, who renders any service to the permittee, who receives compensation or any consideration directly or indirectly from the permittee, and who has no physical contact with permittee's customers or clients.

Massage shall mean any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the body for medical or hygienic purposes, with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol,

liniments, antiseptics, oils, powder, creams, lotions, ointments, unguents or other similar preparations commonly used in this practice.

Massage establishments shall mean any business establishment having a fixed place of business wherein the principal function of the business to provide massage services, in that massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on. Any establishment engaged in or carrying on, or permitting any combination of massage and bath house shall be deemed a massage establishment.

Massage technician shall mean any person, including a trainee (an individual enrolled in a "recognized school of massage"), and whether paid by fixed salary or who is an independent contractor, who administers to another person, for any form of consideration, a bath, massage, manipulation of the body, electric vibration, magnetic stimulation or similar procedure.

Outcall massage service shall mean any business, not licensed as a massage establishment under provisions of this section wherein a principal function is such that massage is given, engaged in or carried on or permitted to be given, engaged in or carried on not at a fixed location but at a location designated by the permittee, massage technician, customer or client.

Person shall mean any individual, copartnership, firm, association, company, corporation or combination of individuals of whatever form or character.

Recognized school shall mean any school or institution of learning which school or institution of learning has been approved pursuant to Section 29007.5 of the State Education Code, and which has for its purpose the teaching of a course consisting of seventy (70) hours or more of the theory, ethics and practice, methods, profession or work of massage technicians, and which school or institution of learning requires a resident massage technician be furnished with a diploma or certificate of graduation from such school or institution of learning showing successful completion of such course of study already approved by the State Department of Education. Schools offering correspondence courses not requiring actual attendance at class, or courses of a massage technician not approved by the State Department of Education shall not be deemed "recognized schools."

The provisions of this chapter shall not apply to the following classes of persons while engaged in the performance of the duties of their respective professions: Physicians, surgeons, chiropractors, osteopaths, acupuncturists, or physical therapists who are duly licensed to practice their respective professions in the State of California.

(Ord. #73-05, §1; 1958 Code §21.41; Ord. #97-05; Ord. #97-010)

5-11.5 Permit for Charitable Purposes. Any such dance given by a lodge, club, or benefit association, as described in subsection 5-11.4, shall first obtain a permit from Community Development and Environmental Resources to hold such nonprofit event. All other events for profit only shall be held after payment of the fee referred to in the preceding section and after a permit has been received from Community Development and Environmental Resources. (Ord. #80-08; 1958 Code §9.5; Ord. #97-08)

5-11.6 Entertainment Permits Required in Place Serving Food or Refreshments. No person shall provide or permit any entertainment in a bar, cocktail lounge, tavern, cafe, restaurant, hotel, motel, hall or public place where food, alcoholic or other beverages, or other refreshments are served, unless such person shall first obtain a permit to do so from the City Council as hereinafter provided. (Ord. #80-08; 1958 Code §9.6)

5-11.7 Application for Entertainment Permits. Applicants for entertainment permits shall file a written and signed application with the City Clerk showing the following:

a. Full legal name and permanent residence address, including business address, if any, phone numbers for home and work, of applicant(s) and all persons directly or indirectly interested in the permit.

b. A reasonable description of the entertainment, including type of entertainment, approximate number of persons engaged in the entertainment, and any further information about the entertainment and/or entertainers as the City Council may deem necessary.

c. The date, hours and location where such entertainment is proposed, and the admission fee, if any, to be charged.

d. A statement of the nature and character of applicant's business, if any, to be carried on in conjunction with such entertainment.

e. Whether or not the applicant or anyone having a beneficial interest in the permit, directly or indirectly, has had a permit for the same or similar business suspended or revoked anywhere, and, if so, under what circumstances.

f. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of applicant's business, as the City Council or License Collector may deem necessary.

g. The Fire Department and Building Department shall furnish information on zoning and occupancy requirements.

Albany Police Department

To: David W. Dowswell, Planning Manager
From: Chief Greg Bone
Date: November 24, 2003
Subject: Montero's Incident of November 10, 2003

Mr. Dowswell:

On Monday, November 10, 2003, at 9:35 pm Albany Police Department officers responded to a large crowd of individuals in the street in the 1100 block of Solano Ave.

Upon arrival to that location, Shift Supervisor, Sergeant David Bettencourt, determined that the large crowd was associated with an event at Montero's Restaurant, 1106 Solano Ave. Sgt. Bettencourt contacted Juan Romo, owner of Montero's Restaurant, who advised that he (Romo) had a verbal contract with an individual named Eugene Cockerham to rent the entertainment portion of the restaurant for a birthday party of approximately 80 people and that the crowd was exceeding that amount of people and Romo was fearful of problems with the crowd. Romo advised Sgt. Bettencourt that the crowd was overcapacity for the entertainment facility. It was further determined that Romo had a verbal arrangement with Cockerham that the patrons would be charged an entrance fee of \$3.00 by Cockerham (it is believed that Cockerham was actually collecting \$10.00 a head at the door) and that Romo would make his profit from bar sales for guests over 21 years of age.

During his contact with Romo, Sgt. Bettencourt elicited that Romo was requesting police assistance in closing the party due to the over capacity and unruly crowd, the indications that marijuana was present in his establishment, and an overall concern for the safety of his facility. It was subsequently determined that the interior of Montero's Restaurant did sustain damage to include four destroyed bar stools valued at \$80.00 each, a broken vase valued at \$260.00, and approximately \$200.00 in drinking glasses.

It is believed that Romo did not contact the Police Department, and that officers responded on other citizen's reports of problems in the area.

Due to the size and demeanor of the crowd present and the continued arrival of still other persons seeking entry, Sgt. Bettencourt requested police response from surrounding police departments. CHP, Kensington, and El Cerrito police departments responded to this initial request for assistance.

At this point in time, Sgt. Bettencourt, assigned officers, and Romo began to close the facility. Romo informed Cockerham of his intent to close the party while Cockerham continued to accept money at the door and allowed still more persons inside this facility. Sgt. Bettencourt had to physically close the entrance door of Montero's Restaurant to keep further persons from entering. At this time, Sgt. Bettencourt estimated that the

restaurant contained approximately 150 persons and another 20-30 persons outside. Sgt. Bettencourt also noted a Disk Jockey inside the entertainment portion of the facility and assumed that this person was associated with Cockerham.

As the crowd was being pushed outside, Sgt. Bettencourt observed that a fight had broken out in the middle of the dance floor and that an individual was throwing a bar stool towards the crowd at the door. This person was subsequently arrested for Delaying and Obstructing an Officer, a misdemeanor. This was the only arrest of the night.

As the crowd moved outside, Sgt. Bettencourt noted at least four fights breaking out in the street—on both Solano and San Pablo Avenues. Crowds were running and screaming in the immediate area with individual crowds of twenty to thirty persons gathering around and cheering the fights. Sgt. Bettencourt sensed that the situation was extremely volatile, deteriorating rapidly, and extremely dangerous. At this time, Sgt. Bettencourt determined to call for Mutual Aid.

This call prompted an additional response from at a total of six law enforcement agencies including Richmond, El Cerrito, Kensington, Berkeley, UCPD, and CHP (at least three separate CHP stations including CHP Helicopter based in Napa). Sgt. Bettencourt estimated that once the response was complete approximately 60 officers were present and assigned to restore order to the immediate area.

The CHP helicopter illuminated that area while the assigned officers began to clear the crowd from the area, both streets and sidewalks. At approximately midnight, all the persons associated with this event had been cleared from the area and the officers released to return to their respective agencies.

The Albany Police Department did not receive any reports of property damage (aside from the damage to the interior of Montero's Restaurant) or injuries as a result of this incident, however, all indicators were present for an event that could have easily led to both of these eventualities.

Based upon information received relating to past Eugene Cockerham events, it appears that our City was extremely lucky that no serious damage and injuries occurred. Mr. Cockerham is known to law enforcement in numerous Bay Area counties for allegedly staging similar events that have turned extremely violent, including homicides from resulting incidents associated with these events. The fact that this incident was contained before more damage and injuries could occur is credited to Sgt. Bettencourt's decisive recognition of the dangerous potentialities of this event and a very quick and large law enforcement response to our Mutual Aid request.

A review of past complaints and/or criminal activity at Montero's Restaurant includes the following:

Noise complaints---

2/1/2003 2123hrs: Report of loud noise at Montero's Restaurant since 2000hrs.
Disposition 44--Business was advised of the complaint and will correct situation.

6/14/2003 0120hrs: Report of loud music. Disposition 38—Misc violation-warning given.

9/19/2003 0030hrs: Report of loud music. Disposition 44—Business was advised of the complaint and will correct situation.

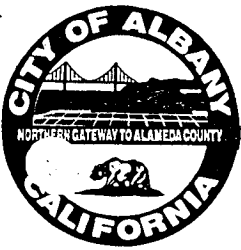
10/31/2003 0101hrs: Report of loud music. Disposition 44—Business was advised of the complaint and will correct situation.

Criminal complaints---

9/21/2003 1648hrs: Report from Emergency Room of St. Rose Hospital, Hayward of a male subject claiming to have been assaulted at Montero's Restaurant this date at 0200hrs. Subject was treated for minor abrasions, bruises, and a cut over his left eye. Subject was advised to make a formal report at APD however did not follow through. Attempts to contact this subject were negative. Disposition 40—Case report taken.

9/27/2003 0120hrs: Received a telephone transfer from CHP of a subject claiming to have been stabbed in the stomach while in the bathroom of Montero's Restaurant. APD officer responded and could not locate the caller or any indication of blood in the premises. Disposition 43—Report is unfounded.

11/10/2003 2135hrs: Criminal activity at Montero's Restaurant which is subject of this report. One individual arrested. Disposition 40—Arrest made, case report taken.



City of Albany

1000 SAN PABLO AVENUE • ALBANY, CALIFORNIA 94706-2295

November 13, 2003

CITY ADMINISTRATOR
PH. (510) 528-5710
FAX (510) 528-5797

CITY ATTORNEY
PH. (510) 524-9205
FAX (510) 526-9190

CITY CLERK
PH. (510) 528-5720
FAX (510) 528-5797

CITY COUNCIL
PH. (510) 528-5720
FAX (510) 528-5797

**COMMUNITY DEVELOPMENT &
ENVIRONMENTAL RESOURCES**

- Building
- Engineering
- Environmental Resources
- Maintenance
- Planning

PH. (510) 528-5760
FAX (510) 524-9359

**FINANCE & ADMINISTRATIVE
SERVICES**

CITY TREASURER
PH. (510) 528-5730
FAX (510) 528-2743

**FIRE & EMERGENCY MEDICAL
SERVICES**

PH. (510) 528-5771
FAX (510) 528-5774

PERSONNEL

PH. (510) 528-5714
FAX (510) 528-5797

POLICE

PH. (510) 525-7300
FAX (510) 525-1360

**RECREATION & COMMUNITY
SERVICES**

1249 Marin Avenue
PH. (510) 524-9283
FAX (510) 528-8914

- Friendship Club/
Childcare Program
PH. (510) 524-0135
- Senior Center
PH. (510) 524-9122
FAX (510) 524-8940
- Teen Center
PH. (510) 525-0576

Mr. Juan Romo
1106 Solano Ave.
Albany, CA 94706

Re: Possible Revocation of Planning Application No. 01-023 and Entertainment
Permit No. 02-040 -- 901 San Pablo Ave

Dear Mr. Romo:

On Monday night, November 11, there was an incident involving a hip-hop party at your restaurant that required Police Department involvement. The party involved an independent operator who had leased or sublet your facility for the night. I have received information that this is not the first time this type of party has occurred.

On July 10, 2001, the Planning Commission approved a conditional use permit to allow the expansion of your restaurant into the adjoining space at 901 San Pablo Avenue (former Captain Video). The reports of the event on Monday night suggest there may be a violation of your conditional use permit.

On June 17, 2003, the City Council approved an entertainment permit to allow live entertainment (Salsa lessons) on Friday and Saturday nights and (Flamenco shows) on Sunday night. No other type of live entertainment was approved. The permit was approved subject to complying with the following conditions of approval:

1. The permit approval is to allow live entertainment on the days and times as described in the staff report dated June 17, 2002, and in Attachment A.
2. Prior to having Salsa bands performing live at the restaurant, the applicant/owner shall contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses as a result of having live entertainment. If it is determined that having live entertainment with dancing is creating a parking or traffic problem, this permit will be brought to the Council for review and possible revocation.
3. Noise levels generated by the live entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows to the portion of the restaurant where the live entertainment is being conducted shall remain unlocked but closed at all times.

ATTACHMENT C

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.



PRINTED ON RECYCLED PAPER

4. This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control, and Albany Municipal Code related complaints concerning the operation of the restaurant.

Section 5-11.13 of the Albany Municipal Code states that "A (entertainment) permit may be revoked or suspended by the City Council, after a hearing, if any of the provisions of this section are violated or if any of the grounds for denying a permit are found to exist."

Based on Monday night's event and other recent occurrences, staff believes there is a basis to revoke your entertainment permit. This event also raises questions as to whether you have violated your conditional use permit. We need to meet with you immediately to discuss this situation. . Failure to contact me by November 21, 2003, will result in this matter being referred to the City Council to consider revoking your permit. The hearing would be held on Monday, December 1, 2003, at 8:00 p.m.

Please call me at 528-5769 if you have any questions.

Sincerely,

David Dowswell
Planning Manager

cc: City Administrator, Beth Pollard
City Attorney, Robert Zweben
Police Chief, Greg Bone
Community Development Director, Ann Chaney

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Prepared Date: 3/9/04
Agenda Date: 3/15/04
Reviewed By: BP

TO: City Council
FROM: Dave Dowswell, Planning Manager
SUBJECT: Reinstatement of Entertainment Permit for Montero's Restaurant – 1106 Solano Avenue

RECOMMENDATION

That the City Council approve reinstating the Entertainment Permit for Montero's, as per Section 5-11.13 of the Albany Municipal Code, subject to the attached conditions of approval.

BACKGROUND

On June 26, 2001, the Planning Commission approved Conditional Use Permit (CUP) 01-023 to allow a restaurant with a State liquor license in a C-2 Zoning District. At the time the CUP was approved, the applicant/owner did not indicate he intended to have live music/entertainment.

On June 17, 2002, the City Council issued Montero's Restaurant an Entertainment Permit. The permit allowed Salsa lessons and recorded music Friday and Saturday nights from 8:00 P.M. to 1:00 A.M. and two Flamenco shows on Sunday nights, one at 7 P.M. and the other at 9 P.M. The permit was issued, subject to complying with the following conditions:

1. The permit approval is to allow live music/entertainment on the days and times as described in the staff report dated March 1, 2004, and in the application description dated May 6, 2002.
2. Before having the first live music/entertainment at the restaurant, the applicant/owner shall contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses as a result of having live entertainment. If it is determined that having live music/entertainment or dancing is creating a parking or traffic problem this permit will be brought back to the Council for review and possible modification or revocation.
3. Noise levels generated by the live music/entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows in the portion of the restaurant where the live music/entertainment is being conducted shall

remain unlocked but closed at all times. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise.

4. This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control, and Albany Municipal Code related complaints concerning the operation of the restaurant. Applicant/permit holder shall be responsible for paying any administrative costs incurred by the City to review this permit.

On Monday, November 10, 2003, a hip-hop party with a disc jockey was held in the banquet room at Montero's. During the event the Police Department had to be contacted when persons attending the event became rowdy and fights occurred. Ultimately, close to 60 police officers from neighboring jurisdictions and the California Highway Patrol were used to restore order. The attached memorandum from Police Chief Bone summarizes the events of that night (Attachment A)

On November 13, 2003, a letter was sent to Mr. Romo, the owner of Montero's, advising him that based on the November 10 event, there might be grounds for revoking his Entertainment Permit.

On November 17, 2003, the Planning Manager and Police Chief met with Mr. Romo to discuss the November 13 letter and the possibility of revoking his Entertainment Permit.

On December 1, 2003, the City Council revoked Montero's Entertainment Permit for 90 days (Attachment B).

On February 4, 2004, Mr. Romo applied for a new entertainment permit.

PROJECT DESCRIPTION

Mr. Romo is requesting approval to have live music/entertainment as follows:

- Wednesday – Flamenco, Belly, Dancing and Tango – 7 pm to 10 pm
- Thursday - International Night: Arabic, Indian, Caribbean and Brazilian – 9 pm to 1:30 am
- Friday and Saturday – Tex Mex, Banda, Salsa Night – 8 pm to 1:30 am
- Sunday – Salsa Evening – 4 pm to 11 pm

There would be a maximum of five performers at any one time (Attachment C).

ANALYSIS

Section 5-11.13 of the Albany Municipal Code (Entertainment Permit) states "A permit may be revoked or suspended by the City Council, after a hearing, if any of the provisions of this section are violated or if any grounds for denying a permit are found to exist."

When the Council revoked Mr. Romo's Entertainment Permit they did so due to his failure to comply with the Condition of Approval No. 4, for exceeding what his permit allowed and for violating other City codes. Before holding the hip-hop party no attempt was made by Mr. Romo to contact the City to ask if this type of event was permitted under the provisions of his Entertainment Permit.

At the December hearing there was discussion about Mr. Romo renting out the banquet room to private parties. One of the Council members stated he would like to see written guidelines. Mr. Romo has not provided the City with any written guidelines to regulate the use of the banquet room when renting it to private parties. It was while renting the banquet room that hip-hop party incident occurred.

Since the hip hop party the Police Department has had three calls for service. Only one call occurred on a night with live entertainment. The call was for a disturbance inside the restaurant. The offenders had left by the time the police arrived.

Staff is extremely concerned with the possibility of there being another event at Montero's requiring Police Department assistance where the outcome might not be as fortunate. Because of this concern Staff is unable to support Mr. Romo being allowed to rent out his facility for private parties that include live music or entertainment (Staff considers the use of a disc jockey as live entertainment), without having reviewed specific guidelines/rules for renting this facility. Staff recommends, if the Council reinstates Mr. Romo's permit, the following conditions be added to the original conditions:

1. "This entertainment permit shall be restricted to those events that are directly sponsored by Montero's. Live music and entertainment shall be prohibited at any private parties.
2. Any further violation of this permit and/or the conditions of approval shall result in permit being brought back to the City Council for immediate revocation."

The previous permit did not allow live entertainment on Wednesday or Thursday nights. The applicant proposes to have live entertainment (Flamenco and Belly Dancing) on Wednesday night until 10 p.m. and recorded music with a disc jockey until 1:30 a.m. on Thursday nights. (The City considers the playing of recorded music with a disc jockey as live entertainment.)

Allowing Flamenco and belly dancing at Montero's until 10 p.m. on Wednesday night should not adversely affect the neighborhood. The request to have live entertainment on Thursday night until 1:30 a.m. could create a noise problem for the neighborhood as patrons leave the restaurant. Live entertainment on Thursday night should end at 10:00 p.m. due to the potential noise

disturbance. The applicant may wish to change the start time on Thursday night to before 9:00 p.m. The original permit allowed live entertainment on Friday and Saturday nights until 1:00 a.m. and on Sunday night until 10:00 p.m. This permit should have the same restrictions.

Staff recommends the original Condition No. 1 be amended as follows:

1. The permit approval is to allow live music/entertainment on Wednesday, Thursday and Sunday nights until 10:00 p.m. and on Friday and Saturday nights until 1:00 a.m. Descriptions of types of live entertainment are as described in the staff report dated March 9, 2004, and in the application description dated February 26, 2004 (Attachment C).

ATTACHMENTS

- A. Memo from Police Chief Bone dated November 24, 2003
- B. City Council minutes dated December 1, 2003
- C. Description of live entertainment dated February 26, 2004

Conditions of Approval

1. The permit approval is to allow live music/entertainment on Wednesday, Thursday and Sunday nights until 10:00 p.m. and on Friday and Saturday nights until 1:00 a.m. Descriptions of types of live entertainment are as described in the staff report dated March 9, 2004, and in the application description dated February 26, 2004 (Attachment C).
2. Before having the first live music/entertainment at the restaurant, the applicant/owner shall contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses because of having live entertainment. If it is determined that having live music/entertainment or dancing is creating a parking or traffic problem this permit will be brought back to the Council for review and possible modification or revocation.
3. Noise levels generated by the live music/entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows in the portion of the restaurant where the live music/entertainment is being conducted shall remain unlocked but closed at all times. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise.
4. This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control, and Albany Municipal Code related complaints concerning the operation of the restaurant. Applicant/permit holder shall be responsible for paying any administrative costs incurred by the City to review this permit.
5. This entertainment permit shall be restricted to those events that are directly sponsored by Montero's. Live music and entertainment shall be prohibited at any private parties.
6. Any further violation of this permit and/or the conditions of approval shall result in permit being brought back to the City Council for immediate revocation.

Albany Police Department

To: David W. Dowswell, Planning Manager
From: Chief Greg Bone
Date: November 24, 2003
Subject: Montero's Incident of November 10, 2003

Mr. Dowswell:

On Monday, November 10, 2003, at 9:35 pm Albany Police Department officers responded to a large crowd of individuals in the street in the 1100 block of Solano Ave.

Upon arrival to that location, Shift Supervisor, Sergeant David Bettencourt, determined that the large crowd was associated with an event at Montero's Restaurant, 1106 Solano Ave. Sgt. Bettencourt contacted Juan Romo, owner of Montero's Restaurant, who advised that he (Romo) had a verbal contract with an individual named Eugene Cockerham to rent the entertainment portion of the restaurant for a birthday party of approximately 80 people and that the crowd was exceeding that amount of people and Romo was fearful of problems with the crowd. Romo advised Sgt. Bettencourt that the crowd was overcapacity for the entertainment facility. It was further determined that Romo had a verbal arrangement with Cockerham that the patrons would be charged an entrance fee of \$3.00 by Cockerham (it is believed that Cockerham was actually collecting \$10.00 a head at the door) and that Romo would make his profit from bar sales for guests over 21 years of age.

During his contact with Romo, Sgt. Bettencourt elicited that Romo was requesting police assistance in closing the party due to the over capacity and unruly crowd, the indications that marijuana was present in his establishment, and an overall concern for the safety of his facility. It was subsequently determined that the interior of Montero's Restaurant did sustain damage to include four destroyed bar stools valued at \$80.00 each, a broken vase valued at \$260.00, and approximately \$200.00 in drinking glasses.

It is believed that Romo did not contact the Police Department, and that officers responded on other citizen's reports of problems in the area.

Due to the size and demeanor of the crowd present and the continued arrival of still other persons seeking entry, Sgt. Bettencourt requested police response from surrounding police departments. CHP, Kensington, and El Cerrito police departments responded to this initial request for assistance.

At this point in time, Sgt. Bettencourt, assigned officers, and Romo began to close the facility. Romo informed Cockerham of his intent to close the party while Cockerham continued to accept money at the door and allowed still more persons inside this facility. Sgt. Bettencourt had to physically close the entrance door of Montero's Restaurant to keep further persons from entering. At this time, Sgt. Bettencourt estimated that the

restaurant contained approximately 150 persons and another 20-30 persons outside. Sgt. Bettencourt also noted a Disk Jockey inside the entertainment portion of the facility and assumed that this person was associated with Cockerham.

As the crowd was being pushed outside, Sgt. Bettencourt observed that a fight had broken out in the middle of the dance floor and that an individual was throwing a bar stool towards the crowd at the door. This person was subsequently arrested for Delaying and Obstructing an Officer, a misdemeanor. This was the only arrest of the night.

As the crowd moved outside, Sgt. Bettencourt noted at least four fights breaking out in the street—on both Solano and San Pablo Avenues. Crowds were running and screaming in the immediate area with individual crowds of twenty to thirty persons gathering around and cheering the fights. Sgt. Bettencourt sensed that the situation was extremely volatile, deteriorating rapidly, and extremely dangerous. At this time, Sgt. Bettencourt determined to call for Mutual Aid.

This call prompted an additional response from at a total of six law enforcement agencies including Richmond, El Cerrito, Kensington, Berkeley, UCPD, and CHP (at least three separate CHP stations including CHP Helicopter based in Napa). Sgt. Bettencourt estimated that once the response was complete approximately 60 officers were present and assigned to restore order to the immediate area.

The CHP helicopter illuminated that area while the assigned officers began to clear the crowd from the area, both streets and sidewalks. At approximately midnight, all the persons associated with this event had been cleared from the area and the officers released to return to their respective agencies.

The Albany Police Department did not receive any reports of property damage (aside from the damage to the interior of Montero's Restaurant) or injuries as a result of this incident, however, all indicators were present for an event that could have easily led to both of these eventualities.

Based upon information received relating to past Eugene Cockerham events, it appears that our City was extremely lucky that no serious damage and injuries occurred. Mr. Cockerham is known to law enforcement in numerous Bay Area counties for allegedly staging similar events that have turned extremely violent, including homicides from resulting incidents associated with these events. The fact that this incident was contained before more damage and injuries could occur is credited to Sgt. Bettencourt's decisive recognition of the dangerous potentialities of this event and a very quick and large law enforcement response to our Mutual Aid request.

A review of past complaints and/or criminal activity at Montero's Restaurant includes the following:

Noise complaints---

2/1/2003 2123hrs: Report of loud noise at Montero's Restaurant since 2000hrs.
Disposition 44--Business was advised of the complaint and will correct situation.

6/14/2003 0120hrs: Report of loud music. Disposition 38—Misc violation-warning
given.

9/19/2003 0030hrs: Report of loud music. Disposition 44—Business was advised of the
complaint and will correct situation.

10/31/2003 0101hrs: Report of loud music. Disposition 44—Business was advised of
the complaint and will correct situation.

Criminal complaints---

9/21/2003 1648hrs: Report from Emergency Room of St. Rose Hospital, Hayward of a
male subject claiming to have been assaulted at Montero's Restaurant this date at
0200hrs. Subject was treated for minor abrasions, bruises, and a cut over his left eye.
Subject was advised to make a formal report at APD however did not follow through.
Attempts to contact this subject were negative. Disposition 40—Case report taken.

9/27/2003 0120hrs: Received a telephone transfer from CHP of a subject claiming to
have been stabbed in the stomach while in the bathroom of Montero's Restaurant. APD
officer responded and could not locate the caller or any indication of blood in the
premises. Disposition 43—Report is unfounded.

11/10/2003 2135hrs: Criminal activity at Montero's Restaurant which is subject of this
report. One individual arrested. Disposition 40—Arrest made, case report taken.

7-2. Waterfront Committee Appointment
(File #110-30)

The City Council amended the membership of the Waterfront Committee in 2002, changing from a fifteen (15) member Committee to a seven (7) member Committee. Each Council Member would appoint one (1) person and there would be two (2) at-large appointments.

The two at-large vacancies were advertised and four (4) applications were received. The City Council interviewed the following people on October 7th & 20th: Susan Moffat, Billy Blattner, Jim Sanetra and Katharyn Boyer.

On November 3, 2003, Council discussed the vacancy and Susan Moffat and Billy Blattner were nominated; however, Council took no action. Council Member Ely was not present at the previous interviews due to a family emergency and stated that he would contact both nominees and interview them.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Okawachi to nominate and appoint Billy Blattner to the Waterfront Committee.

ON THE QUESTION:

Council Member Okawachi noted that all the applicants were excellent, however, she liked the qualifications and objectives stated by Mr. Blattner.

Council Member Good stated that he would be voting against this nomination, as he believes that Susan Moffat is the most qualified applicant and has a better track record.

Council Member Thomsen agreed that all the applicants were excellent and all qualified, but believes Mr. Blattner has the best qualifications and objectives.

VOTE ON THE MOTION:

AYES: Council Members Maris, Okawachi, Thomsen & Mayor Ely

NOES: Council Member Good ABSENT: None

Motion carried and so ordered.

8. NEW BUSINESS

8-1. Reconsideration of Entertainment Permit – Montero's Restaurant, 901 San Pablo Avenue

The Community Development Director reported that on June 17, 2002, the City Council issued Montero's Restaurant an Entertainment Permit. The permit allows for Salsa lessons and recorded music Friday and Saturday nights from 8:00 p.m. to 1:00 a.m. and two Flamenco shows on Sunday nights, one at 7:00 p.m. and the other at 9:00 p.m. The permit was issued, subject to complying with the following conditions: 1) The permit approval is to allow live entertainment on the days and times as described in the staff report dated June 17, 2002 and in the application description dated May 6, 2002. 2) Prior to having Salsa bands performing live at the restaurant, the applicant/owner shall contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses as a result of having live entertainment. If it is determined that having live entertainment with dancing is creating a parking or traffic problem, this permit will be brought to the Council for review and possible revocation. 3) Noise levels

8-1. Reconsideration of Entertainment Permit – Montero's , 901 San Pablo Avenue

generated by the live entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows in the portion of the restaurant where the live entertainment is being conducted shall remain unlocked but closed at all times. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise. 4) This permit shall be subject to Council review and possible revocation if the Police Department receive criminal, Alcoholic Beverage Control and Albany Municipal Code related complaints concerning the operation of the restaurant. Applicant/permit holder shall be responsible for paying any administrative costs incurred by the City to review this permit.

The Community Development Director stated that on November 10, 2003, a hip-hop party with a disc jockey was held in the banquet room at Montero's. During the event the Police Department had to be contacted when persons attending became rowdy and subsequently fights occurred. In the end, close to 60 police officers from neighboring jurisdictions and the California Highway Patrol were used to restore order.

Apparently Mr. Romo, owner of Montero's, made no arrangements for security or crowd control and that he contracted with a third party who has held other events similar to this elsewhere and has had similar problems to what occurred in Albany. Staff believes that Mr. Romo made no effort to find out about the promoter's reputation to determine the appropriateness of contracting with a third party. On November 17, 2003, the Planning Manager and the Chief of Police met with Mr. Romo to discuss the possibility of revoking his Entertainment Permit.

The Community Development Director noted that staff is extremely concerned about the possibility of there being another event at Montero's requiring Police Department assistance where the outcome may not be as fortunate. Based on the events of November 10, 2003, staff believes that Condition #1 & 4 were violated and believes there are grounds for revoking the Entertainment Permit.

Staff recommends the following action: Revoke the Entertainment Permit, as per Section 5-11.13 of the Albany Municipal Code, for failure to comply with the conditions of approval, and restrict the owner from reapplying for a new Entertainment Permit for a period of one year. If the Council wishes to consider alternate actions, the following is recommended: 1) Suspend the Entertainment Permit for a period of time; one year is recommended or 2) Amend the Entertainment Permit to include the following condition: If future violations of the City's Entertainment Permit regulations or conditions of approval occur, the Community Development Director is hereby authorized to summarily suspend the Entertainment Permit and schedule a revocation hearing at the next available City Council meeting.

The Chief of Police and Sergeant Bettencourt both spoke before the Council explaining what happened on the night of November 10th. The Chief of Police stated that the Police Department has received 4 noise complaints and 2 unsubstantiated criminal complaints.

Mr. Juan Romo, owner of Montero's spoke to the Council indicating that he was not aware of the event, as it was booked as a birthday party by Mr. Eugene Cockerham. Mr. Romo stated that he was misled by Mr. Cockerham and as soon as the event got out

8-1. Reconsideration of Entertainment Permit – Montero's, 901 San Pablo Avenue

of hand the Police Department was contacted. Mr. Romo commented that he did not know he should do background checks on everyone that books an event. Mr. Romo asked the Council to approve the second alternative with a shorter time frame than one-year. Mr. Romo explained that if his business is stopped for one-year it would not be feasible to start up again.

Council Member Okawachi asked if Mr. Romo had any written rules and regulations for renting out the room and Mr. Romo replied it has always been done verbally.

Council Member Thomsen asked Mr. Romo if he was aware that there was going to be a charge to the "birthday party". Mr. Romo replied that he was aware of it but did not question it.

Mr. Romo stated that this was a one-time incident and will never happen again and definitely will not allow any type of cover charge for birthday parties without first checking with the Police Department.

Council Member stated that he would like to see written guidelines in the future regarding rental of the room.

Council Member Ely stated that the City expects high standards for Entertainment Permits and expressed concern about the violation of occupancy in the room.

The following people spoke in favor Montero's and urged the Council to let Mr. Romo keep his Entertainment Permit: Resident of Berkeley, Entertainment Manager for Montero's; Ms. Patricia Green, Property Manager for Montero's; Resident of Albany; Disc Jockey for Montero's.

Council Member Good stated this was a major problem and thankfully the Police Department did a great job in preventing a worse problem and would agree that the Permit should be revoked for a year or at least 6 months and would like the owner to come back to Council to apply for a new Entertainment Permit.

Council Member Thomsen agreed with Council Member Good and noted that she appreciates the fact that Mr. Romo has worked very hard in making the corner of Solano/San Pablo more appealing; however, believes that there should consequences and would be willing to revoke the Entertainment Permit for a 6-month period.

Council Member Maris stated that the City must support the small businesses and would like to see a plan worked out for Mr. Romo and would be willing to revoke the Permit for 90-days. However, when Mr. Romo applies again wants to see proper documentation for renting out the room.

MOTION:

Moved by Council Member Thomsen, seconded by Council Member Good to revoke the Entertainment Permit pursuant to Section 5-11.13 for a period of 6 months and then come back to Council to reapply.

ON THE QUESTION:

Council Member Okawachi stated that she would prefer to have the revocation for a period of 90 days.

8-1. Reconsideration of Entertainment Permit – Montero’s, 901 San Pablo Avenue

AMENDMENT:

Moved by Council Member Maris, seconded by Council Member Okawachi to amend the motion to revoke the Entertainment Permit for 90 days instead of 6 months.

VOTE ON AMENDMENT:

AYES: Council Members Good, Maris, Okawachi, & Mayor Ely

NOES: Council Member Thomsen ABSENT: None

Motion carried and so ordered.

VOTE ON MAIN MOTION AS AMENDED:

AYES: Council Members Good, Maris, Okawachi & Mayor Ely

NOES: Council Member Thomsen ABSENT: None

Motion carried and so ordered.

Council discussed when the revocation would take place and was informed by Mr. Romo that he is booked during the month of December and it would really be a hardship if the revocation started immediately.

MOTION:

Moved by Council Member Maris, seconded by Council Member Good to revoke the Entertainment Permit for 90 days beginning January 1, 2004, at 12 Noon and added the following language: If future violations of the City’s Entertainment Permit regulations or conditions of approval occur, the Community Development Director is hereby authorized to summarily suspend the Entertainment Permit and schedule a revocation hearing at the next available City Council meeting.

AYES: Council Members Good, Maris, Okawachi, Thomsen & Mayor Ely

NOES: None ABSENT: None

Motion carried and so ordered.

**8-2. Cerrito Creek Bay Trail Connector Feasibility Study
(File #405-50)**

The Assistant to the City Administrator reported that in 2001, the City was offered a \$100,000 planning grant as a result of a grant application made by the City of El Cerrito to restore the section of Cerrito Creek adjoining El Cerrito Plaza. The grant was initially requested by the City of El Cerrito, as part of their restoration efforts for Cerrito Creek along the south edge of the Plaza. However, since much of the alignment was likely to go through the City of Albany the Association of Bay Area Government (ABAG) requested that Albany administer the grant, which was approved by Resolution #01-69.

In January, 2002, the City entered into an agreement with ABAG to develop an alignment for a connector trail between the Ohlone Greenway and the Bay Trail, along the south side of El Cerrito Plaza, following the path of Cerrito Creek as closely as possible. The grant outlined a joint effort between the cities of El Cerrito, Albany and Richmond.

February 26, 2004

Montero's Café Inc.

Application For Entertainment
In a Place Serving Food And Refreshments.

Juan Romo
Residence address
6080 N. Arlington Blvd
San Pablo, Ca 94806

Business address:
Montero's Café
1106 Solano Ave
Albany, Ca 94706
510-524-1270
Fax 528-2129

Description Of Entertainment:

- Flamenco Night
- Arabic Night
- Salsa Night
- International Night

Montero's Café
1106 Solano Ave
Albany Ca. 94706
510-524-1270

Monte Cristo Taqueria
1446 University Ave
Berkeley, Ca 94702

Casa Latina Café & Bakery
1805 San Pablo Ave
Berkeley, Ca 94706

Montero's Café
1401 University Ave
Berkeley, Ca 94702
510-841-1544
Sold

Montero's Coffee Bar
1401 University Ave #B
Berkeley, Ca 94702
510-841-5934
Sold

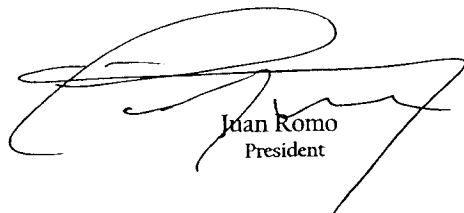
www.moterocafe.com
www.clubmonteros.com

Number of people engaged on a flamenco show are around four to five using string guitars / Vocals & one or two dancers the show normally goes on till 9:30 pm / On Arabic Nights there are belly dancers performing with recorded music and normally ends by 9:30 pm. / Salsa Nights starts with salsa lessons @ 8 pm followed by recorded music until 1:30 am and salsa nights will eventually invite live performances of well known salsa bands. On international nights there will be recorded music such as: Indian, Arabic & Brazilian.
(The admission fees will vary depending the cost of the entertainment.)

Date And Hours Of The Entertainment:

All dinner shows such as Flamenco & Belly Dancing
Will be on Wednesday Nights ending by 10 pm
Salsa Nights every Friday, Saturday and Sunday
Friday and Saturday ending by 1:30 am and Sundays from 4 pm till 11 pm
International Nights Thursdays from 9 pm till 1:30 am

Nature Of Applicant Business
Mexican/Spanish/Latin Restaurant / Café


Juan Romo
President

ATTACHMENT C

ASCOT PROPERTIES
POST OFFICE BOX 644
ORINDA, CALIFORNIA 94563
510 444-7000

December 1 2003

To: The City of Albany

Re: Montero's Restaurant 1106 Solano Avenue, Albany

We have been the property managers for the building owner, Esther F Nagao, for more than twenty years. When we started the area was a dreary, dismal corner. With severe parking problems and the dingy neighborhood atmosphere it was difficult to attract viable tenants.

When Juan Romo took occupancy of one of three small store front sites and created an extremely attractive restaurant serving excellent food (prepared by his wonderful mother), the neighborhood began to bloom. Gradually he added a second, then a third storefront, each time enhancing the attractiveness of the Avenue. The City of Albany helped by improving the appearance and flow of the Avenue. We thank you.

When Juan approached us about assuming a lease on the long vacant corner at San Pablo Avenue we were delighted, knowing that he would make something special of that abandoned space - and he has! It's a vibrant room and provides grand entertainment for City residents. Families enjoy the Sunday evening Flamenco dancers; it's always a full house and a plus in an area where live entertainment is sparse.

The unfortunate incident which occurred was not caused by Juan. The person who rented the space for a private party gave false information and lied about his background. When Juan discovered early in the evening that the crowd was acting rowdy he took the appropriate steps, called in the Albany police and closed the scene. Juan is the victim in this instance; he believed a liar who misrepresented himself and his intent.

We ask that you examine the record. Juan Romo has been an exemplary tenant. He has made a dark corner sparkle and provided weekend entertainment without incident for about a year, entertainment that adds to the vitality of the City. His entertainment permit should be renewed.



Patricia S Greene, agent
for Esther F Nagao

6-1. Draft Environmental Impact Report – U.C. Village

Mr. David Arkin noted that with a little imagination the Children's Center could be saved and the houses still built. Mr. Arkin stated that there is room to accommodate all the existing and future uses of this site.

Mr. Pete Hobart, Albany resident, expressed concern about the increase of traffic and the impact it will have on City streets. Mr. Hobart believes it is premature to restripe Marin Avenue until Target and the U.C. project is completed. This requires a long-term approach.

Council Member Maris asked if the DEIR could add the Marin Avenue traffic impact and the Community Development Director responded that staff is in the process of looking at the EIR process. The Community Development Director noted that in response to the restriping of Marin the Traffic & Safety Commission believe it should be done before the projects are completed so that people get used to the change and that staff is moving forward on the Marin Avenue Project.

MOTION:

Moved by Council Member Okawachi, seconded by Council Member Good to direct the Mayor to sign and forward the letter commenting on the Subsequent Focused DEIR regarding the proposed amendments to University Village and Albany Northwest Berkeley Properties Master Plan.

ON THE QUESTION:

Council Member Maris noted that the University does a great job for the community.

VOTE ON THE MOTION:

AYES: Council Members Good, Maris, Okawachi & Mayor Ely

NOES: None

ABSENT: Council Member Thomsen

Motion carried and so ordered.

6-2. Reinstatement of Entertainment Permit – Monteros
(File #650-90)

The Planning Manager reported that on December 1, 2003, the City Council revoked Montero's Entertainment Permit for 90 days due to a hip hop party that got out of control. The Police Department was contacted due to fights and rowdy behavior and eventually close to 60 police officers from neighboring cities and the CHP were used to restore order. On February 4, 2004, Mr. Romo, owner of Montero's applied for a new Entertainment Permit and is requesting to have live music/entertainment, as follows: Wednesday – Flamenco, Belly & Tango dancing – 7 p.m. – 10 p.m.; Thursday, International Night – 9 p.m. – 1:30 a.m.; Friday & Saturday – Tex Mex, Banda, Salsa Night – 8 p.m. – 1:30 a.m.; Sunday – Salsa – 4 p.m. – 11 p.m.

The Planning Manager recommended reinstatement with the following Conditions of Approval: 1) The permit approval is to allow live music/entertainment on Wednesday, Thursday and Sunday nights until 10 p.m. and on Friday and Saturday nights until 1:00 a.m. Descriptions of types of live entertainment are as described in the staff report dated March 9, 2004, and in the application description dated February 26, 2004. 2) Before having the first live music/entertainment at the restaurant, the applicant/owner shall

6-2. Reinstatement of Entertainment Permit - Monteros

contact the City. The City shall monitor the impacts on parking and traffic on the adjoining businesses because of having live entertainment. If it is determined that having live music/entertainment or dancing is creating a parking or traffic problem, this permit will be brought back to the Council for review and possible modification or revocation. 3) Noise levels generated by the live music/entertainment shall not exceed the City's Noise Ordinance. To help insure noise levels are not exceeded, doors and windows in the portion of the restaurant where the live music/entertainment is being conducted shall remain unlocked but closed at all times. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise. 4) This permit shall be subject to Council review and possible revocation if the Police Department receives criminal, Alcoholic Beverage Control and Albany Municipal Code related complaints concerning the operation of the restaurant. Applicant/permit holder shall be responsible for paying any administrative costs incurred by the City to review this permit. 5) This entertainment permit shall be restricted to those events that are directly sponsored by Montero's. Live music and entertainment shall be prohibited at any private parties. 6) Any further violation of this permit and/or the conditions of approval shall result in permit being brought back to the City Council for immediate revocation.

Mr. Romo, owner of Montero's, stated that he did submit a contract, which was prepared by his attorney and noted that whenever the restaurant is rented out he will be in contact with the Police Department. The Planning Manager stated that the City's concern is that the party will not be under the control of Mr. Romo and the same situation will occur that happened last year.

Mr. Romo stated that he would like to have the ending time on Friday and Saturday changed to 1:30 a.m. The Planning Manager responded the patrons could stay until 2:00 a.m.; however, the live entertainment must close by 1:00 a.m.

Council Member Okawachi asked if staff had seen the contract submitted by Mr. Romo's attorney and the Planning Manager responded yes but he would like the City Attorney to review it before the restaurant is rented out.

Mr. Andrew Robinson suggested that Mr. Romo provide private security and Mr. Pete Hobart spoke about the noise vibrating into the next-door restaurant, which shares a wall with Montero's. Mr. Romo indicated that he has spoken with the owners of Da Nang restaurant and reassured them that the music will not start until 10:00 p.m. and Da Nang is closed at that time.

Mr. Romo commented that he does not allow private parties to bring in their own DJs, and therefore, everyone that works at Montero's is under his control.

Council Member Maris asked about the contract that was submitted and the Planning Manager responded that the contract does not have anything in it regarding private security. The Planning Manager noted that before the restaurant is rented out the City must approve the contract. Council Member Okawachi noted that the Chief of Police should be involved in reviewing the contract.

A speaker on behalf of Mr. Romo stated that he is a DJ that works for Mr. Romo and that he always provides his own DJs and controls the music that is played.

6-2. Reinstatement of Entertainment Permit - Monteros**MOTION:**

Moved by Council Member Maris, seconded by Council Member Okawachi to approve the six Conditions of Approval, as recommended by staff. Also, if Mr. Romo wishes to have private parties at Montero's with live music/entertainment the City must receive an approved contract, which includes penalties and the use of private security. The City Attorney and the Chief of Police must review the contract before any renting of the restaurant to private parties.

AYES: Council Members Good, Maris, Okawachi & Mayor Ely

NOES: None ABSENT: Council Member Thomsen

Motion carried and so ordered.

7. NEW BUSINESS**7-1. Multi-Year Sewer Repair & Replacement Program**

(File #1030-30)

The Public Works Manager reported that the City has an ongoing sewer repair and replacement program due to the fact that the sewers are old and in very poor condition. This City spends approximately \$100,000 a year making "spot repairs" to mitigate problems.

In 2001, staff determined that based on the history of the spot repairs and other sewer related problems that the City needed to move toward a series of area-wide sewer repair and replacement projects. The worst four areas in the City were identified as: Albany Hill, San Pablo Avenue, the easement (back and side yard) sewer between Pomona Avenue and Key Route Boulevard running from Marin to Washington Avenues and a sewer-line north of Brighton Avenue that runs under 15 buildings.

Nute Engineering, the City's sewer engineers, has recommended a sewer repair and replacement program to undertaken over the next several years, as funding is available. Nute Engineering divided the sewers in need of repair and replacement into four geographical areas: Area 1 - San Pablo Avenue. Preliminary estimate cost: \$1,920,000 in 2004 dollars. Timing: 2004; Area 2 - Two Easements (back and side yard) Sewers East of San Pablo Avenue. The preliminary estimate cost: \$1,240,000 in 2004 dollars. Timing: designed in 2004/05, construction scheduled 2005/06. An Easement sewer north of Brighton passes under 15 buildings, and as a result, repairing obstructions is impossible. The preliminary cost to replace: \$1,120,000 in 2004 dollars. Timing: 2006/07. Total preliminary cost for both projects in Area 2: \$2,360,000 in 2004 dollars. Area 3 - East Albany Hill. The preliminary cost: \$2,920,000 in 2004 dollars. Timing: After the recommended work in Areas 1 & 2. There is also an easement sewer between Madison and Adams, south of the Orientation Center for the Blind, in urgent need of repair. It is recommended that a connecting sewer on Clay Street be constructed. The preliminary cost: \$200,000 and is included in the 2004 Sewer Repair and Replacement Project. Area 4 - Repairs and Sewer Abandonment on Albany Hill. The preliminary cost: \$1,150,000 in 2004 dollars.

MONTERO'S BANQUET ROOM

901 San Pablo Ave. Albany, CA

JOB TITLE: MONTERO'S BANQUET ROOM
 DESIGN BY: Greg Booth Engineering
 978 Cornell Ave Albany, CA 94706
 Phone: 510 528 0890
 OWNER/BUILDER: Jono than Juan Romo
 510 205 9067
 CIVIL ENGINEERING BY: Sterling Booth Engineering
 901 San Pablo Ave. MONTERO'S CAFE
 1106 SOLAND AVE. ALBANY, CA 94706
 PHONE: 510 524 1270
 DATE: 4/4/02
 REGISTRATION NO: 878095
 APR 1, 2002
 COVER SHEET
 SHEET: C1

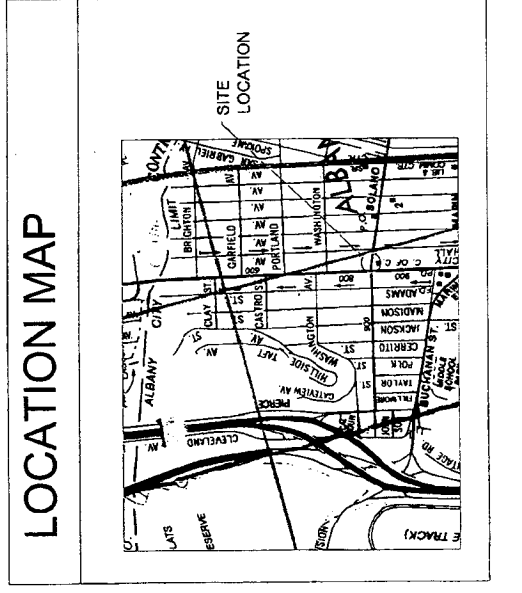
Albany Fire Department Bureau requires an inspection of all life safety systems. The fire department rough inspection by the Building Department. To schedule an appointment, call (510) 528-5775.
 COMMERCIAL BUSINESS AUTOMATIC FIRE ALARM DETECTION SYSTEMS. The installation of fire alarm systems shall be in accordance with the requirements of the International Fire Code (IFC) and the International Building Code (IBC). The installation shall be in accordance with the requirements of the International Fire Code (IFC) and the International Building Code (IBC).
 APPROVED: [Signature]
 CITY OF ALBANY
 APR 10, 2002
 COMMUNITY DEVELOPMENT DEPARTMENT
 REVISIONS PLANS

ALL CONSTRUCTION WORK IN ALBANY MUST CONFORM TO THE CITY OF ALBANY ZONING ORDINANCES AND THE CITY OF ALBANY BUILDING DEPARTMENT REGULATIONS. THE CITY OF ALBANY BUILDING DEPARTMENT WILL CONDUCT VISUAL INSPECTIONS OF ALL CONSTRUCTION WORK IN ALBANY. THE CITY OF ALBANY BUILDING DEPARTMENT WILL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURE OR SYSTEM. THE CITY OF ALBANY BUILDING DEPARTMENT WILL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY STRUCTURE OR SYSTEM.

SHEET:	DESCRIPTION:
C1	COVER SHEET
L1	LOT PLAN AND STREET ELEVATIONS
A1	EQUIPMENT AND ACCESS PLAN
A2	FINISH SCHEDULE AND SECOND FLOOR PLAN
S1	DEMO AND CONSTRUCTION PLAN
S2	CONSTRUCTION DETAILS AND CALCULATIONS
S3	CEILING FRAMING PLAN AND OFFSET CONSTRUCTION
P1	MECHANICAL AND PLUMBING PLAN

FILE COPY
 CITY OF ALBANY
 APR 10, 2002
 COMMUNITY DEVELOPMENT DEPARTMENT

PROJECT DATA
Project Summary
 The intent of this project is to provide a new 1407 square foot banquet room (901 San Pablo Ave.) for the existing 2545 square foot Montero's Restaurant (1106 Solano Ave.). This new Banquet room will be used for the serving of food and beverages and providing entertainment. Access to the Banquet room will be provided by creating an opening in the wall between the existing Montero's restaurant and the proposed Banquet room. The main changes required to make the Banquet room are the demolition of interior partitions and the installation of a serving bar and decorative items. There will be only cosmetic changes to the exterior walls. There will be no cooking or food preparation in the banquet room.
OCCUPANCY: A3
SPRINKLERED FLOOR AREA: 1407 S.F.
STORIES: 1 plus mezzanine



DESIGN BY: *Greg Booth Engineering*
 978 Cornell Ave
 Albany, CA 94706
 Phone 510 528 0890

CIVIL ENGINEERING BY
 Sterling Booth Engineering

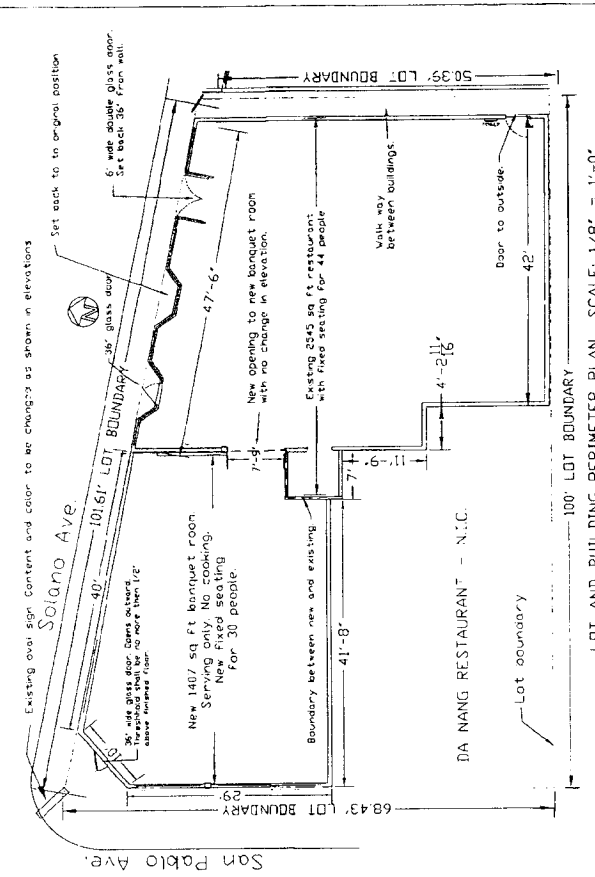
OWNER/BUILDER
 Donattham Juan Romo
 510 205 9057

MONTERO'S CAFE
 1106 SOLANO AVE.
 ALBANY, CA 94706
 PHONE: 510 524 1270

DATE: 12/18/01
 4/4/02 Plan check
 revisions by G. Booth
 & S. Booth

LOT PLAN AND
 STREET
 ELEVATIONS

SHEET: **L1**



Project Summary
 The intent of this project is to provide a new 1407 square foot banquet room for the existing 2545 square foot Montero's restaurant and the vacant room on the west side of the lot. The new banquet room will be provided by creating an opening in the wall between the existing Montero's restaurant and the vacant room on the west side of the lot. The main changes required to make the Banquet room are the demolition of interior partitions and the installation of a serving bar. There will be only concrete change logs as shown. The sign background will remain dark. All exterior surfaces will be painted the colors shown on the street elevations. The existing triangular awnings will be replaced with rounded awnings that match the existing rounded awnings. There will be no cooking or food preparation in the banquet room.

EXISTING AREA BREAKDOWN
 Lot size = 5899 square feet. Total new and existing floor space = 3952 square feet. Floor area ratio = 3952/5899 = 67
 ALLOWED SIGNAGE
 San Pablo Ave Frontage = 108 Feet. Allowable sign area = 280 square feet. Actual sign area = 653 square feet.
 San Pablo Ave Frontage = 39 Feet. Allowable sign area = 78 square feet. Actual sign area = 32 square feet.

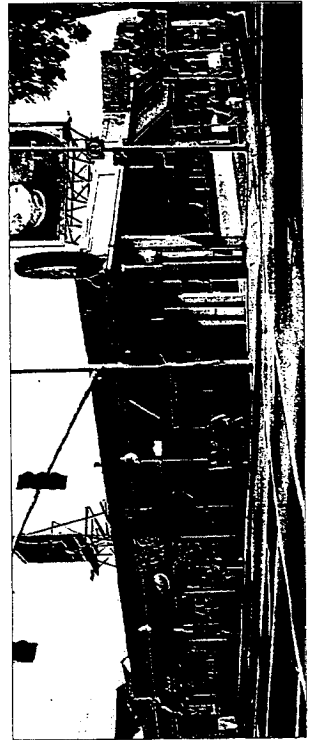
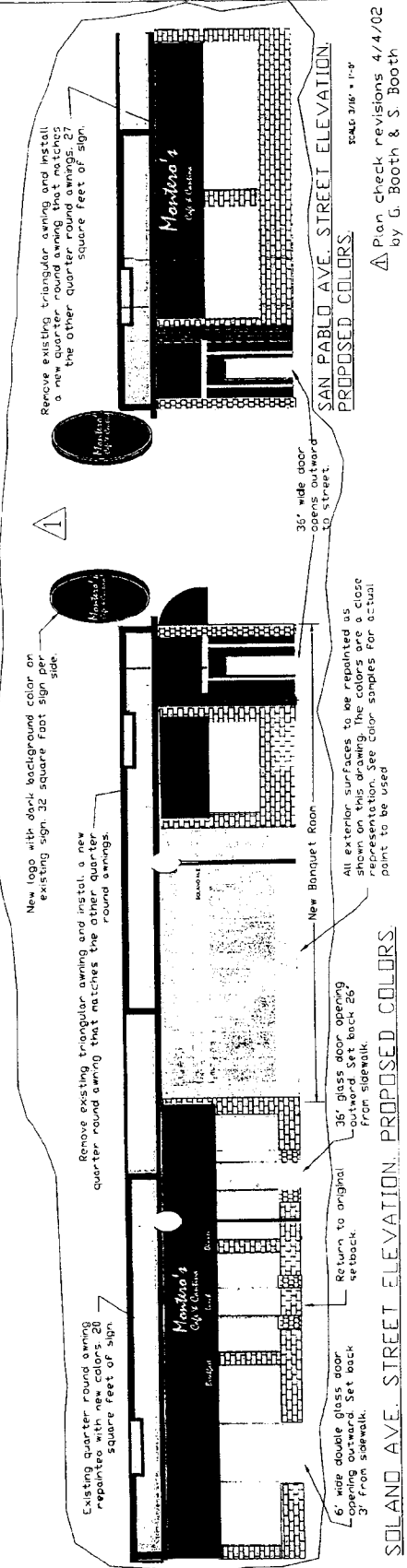


PHOTO OF EXISTING SAN PABLO AND SOLANO STREET ELEVATIONS



SOLANO AVE. STREET ELEVATION. PROPOSED COLORS. SCALE: 3/16" = 1'-0"

San Pablo Ave. Street Elevation
 SCALE: 3/16" = 1'-0"
 Plan check revisions 4/4/02
 by G. Booth & S. Booth

In October 2001 the health department made inspections and required the owner to make immediate changes. These changes were specified by the health department and not the owner. These changes were made as required and are shown in red on this drawing.

This as-built drawing shows all of the equipment and fixture changes from the original permitted drawings. Drawing S1 shows all of the structural changes from the original permitted drawings.

KEY

— = New item the health department required to be immediately installed. Note that these items are built to the specifications provided by the health inspector.
 --- = Change that deviates from the permitted plan.

⊕ = Equipment item # 35

Ⓢ = Maximum slope is 1:12

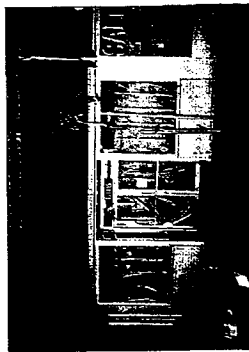
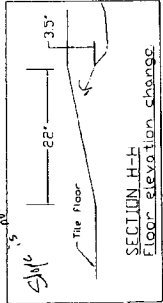


Photo 1 showing the shape of the entrance way before the owner occupied the building

DESIGN BY: Greg Booth Engineering
 926 Cornell Ave
 Albany, CA 94706
 Phone: 510 528 0890

CIVIL ENGINEERING BY:
 Sterling Booth Engineering

OWNER/BUILDER
 Jonathan Juan Romo
 510 205 9067

MONTERO'S CAFE
 1106 SOLANO AVE.
 ALBANY, CA 94706
 PHONE: 510 524 1270

JOB SITE

DATE: 12/14/01
 supersede: 10/15/01

AS-BUILT FLOOR PLAN

SHEET: A1

APPROVED
 CIVIL ENGINEER
 BUILDING PERMIT
 AUTHORITY OF THE CITY AND COUNTY OF ALBANY, CALIFORNIA
 12/14/01

FILE COPY

This is the original photos of the entrance way. See photo 1 on this sheet. The permitted drawings show this angled and are in error.

Enterage this opening by 2' to provide 32" free span.
 Install offset hinges on a new larger door to provide a 32" free span.
 Request access by approx 36" to provide a 36" x 48" free area in front of water closet.
 Exhaust fan re-enclosed to increase the filter face velocity to 236 FPM @ filter velocity 12/10
 1/30 - 2500 FPM

Approval of continued use of existing glass partitions in this area is dependent upon the health inspector's determination.

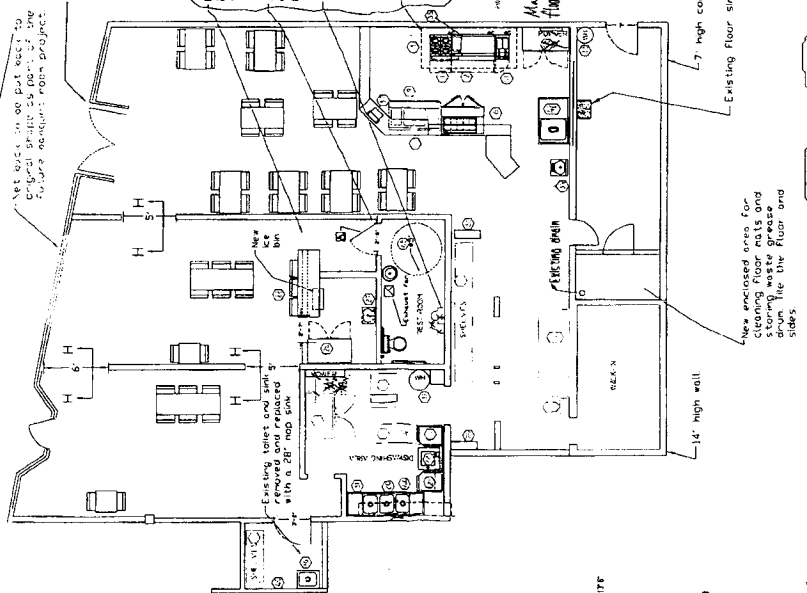
1/30 - 2500 FPM

Maintain clearance at electrical panel.
 31,064 9
 RECEIVED
 JAN 11 2002
 HEALTH DEPT



REVISED PLANS

Solano Ave.



AS-BUILT FLOOR PLAN
 SCALE: 3/16" = 1'-0"

Revision 1 12/14/01
 New title and sheet #
 Bathroom accessibility changes.

EQUIPMENT SCHEDULE

Item #	Category	Manufacturer	Model Number
1	Range Hood	Range Hood	RC-228
2	Range Hood	Verano Technology	Food System
3	A/C	Verano Technology	148
4	Refrigerator	Verano Technology	148
5	Refrigerator	Verano Technology	148
6	Refrigerator	Verano Technology	148
7	Service Counter	Verano Technology	148
8	Service Counter	Verano Technology	148
9	Service Counter	Verano Technology	148
10	Service Counter	Verano Technology	148
11	Service Counter	Verano Technology	148
12	Service Counter	Verano Technology	148
13	Service Counter	Verano Technology	148
14	Service Counter	Verano Technology	148
15	Service Counter	Verano Technology	148
16	Service Counter	Verano Technology	148
17	Service Counter	Verano Technology	148
18	Service Counter	Verano Technology	148
19	Service Counter	Verano Technology	148
20	Service Counter	Verano Technology	148
21	Service Counter	Verano Technology	148
22	Service Counter	Verano Technology	148
23	Service Counter	Verano Technology	148
24	Service Counter	Verano Technology	148
25	Service Counter	Verano Technology	148
26	Service Counter	Verano Technology	148
27	Service Counter	Verano Technology	148
28	Service Counter	Verano Technology	148
29	Service Counter	Verano Technology	148
30	Service Counter	Verano Technology	148
31	Service Counter	Verano Technology	148
32	Service Counter	Verano Technology	148
33	Service Counter	Verano Technology	148
34	Service Counter	Verano Technology	148
35	Service Counter	Verano Technology	148
36	Service Counter	Verano Technology	148
37	Service Counter	Verano Technology	148
38	Service Counter	Verano Technology	148
39	Service Counter	Verano Technology	148
40	Service Counter	Verano Technology	148
41	Service Counter	Verano Technology	148
42	Service Counter	Verano Technology	148
43	Service Counter	Verano Technology	148
44	Service Counter	Verano Technology	148
45	Service Counter	Verano Technology	148

DESIGN BY:
Greg Booth Engineering
978 Cornell Ave
Albany, CA 94706
phone: 510 528 0890

CIVIL ENGINEERING BY:

OWNER/BUILDER
Jonathan Juan Romo
510 205 9067

MONTERO'S CAFE
1106 SOLANO AVE.
ALBANY, CA 94706
PHONE: 510 524 1270

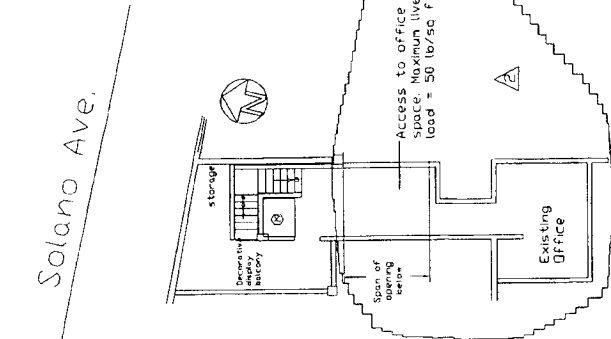
JOB SITE
DATE: 12/18/10

4/11/02 Plan check
revisions by G. Booth
& S. Booth
10/11/02 Plan check
revisions by G. Booth

FINISH SCHEDULE
AND SECOND
FLOOR PLAN

SHEET: A2

MONTERO'S BANQUET ROOM
JOB TITLE:

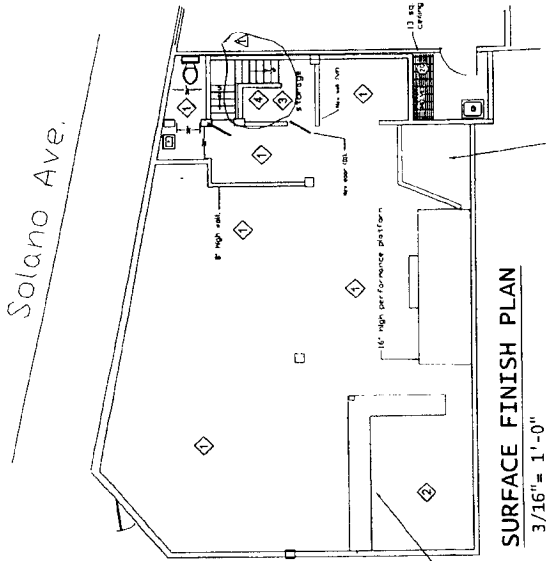


SECOND FLOOR PLAN 3/16" = 1' - 0"

EQUIPMENT SCHEDULE			
Tag#	Category	Manufacturer	Model Number
79	Boiling Water Entry		

KEY

- Existing
- - - New construction
- equipment received
- Construction that has already been completed
- ⊕ Equipment TAG# 30



SURFACE FINISH PLAN
3/16" = 1' - 0"

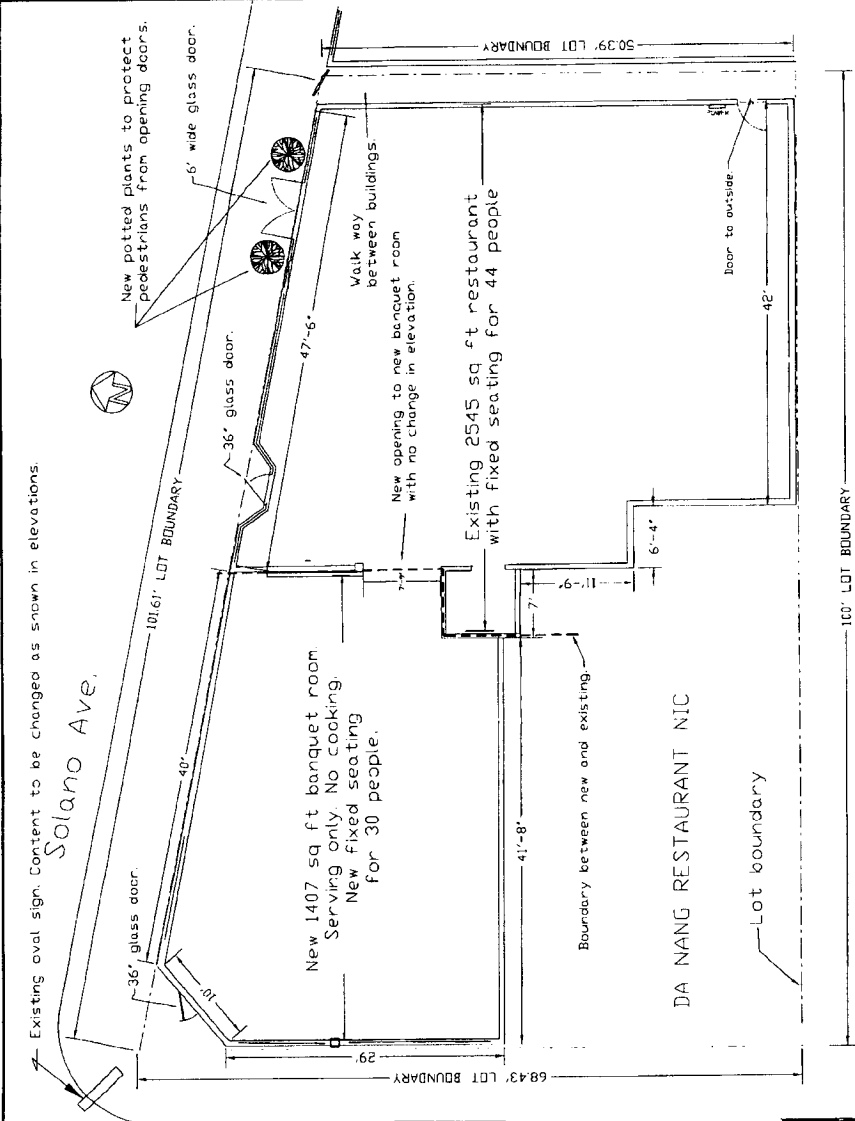
FINISH SCHEDULE

- ◆ Saltillo Tile
- ◆ Quarry Tile
- ◆ Commercial Vinyl
- ◆ 5/8" Type X gypsum on walls and ceiling.

All walls and ceilings shall be painted with cleanable nonabsorbent enamel paint.

HEALTH DEPARTMENT NOTES

1. All adjoining equipment and counters shall be sealed together to prevent the entrance of moisture. All equipment, including shelving shall be smoothly sealed to the wall to prevent the entrance of splash and debris. All portable or freestanding units shall be removable and easily accessible for cleaning. Fixed equipment shall have a minimum of 6" clearance on the sides for cleaning.
2. All working surfaces shall be smooth and impervious.
3. Adequate sneeze guard protection must be provided where unwrapped food is displayed or customer's self service of food is proposed. Sneeze guard must be constructed of approved material. Maximum opening below sneeze guards is 1/2".
4. All cutting boards shall be of non-wood construction and N.S.F. approval.
5. All refrigeration equipment for hot storage shall have thermometers which are easily readable in proper working conditions and accurate within range of plus or minus two degrees.
6. Storage shelving must be specified as having smooth, non absorbent finish. The lowest shelf should be 6" above floor.



LOT AND BUILDING PERIMETER PLAN SCALE: 3/16" = 1'-0"

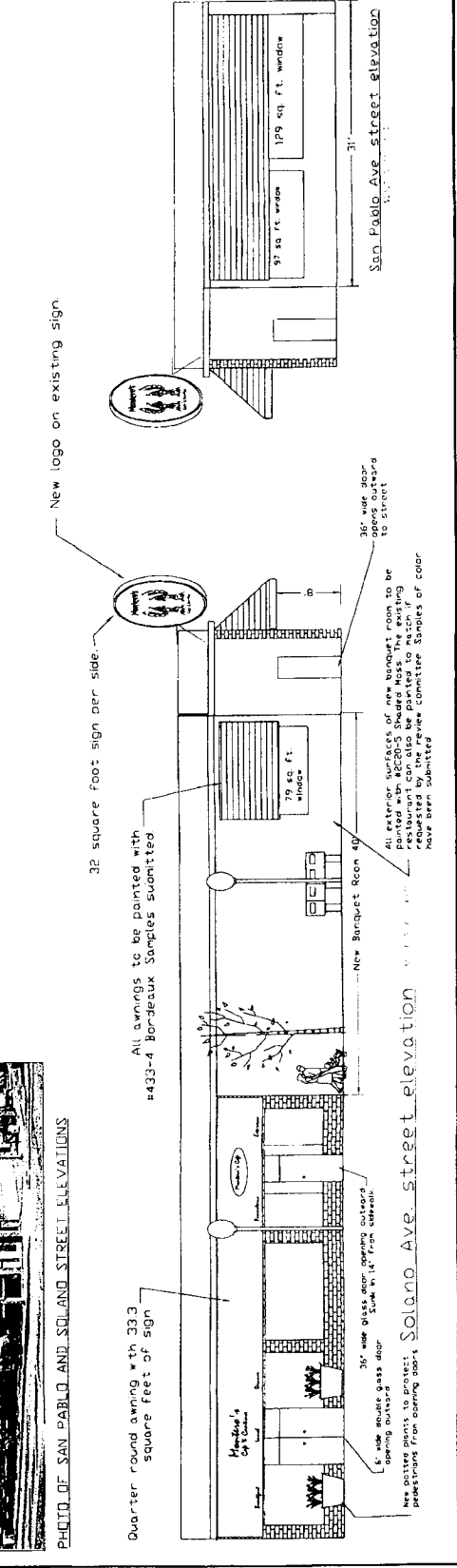
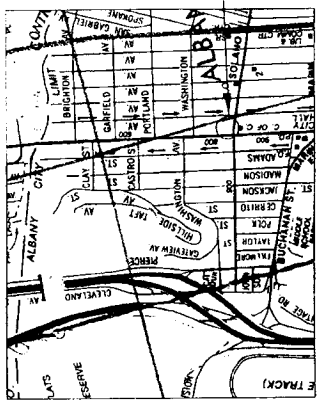
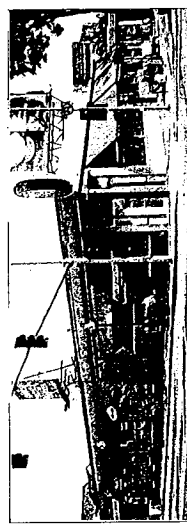


PHOTO OF SAN PABLO AND SOLANO STREET ELEVATIONS



PROJECT SUMMARY

The intent of this project is to provide a new 1407 square foot banquet room for the existing 2545 square foot Montero's Restaurant. This new Banquet room will be used for the serving of food and beverages. This banquet room will be provided by creating an opening in the wall between the existing Montero's restaurant and the vacant room on the east side of the lot. The main changes required to make the banquet room are the deletion of interior partitions and the installation of a serving bar. There will be only cosmetic changes to the exterior walls. The content of the oval sign on the North west corner will be changed from Captain Viano to the Montero's logo as shown. There will be no cooking or food preparation in the banquet room.

FLOOR AREA BALD

Lot size = 8899 square feet. Total new and existing floor space = 3532 square feet. Floor area ratio = 3952/5899 = .67

ALLOWED SIGN AREA

Solano Ave. Frontage = 180 Feet. Allowable sign area = 200 square feet. Actual sign area = 653 square feet.

San Pablo Ave. Frontage = 39 Feet. Allowable sign area = 78 square feet. Actual sign area = 32 square feet.

Existing oval sign. Content to be changed as shown in elevations.

Solano Ave.

San Pablo Ave.

All exterior surfaces of new banquet room to be painted with 2020-5 Shaded Moss. The existing exterior surfaces of the banquet room to be repainted to match the new color. Samples of color have been submitted.

All awnings to be painted with #423-4 Bordeaux. Samples submitted.

Quarter round awning with 333 square feet of sign.

New logo on existing sign.

36" wide glass door opening directly to street.

36" wide glass door opening directly to street.

REVISION# 1 4/19/01

DESIGN BY:
Greg Booth Engineering
978 Cornell Ave
Albany CA, 94706
Phone: 510 528 0990

CIVIL ENGINEERING BY:
Sterling Booth Engineering

OWNER/BUILDER:
Jonathan Juan Romo
510 205 9067

JOB SITE:
MONTERO'S CAFE
1106 SOLANO AVE.
ALBANY CA, 94706
PHONE: 510 524 1270

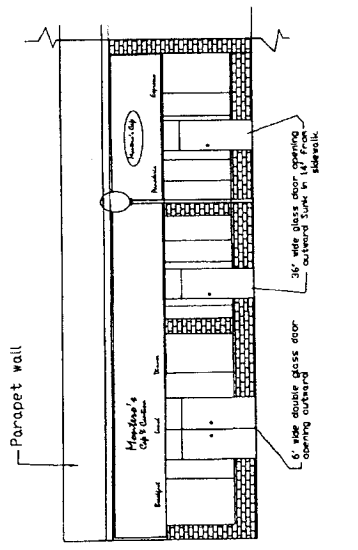
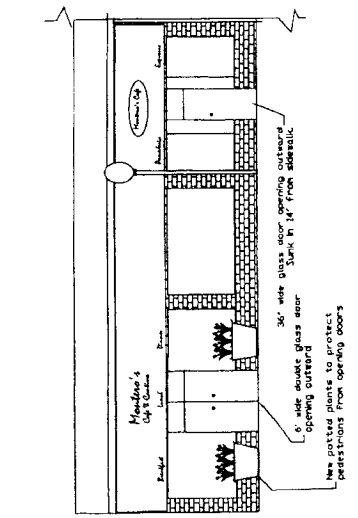
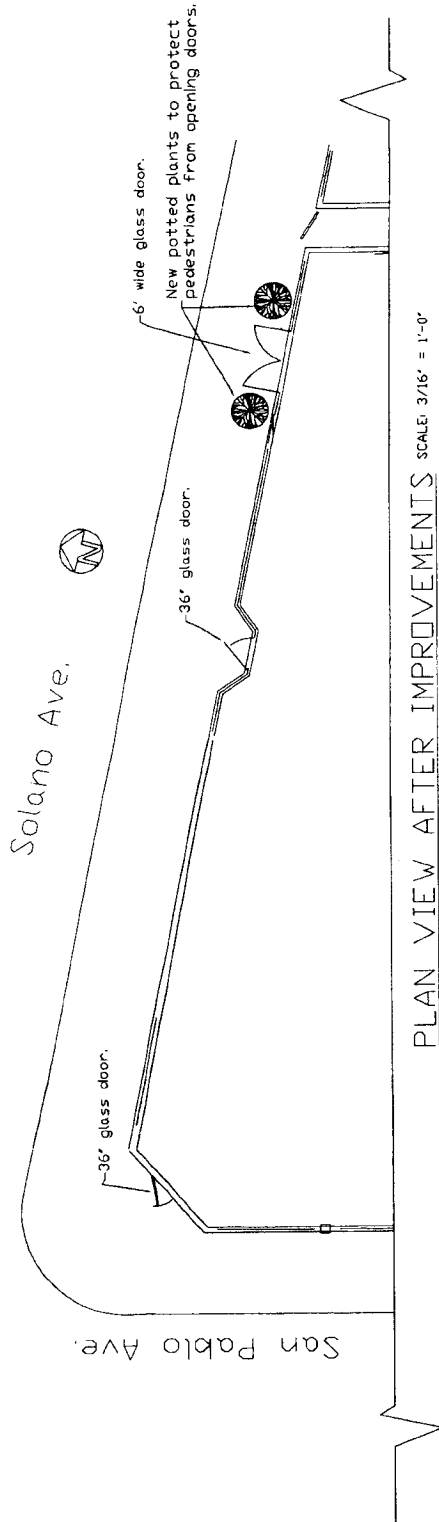
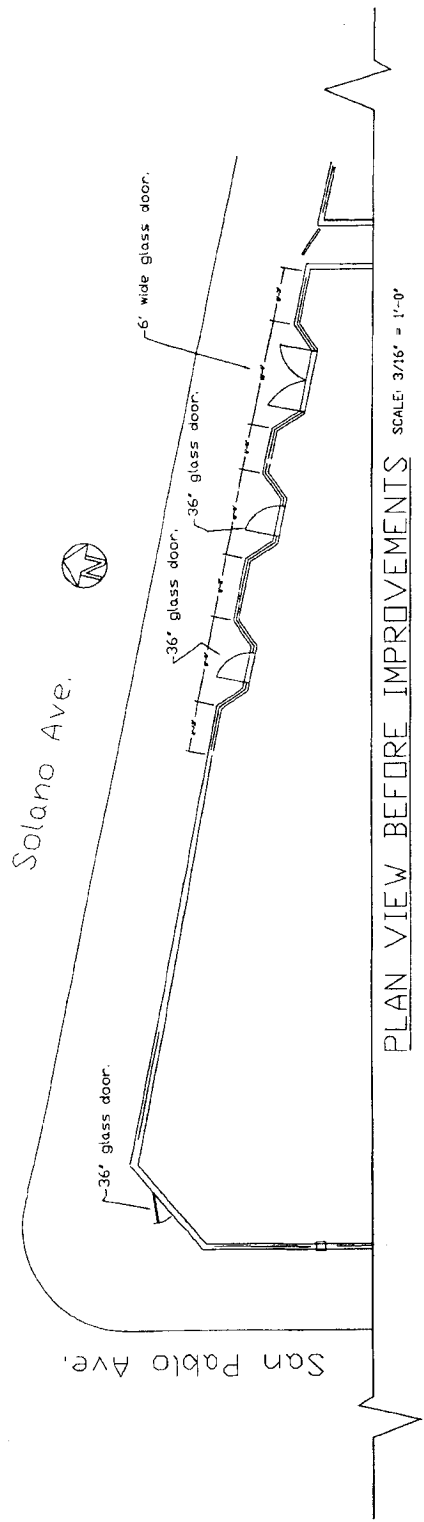
DATE:
4/19/01

IMPROVEMENTS
COMPLETED
BEFORE CITY
REVIEW.

BEFORE AND
AFTER VIEWS.

SHEET:
L2

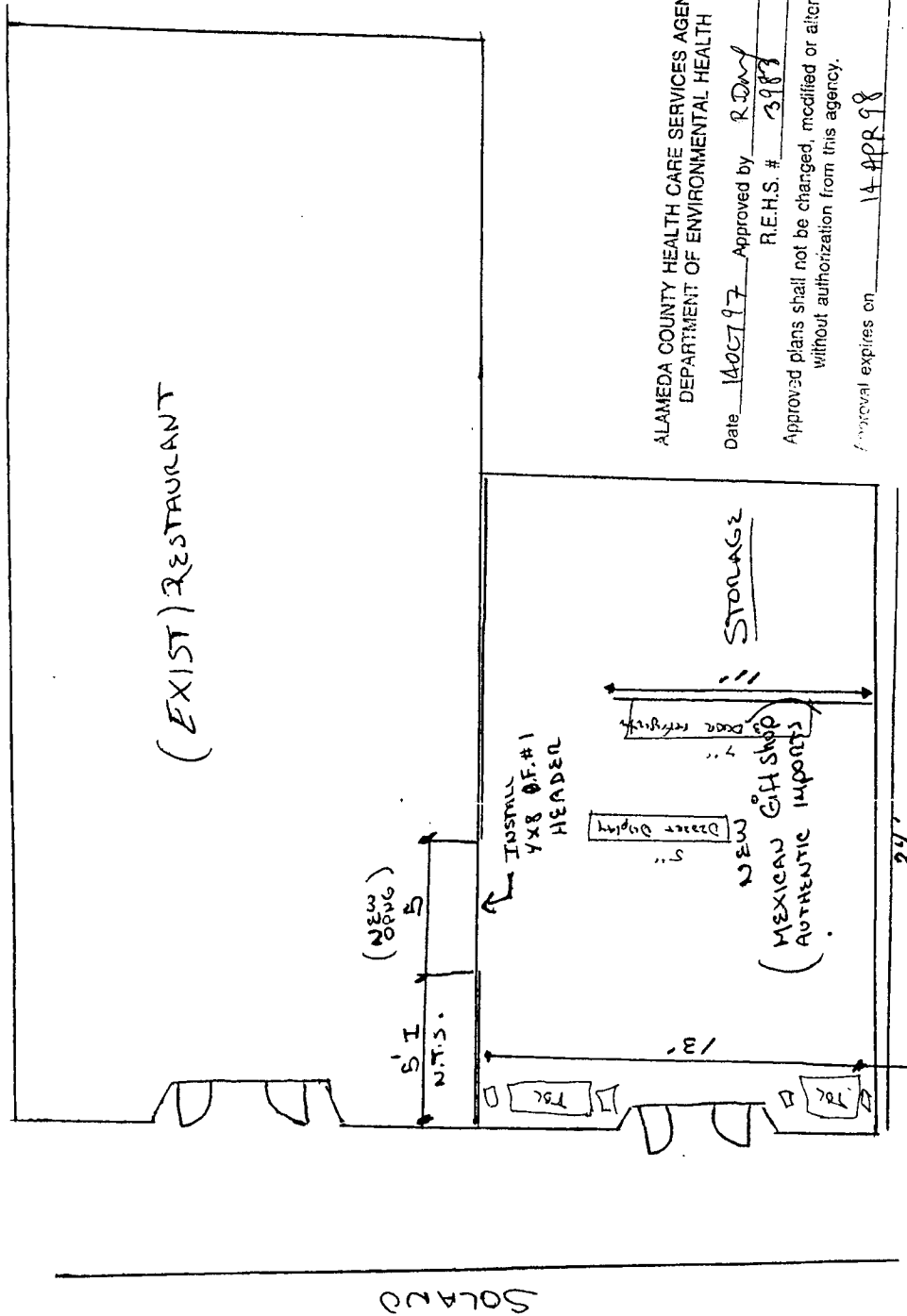
JOB TITLE:
MONTERO'S BANQUET ROOM



Solano Ave. outside elevation
after improvements SCALE: 3/16" = 1'-0"

Solano Ave. outside elevation
before improvements SCALE: 3/16" = 1'-0"

MONTERO'S CHZ
1106 SOLANO AVE
ALBANY CA 94706
(510) 521-1270 DONATAN ROMO



ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
DEPARTMENT OF ENVIRONMENTAL HEALTH

Date 14 OCT 97 Approved by R. Dwyer
R.E.H.S. # 3983

Approved plans shall not be changed, modified or altered
without authorization from this agency.

Approval expires on 14 APR 98