



PLANNING COMMISSION STAFF REPORT

TO: Planning Commission

FROM: Ashley Golden, Senior Planner

DATE: September 21, 2006

SUBJECT: PZ 06-510-5 Special Use Permit for a restaurant with outdoor dining and sale of on-site consumption of alcoholic beverages, located within the Centennial Plaza Development (241 West Fifth Street).

- 1. Recommendation:** Adopt a resolution approving a Special Use Permit (PZ 06-510-5), including a restaurant with outdoor dining and sale of on-site consumption of alcoholic beverages (beer, wine and spirits), subject to certain findings and conditions.
- 2. Project Description & Applicant:** The project site is located in the Centennial Plaza and addressed at 241 West Fifth Street (APN 202-0-104-41). The project involves interior and exterior improvements to an approximately 2,600 square feet tenant space, as well as an approximately 780 square foot outdoor dining area, within the Centennial Plaza development at the northeast corner of 5th and B Streets. The application includes a Special Use Permit for sale of alcoholic beverages for on-site consumption (ABC License Type 47, General- Eating Place), and for a restaurant with outdoor dining. Filed by Fifth Street Partners, 340 Rosewood Avenue, Suite D, Camarillo, CA 93010.
- 3. Existing Land Use:** The site contains a 14-screen movie theater complex and approximately 20,000 square feet of retail including four existing eateries, a coffee shop, and an ice cream shop.
- 4. General Plan Policies and Land Use Designation Conformance:** The land use map of the General Plan designates the subject parcel as *Central Business District*. This designation allows commercial, cultural and institutional land uses. The sale of alcoholic beverages for on-site consumption is a conditionally permitted use.

5. **Environmental Determination:** The project is among the classes of projects listed in Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which categorically exempts existing facilities from environmental review where there is negligible or no expansion of use. Since there is no substantial evidence that the proposed project may have a significant adverse effect on the environment, a notice of exemption will be filed (see Attachment D).

6. **Surrounding Zoning and Land Uses:**

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
North	CBD	CBD	14 screen theater
South	CBD	CBD	Church
East	CBD	CBD	Two restaurants within Centennial Plaza
West	CBD	CBD	Starbucks within Centennial Plaza

7. **Analysis:**

- a.) Relevant Project and Property History, Related Permits: The Planning Commission approved and certified an environmental impact report for the Downtown Theater Project on April 6, 2000 (Resolution 2000-16). On November 6, 2003 the Planning Commission approved the development of a 14-screen theater and inline retail totaling approximately 64,000 square feet (Resolutions 2003-94 & 2003-95). On December 2, 2003 the City Council upheld the Planning Commission’s approval. On February 19, 2004, the Planning Commission approved Major Modification No. 04-550-2, modifying three conditions of Resolution 2003-94. On August 4, 2005, the Planning Commission approved Special Use Permit Nos. 04-510-6 and 05-510-7 for on-site consumption of alcohol for Capriccio and Thai Peruvian. On December 15, 2005 the Planning Commission approved Special Use Permit 05-510-10 for on-site consumption of alcohol, outdoor dining, and entertainment for Casa Escobar.
- b.) Modifications to the Tenant Space: The existing tenant space is currently vacant, however the lessee, Fifth Street Partners, wishes to establish a restaurant, Fifth Street Steak & Seafood, with outdoor dining. The Downtown Design Review Committee (DDRC) approved the exterior modifications, with the exception of signage, at their September 14, 2006 meeting. The modifications include addition of new canvas awnings to the south and north entries, new wall mounted light fixtures, tile wainscot on the south, north and east elevations, a fire pit in the outdoor eating area, a metal fence with landscaping to separate the dining area from the public space, and a low brick wall with planted pots at the Fifth Street entry.
- c.) Request for Sale of Alcoholic Beverages for on-site consumption: The applicant will request an ABC License Type 47, General- Eating Place from the State Department of Alcoholic Beverage Control (ABC) for the tenant space.

The Oxnard Police Department has provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages. (Attachment C). This report provides information regarding the number of incidents of police response, whether there is a presumption of undue concentration of establishments selling alcoholic beverages and whether approval of the special use permit is likely to significantly aggravate policing problems. The report indicates that there are four establishments, two restaurants selling beer and wine, one restaurant selling beer wine and spirits, and one market (Tonalli's which has since closed, but has a valid state license) selling wine, within 350 feet of the project site. Within 1000 feet from the project site are 15 additional establishments selling alcoholic beverages (Attachment C). Using both state and local guidelines, there is an issue of undue concentration. The Central Business District as outlined by the City of Oxnard currently has at least 35 active ABC licenses within its boundaries and, since there are three like business within 350 feet of the site, there is a local issue of undue concentration.

Crime Statistics- For comparison purposes the Police Department calculates the average number of Part I and II crimes that occur per reporting district (grid) during a selected 12-month period. For reference, the category of Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

The average city-wide, per grid base number of Part I and II crimes is currently 139. The average number of Part I and II crimes in the applicant's reporting district and all other districts within 1000 feet of the applicant is 214 during the same 12-month time period.

The statistical analysis shows the area to have a crime rate that is 54% greater than the city-wide average which reflects a sharp decrease from earlier reports but that is still inordinately high. The area has the highest concentration of alcohol outlets in the city and is considered "over-concentrated" by California Department of Alcoholic Beverage Control (ABC) standards. Some of those licenses were issued more than 20 years ago and have no preventative conditions of operation attached to them since SUPs were not required at the time they obtained their ABC license.

8. **Neighborhood Input:** On August 21, 2006, the application was presented to two residents at a Community Workshop meeting. One resident requested a re-design of the proposed three-foot high fence to provide a better separation between patrons in the patio area and people walking by. To address the community concerns the applicant redesigned the patio areas by combining the two patio areas into one patio area and added a three foot planter and fencing around the patio area. This design provides a greater separation between the people walking by and the diners, as well as provides for controlled access to the outdoor dining area.

The Police Department contacted the Five Points North Neighborhood Council which repeated previous concerns regarding the initial alcohol outlets proposed for the Centennial Plaza (Thai Peru, Capriccio's and Casa Escobar). The neighborhood concerns include the number of alcohol establishments nearby and the potential impact on the surrounding area. That neighborhood states the most challenging issue in the downtown area is the blight and crime associated with the many existing bars and alcohol establishments. The neighborhood is also concerned about the outdoor dining and potential conflicts with easy access of alcohol from non-restaurant customers.

The Responsible Alcohol Policy Action Coalition (RAPAC), while hopeful that revitalizing the downtown area will have a positive impact on the community, generally opposes the addition of any more alcohol outlets as a means to accomplish that. At its meeting in August, RAPAC strongly recommended that no new outlets be added to the downtown area where there is the highest concentration of alcohol outlets in the city.

9. **Police Input and Outreach to the Community:** As with prior alcohol Special Use Permit applications at Centennial Plaza, the primary concerns of the Police Department are the density of alcohol outlets, youth access to alcohol and the risks often associated with outdoor dining. The conditions of operation recommended for each of the four previous outlets have helped to mitigate Police Department concerns and hopefully, will contribute to the overall success of the project.

As with previous alcohol use requests at Centennial Plaza, this proposal includes outdoor dining. The applicant addressed the Police Department concerns by controlling the access into the patio area and including a three-foot wide planter outside of the three-foot high fence. There is only access to the patio from within the restaurant.

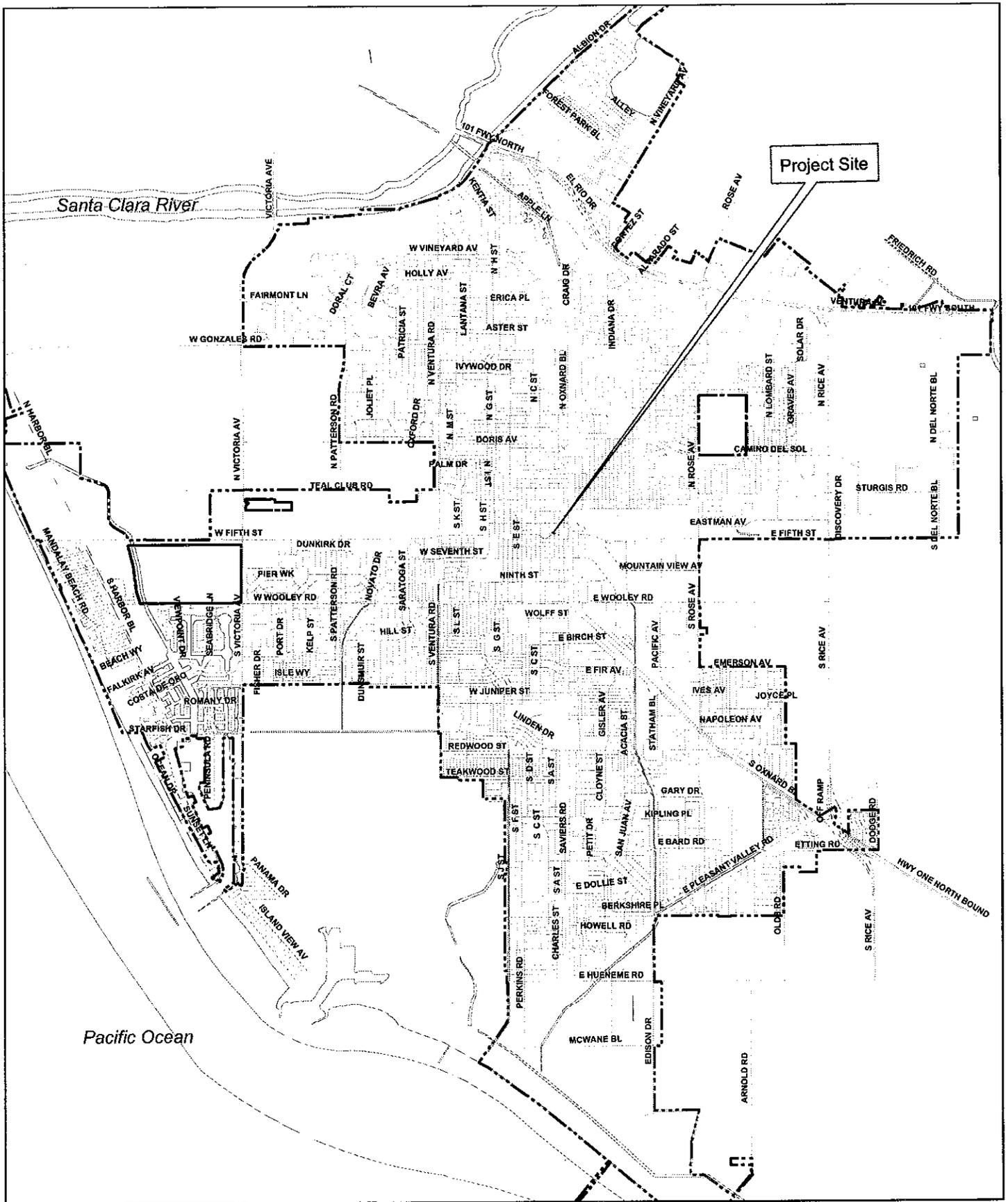
Based upon the concerns above, the Police Department carefully considered many conditions to help prevent potential problems and those conditions are included in the attached Planning Commission Resolution.

Attachments:

- A. Vicinity, General Plan, Zoning Map
- B. Site Plan
- C. Police Report
- D. Notice of Exemption
- E. Draft Resolution

<p>Prepared by: <u>AG</u> AG</p> <p>Approved by: <u>SM</u> SM</p>

Attachment A



PZ 06-510-5

Location: 241 W Fifth St

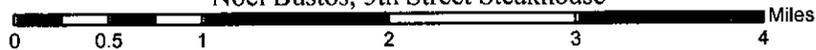
APN: 202010441

Noel Bustos, 5th Street Steakhouse

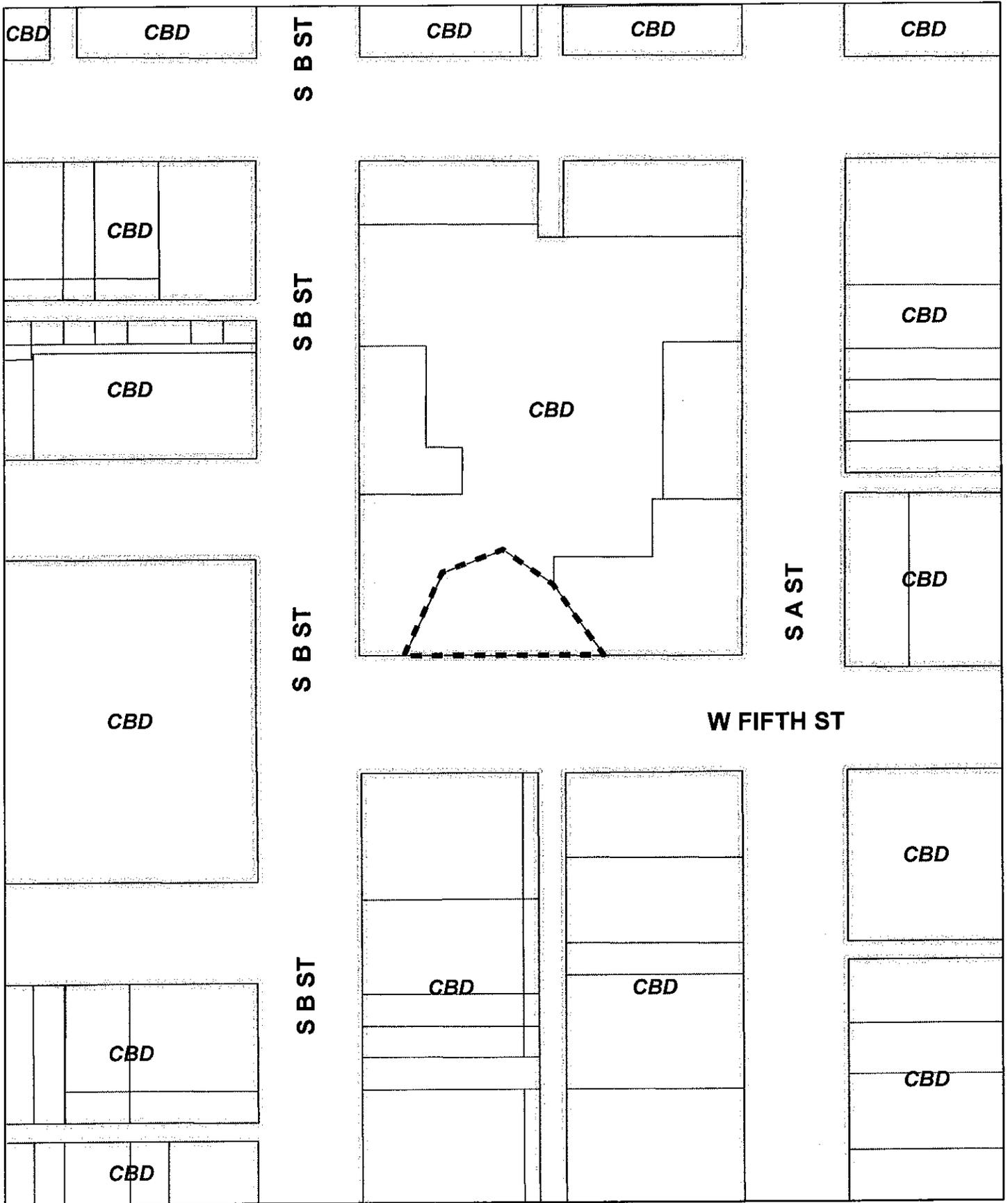
Vicinity Map



Planning & Environmental Services



August 1, 2006



PZ 06-510-5

Location: 241 W Fifth St

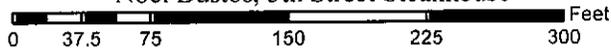
APN: 202010441

Noel Bustos, 5th Street Steakhouse

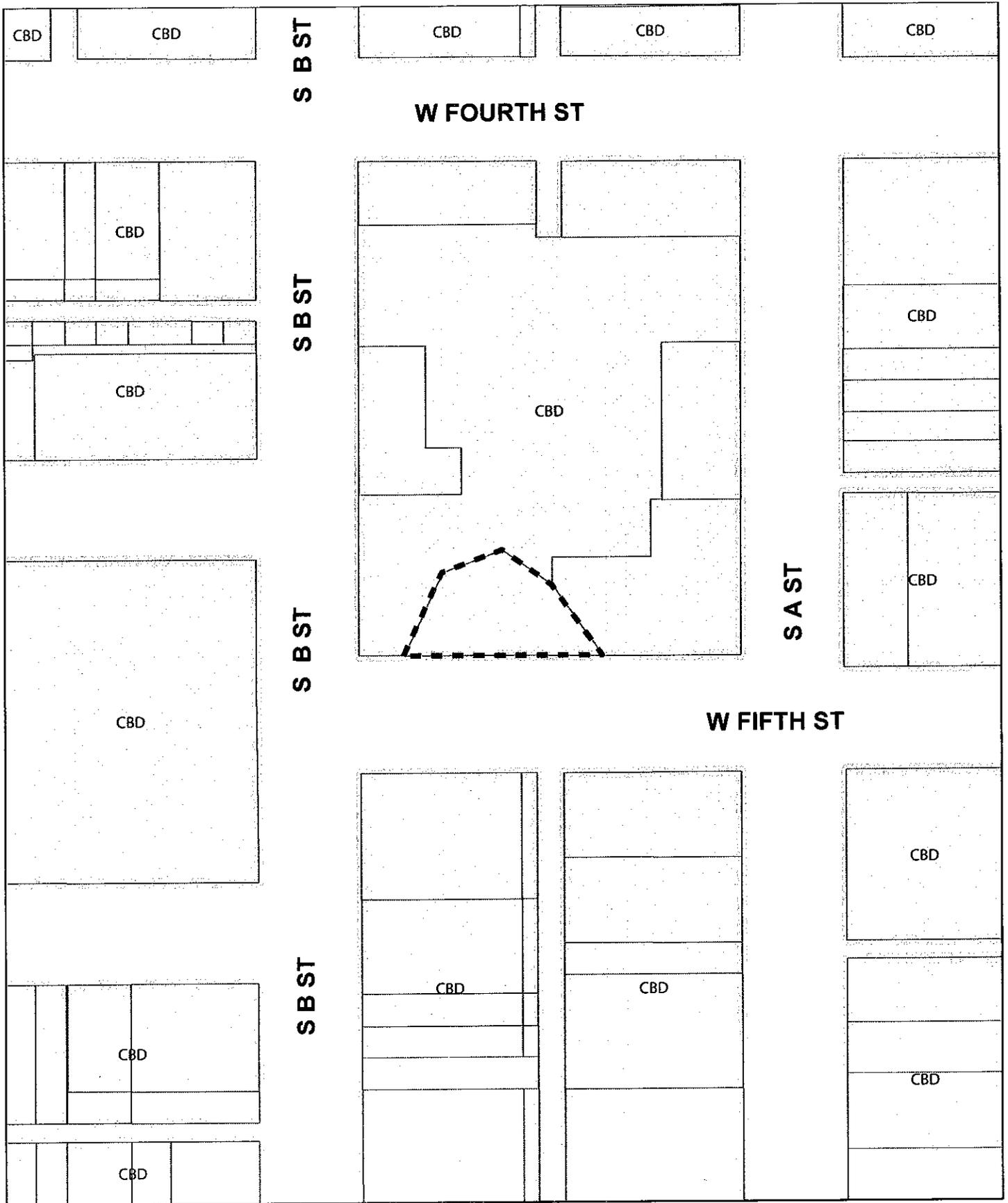
2020 General Plan Map



Planning & Environmental Services



August 1, 2006



PZ 06-510-5

Location: 241 W Fifth St

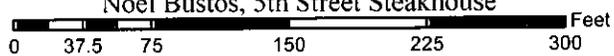
APN: 202010441

Noel Bustos, 5th Street Steakhouse

Zone Map



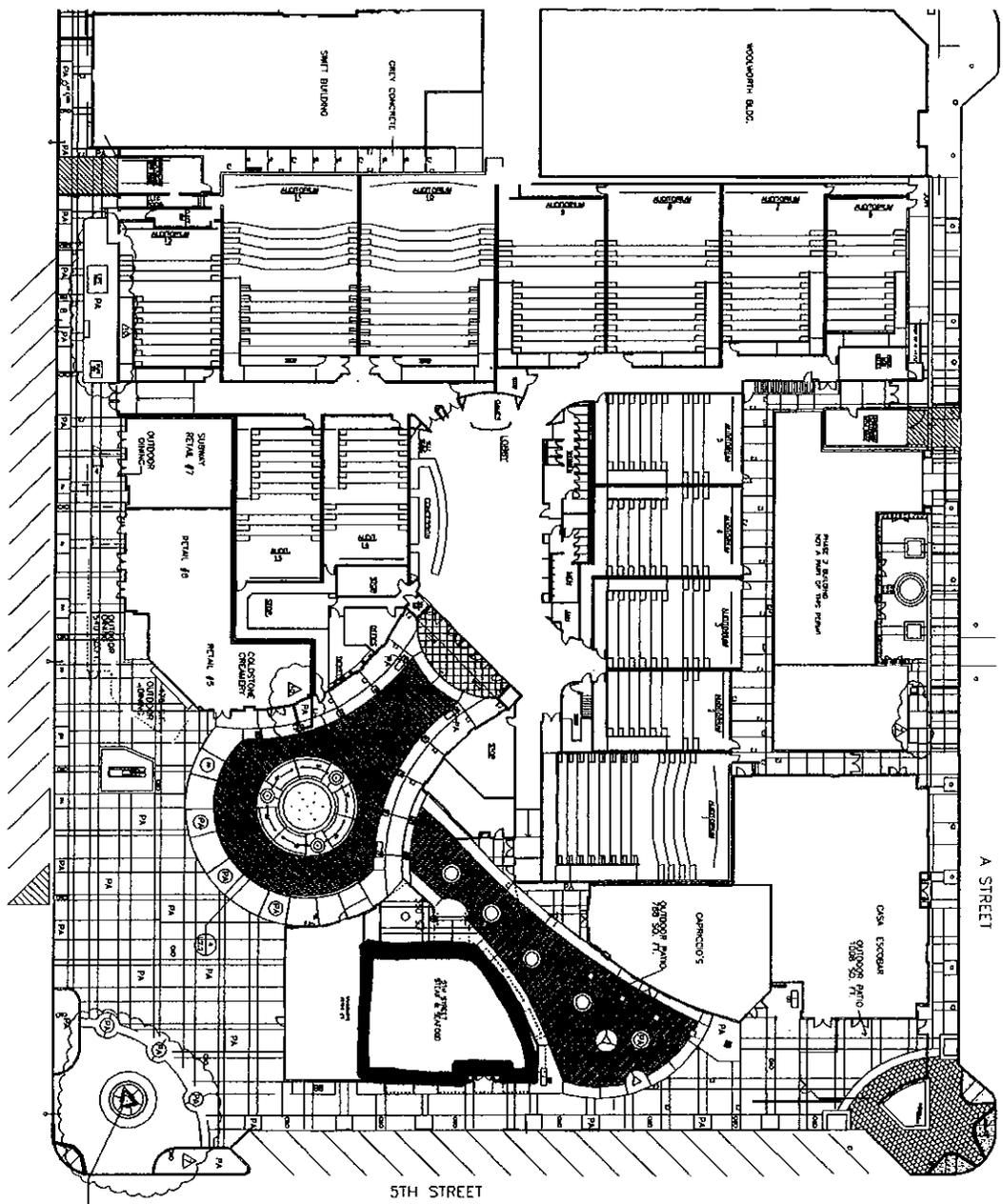
August 1, 2006



Attachment B

1 OUTDOOR DINING AREAS
SCALE 1" = 15'-0"

B STREET



5TH STREET

A STREET

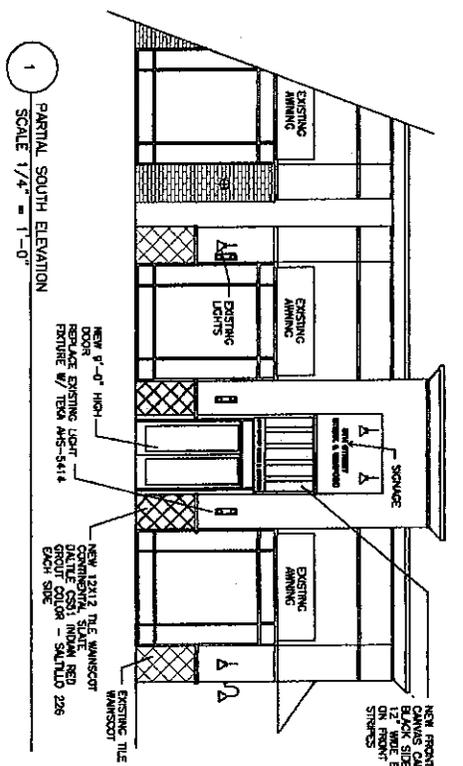
BUILDING B-2
ADDRESS - 231 W. 5TH STREET
TYPE OF CONST. - VN
SPRINKL. - YES
STORIES - ONE
BUILDING HT. - 23'(26')
FLOOR AREA - 2,627 SQ. FT.

SITE PLAN
OUTDOOR DINING AREAS

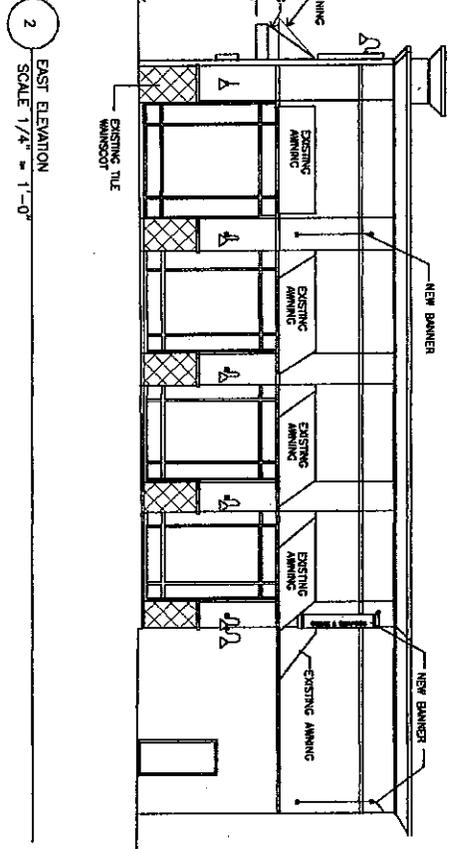
FIFTH STREET STEAK & SEAFOOD
B STREET and FIFTH STREET
OXNARD, CALIFORNIA

PROJECT NO. 1000
DATE: 10/1/00
DRAWN BY: JGB
CHECKED BY: N
SCALE: 1" = 15'-0"

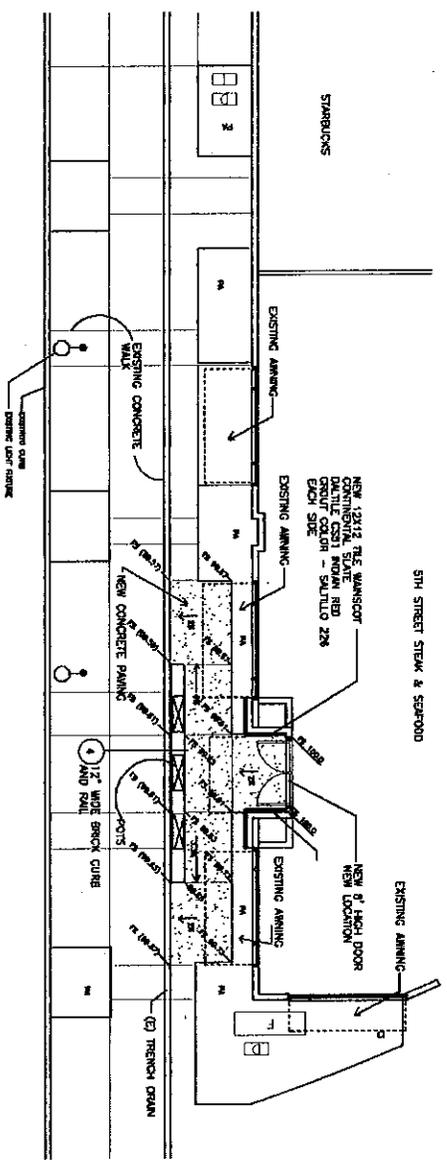
JORDAN, GILBERT & BAIN
LANDSCAPE ARCHITECTS, INC.
3350 LOMA VISTA ROAD, VENTURA CA 93003
(805) 842-3641 FAX (805) 842-9514



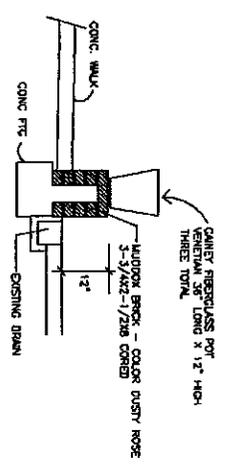
1 PARTIAL SOUTH ELEVATION
SCALE 1/4" = 1'-0"



2 EAST ELEVATION
SCALE 1/4" = 1'-0"

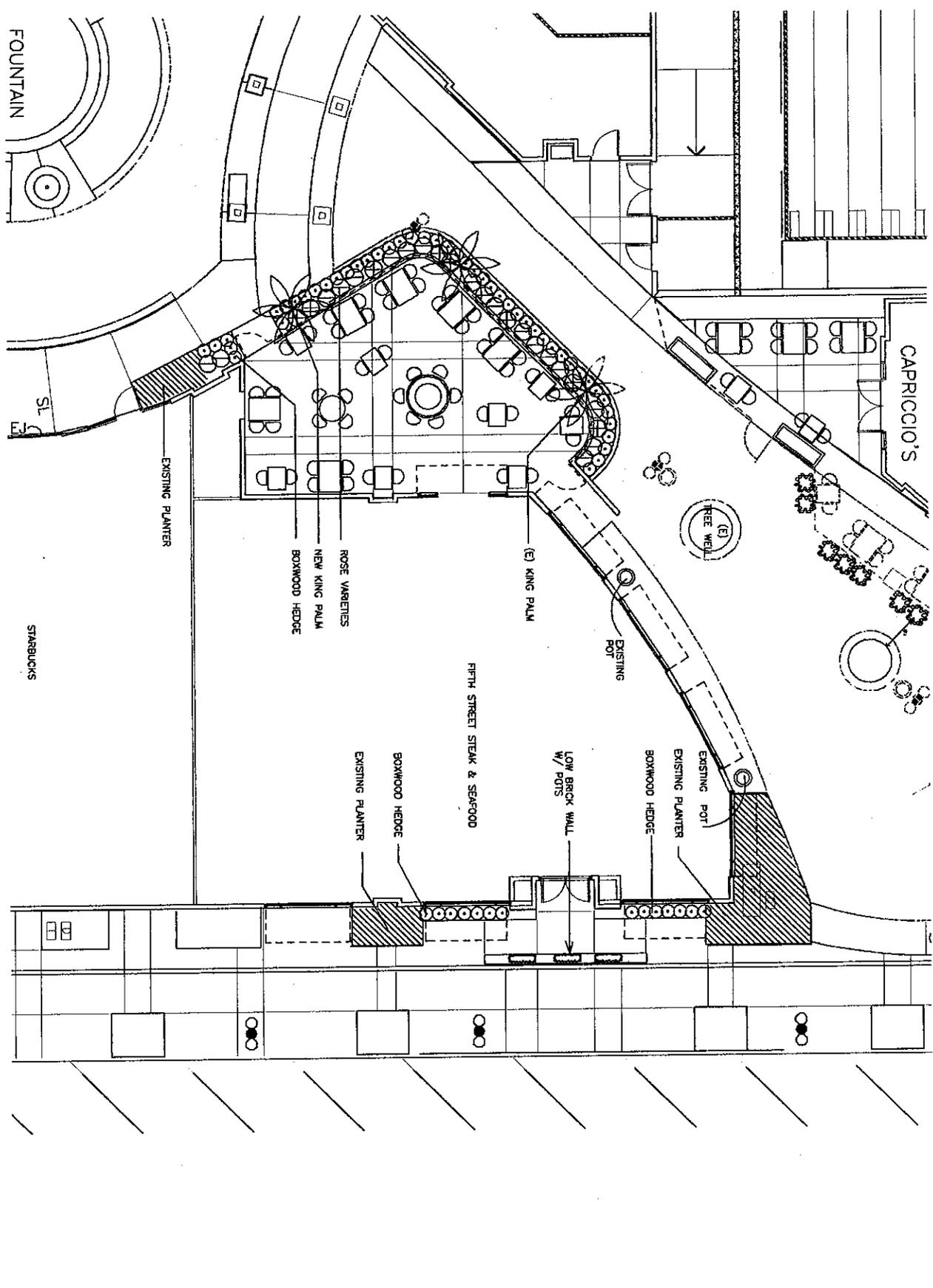


3 5TH STREET ENTRANCE
SCALE 1/4" = 1'-0"



4 SECTION AT BRICK CURB AND METAL RAIL
SCALE 1" = 1'-0"

IF DRAWING SIZE IS 9 1/2" X 11" PLAN IS NOT TO SCALE
IF DRAWING SIZE IS 15" X 21" PLAN IS A 30% REDUCTION OF THE ORIGINAL



FOUNTAIN

CAPRICCIO'S

STARBUCKS

1 OUTDOOR DINING AREA 5TH STREET STEAK & SEAFOOD - PLANTING PLAN
SCALE 1/4" = 1'-0"

EXISTING PLANTER

ROSE VARIETIES
NEW KING PALM
BOXWOOD HEDGE

(E) KING PALM

EXISTING POT

(E) TREE WELL

FIFTH STREET STEAK & SEAFOOD

LOW BRICK WALL
W/ POTS

EXISTING PLANTER
BOXWOOD HEDGE

EXISTING PLANTER
BOXWOOD HEDGE

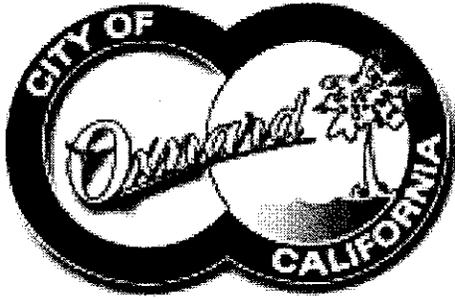
L-4 PLANTING PLAN
OUTDOOR DINING AREAS

FIFTH STREET STEAK & SEAFOOD
231 WEST FIFTH STREET
OXHARD, CALIFORNIA

DATE: 11/11/11
DRAWN BY: JG
CHECKED BY: JG
APPROVED BY: JG
SCALE: AS SHOWN

JORDAN, GILBERT & BAIN
LANDSCAPE ARCHITECTS, INC.
2380 LOMA VISTA ROAD, VENTURA CA 93003
(805) 642-3611 FAX (805) 642-8611

Attachment C



Police Department
John Crombach, Police Chief

Date: August 21, 2006
 To: Ashley Golden, Senior Planner
 From: Cliff Waer, Alcohol Compliance Officer
 Subject: 241 W. Fifth Street (5th Street Steak and Seafood)

Site Information:

The proposed site is located within the Centennial Plaza complex in downtown Oxnard. The site is situated on the southeast portion of the complex nearest Fifth and "A" Street. It is generally bordered by Fourth Street on the north, Fifth Street on the south "B" Street on the west and "A" Street on the east. The building is immediately east of Plaza Park with the nearest residences approximately 1000' away. Parking for the business will be primarily the new parking structure just north of the site and other on-street parking. There are currently three similar alcohol outlets within the same complex (Capriccio's, Casa Escobar and Thai Peru). Two have Type-41 Licenses (On-Sale Beer and Wine, Restaurant) and one has a Type-47 (On-Sale beer, wine and distilled spirits). All are within 350' of the proposed site. The applicant has requested to obtain an ABC License Type-47 which is a restaurant that allows for the sale of beer, wine and distilled spirits.

Alcohol outlets located within 350' of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Thai Peru	450 S. "B" Street	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Capriccio's	221 W. Fifth Street	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Casa Escobar	455 S. "A" Street	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
4. Tonali	401 S. "A"	Type 20	Off-Sale Beer	Market	Beer and

Market	Street		and Wine		Wine
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Alcohol outlets located within 1000' of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Meson Viejo	124 E. Fifth St.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Mi Haciaenda	611 S. Oxnard Blvd.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Nuevo Carmelita	113 E. Fifth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
4. Texas Place	204 E. Fifth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
5. Capri Bar	140 E. Sixth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
6. Golden Chicken Inn	701 S. Oxnard Blvd.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
7. Mona Lisa	703 S. Oxnard Blvd.	Type 42	On-Sale Beer and Wine	Bar (no minors)	Beer and Wine
8. Miramar	653 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
9. Ruby's Café	350 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
10. Bahia Del Mar	349 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
11. Cloud 9 Hollywood	325 S. "A" St.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
12. El Tapatio	663 S. Oxnard Blvd.	Type 48	On-Sale General (Public Premise)	Bar (no minors)	Beer, Wine and Spirits
13. La Mexicana Market	601 S. "A" St.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
14. Circle 9 Market	521 S. "C" St.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
15. La Gloria Market	430 S. Oxnard Blvd.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine

Crime Statistic Review:

For comparison purposes the Police Department calculates the average number of part I and II crimes that occur per reporting district (grid) during a selected 12-month period. The average city-wide, per grid base number of Part I and II crimes is currently 139.

The average number of Part I and II crimes in the *applicant's* reporting district and all other districts within 1000 feet of the applicant is 214 during the same 12-month time period. **This is 54% higher than the average crime rate citywide.** The heaviest concentration of incidents occurred in and around the La Gloria parking lot which is east of the proposed site and also along Oxnard Boulevard between Third and Eighth Street.

For reference, the category of part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

Police Department Input:

As with prior alcohol Special Use Permit applications at Centennial Plaza, the primary concerns of the Police Department have been the density of alcohol outlets, youth access to alcohol and the risks often associated with patio or "sidewalk" dining. We have anticipated and planned for as many as five new alcohol outlets in this plaza and this application would be the fourth. The conditions of operation we have recommended for each of the previous outlets have helped to mitigate our concerns and hopefully, will contribute to the overall success of the project.

Like previous applications, this proposal includes outdoor dining. Our experience with similar uses has been that inadequate separation can be inviting for non-customers to either cause problems for restaurant guests or socialize and loiter along the fence line. The fact that there is a proposed fire-pit in one of the outdoor areas makes this particularly inviting and interesting to youth or non-customers. Short fences with no significant distance between guests and non-customers can create a risky environment that can be difficult for employees to monitor. Items (such as alcohol) can easily be passed back and forth and persons can enter or exit the patio unnoticed. In this case, the applicant has requested a four-foot, wrought iron/block fence surrounded by a 24" landscape planter. This planter will allow for additional separation from non-customers and improved security for the outdoor area. This design was settled on after much negotiation with the applicant and adequately addresses many of the primary concerns of the Police Department which were directly related to the effective management and control of the patio area. By using landscaping in addition to the fence reduces the risk of cross-contamination while still maintaining the unique atmosphere of outdoor dining.

In earlier reports, the Police Department has expressed their concern about adding more outlets to the downtown area where there are already 35 active alcohol licenses and suggested that a limit be placed on the total number of ABC licenses allowed in the Central Business District. That recommendation bears repeating as the growing downtown redevelopment will certainly include many more requests for new ABC licenses.

Based upon the concerns above, the Police Department carefully considered many conditions to help prevent potential problems and those conditions are included in the attached Planning Commission Resolution.

Community Input:

The Five Points North Neighborhood was contacted and repeated the concerns shared previously regarding the initial outlets proposed for the Centennial Plaza (Thai Peru, Capriccio's and Casa Escobar). Their concerns included the number of alcohol establishments nearby and the potential impact on the surrounding area. They pointed out that perhaps the most challenging issue they face in the downtown area they live is the blight and crime associated with the many existing bars and alcohol establishments nearby. They were also concerned about the patio dining and how there could be conflicts with such easy access from non-customers.

The Responsible Alcohol Policy Action Coalition (RAPAC) has discussed this proposal at their monthly meetings and, while hopeful that revitalizing the downtown area has a positive impact on the community, they generally oppose the addition of any more alcohol outlets as a means to accomplish that. RAPAC strongly recommended that no new outlets be added to the downtown area which already has the highest concentration of alcohol outlets in the city. They supported the recommendation that any new outlet must first buy or obtain their ABC license from an already existing outlet in the downtown area and were generally opposed the proposed use. RAPAC was strongly opposed to the initial 3-foot fence design separating the outdoor dining from the passing pedestrians. The new fence design was presented at their August meeting and members were much more comfortable with the enhanced enclosure. Many members still felt there was a strong likelihood that after-hours, access could still be made to the patio and the area could be inviting for non-customers. They suggested increased, after-hours lighting and perhaps security cameras would help minimize that possibility.

Conclusion:

The statistical analysis shows the area to have a crime rate that is 54% greater than the city-wide average which reflects a sharp decrease from earlier reports but that is still inordinately high. The area has the highest concentration of alcohol outlets than does anywhere else in the city and is considered "over-concentrated" by California Department of Alcoholic Beverage Control (ABC) standards. Some of those licenses were issued more than 20 years ago and have no preventative conditions of operation attached to them since SUP's were not required at the time they obtained their ABC license.

The Central Business District as outlined by the City of Oxnard currently has at least 35 active ABC licenses within its boundaries and, since there are three like business within 350' of the site, there is a local issue of undue concentration. Basically, using both state and local guidelines, there is an issue of undue concentration.

The primary issue regarding this proposal involved the patio dining, especially considering that a fire pit would be part of the design. The applicant ultimately submitted a design that seems to adequately address much of that concern by increasing the height of the fence and adding a wide planter for separation.

The Police Department's continued concern is that we do not hastily and unwisely add many more alcohol outlets as the primary solution for a revitalized downtown. Especially considering that we are already devoting a significant amount of city resources to mitigate existing problematic outlets in the downtown area. In addition, for the first time in many years, there are not only businesses in the surrounding area but also a growing number of concerned residents that have a renewed interest in the environment they live in. For these reasons, the Police

Department strongly recommends adoption of all of the police conditions listed in the attached Planning Commission resolution.

Police Standard Operating Conditions

- 1) Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
- 2) Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)
- 3) Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
- 4) When security personnel are present or required, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations.
- 5) The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
- 6) The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area.

- 7) The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
- 8) Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
- 9) The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
- 10) The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
- 11) The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring businesses. (PD)
- 12) There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
- 13) The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
- 14) Alcoholic beverages shall be served only in mugs, glasses or clear plastic cups. The service of alcoholic beverages in bottles or cans is strictly prohibited. (PD)
- 15) Sales of alcohol shall not occur between the hours of 1:00 a.m. and 6:00 a.m. (PL/PD)
- 16) Alcoholic beverages shall not be offered at significantly reduced prices that are meant to encourage greater consumption of alcohol such as during “happy hour” type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a “happy hour” or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
- 17) Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, “bucket” or similar high capacity amounts.
- 18) In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the

consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)

- 19) If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed through the Department of Alcoholic Beverage Control and the entire patio shall be adequately enclosed to the satisfaction of the Police Chief. Low or excessively wide spaced fencing will not be considered sufficient. (PD)
- 20) Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". (PD)
- 21) Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift.
- 22) Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
- 23) The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council.
- 24) Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems.
- 25) Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
- 26) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
- 27) The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
- 28) No new pay phone on the exterior of the premises shall be allowed and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)

- 29) Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
- 30) Any rear door of the premises shall be equipped on the inside with an automatic locking device and shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
- 31) Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
- 32) Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
- 33) Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
- 34) Prior to issuance of Certificate of Occupancy, Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 35) Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601. (PD)
- 36) Permittee shall bolt down all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)
- 37) Permittee shall have drop-safes installed to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50). (PD)
- 38) Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register. (PD)
- 39) If the project property is already occupied or use has already been initiated, Permittee shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-9)
- 40) A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

Police Special Conditions

- 1) Any emergency exit gate/door on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The gate shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
- 2) There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
- 3) There shall be no dancing or amplified music allowed on the patio.
- 4) The patio area shall not be used for large private parties or events that require the entire patio to be reserved exclusively for the private party.

Attachment D



NOTICE OF EXEMPTION

Project Description:

Planning & Zoning Permit No. 06-510-5 (Special Use Permit) is requested for a restaurant with outdoor dining and sale of on-site consumption of alcoholic beverages. The site located in the Centennial Plaza and addressed at 241 West Fifth Street (APN 202-0-104-41) at the northeast corner of Fifth Street and B Street (APN s 202-0-143-080, -090, -100, -210). Filed by Fifth Street Partners, 340 Rosewood Avenue, Suite D, Camarillo, CA 93010.

Finding:

The Planning and Environmental Services Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- Ministerial Project
- Categorical Exemption
- Statutory Exemption
- Emergency Project
- Quick Disapproval [CEQA Guidelines, Section 15270]
- No Possibility of Significant Effect [CEQA Guidelines, Section 15061(b)(3)]

Supporting Reasons: In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving existing facilities where there is negligible or no expansion of use may be found to be exempt from the requirements of CEQA. The proposed project is occupying an existing tenant space which was analyzed as part of a larger project and part of an approved environmental impact report (April 6, 2000 City Planning Commission Resolution 2000-16). Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment.

(Date)

Susan L Martin, AICP
Planning & Environmental Services Manager

Attachment E

RESOLUTION NO. 06-510-5

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 06-510-5 SPECIAL USE PERMIT, TO ALLOW A RESTAURANT WITH OUTDOOR DINING AND GENERAL ALCOHOL SALES FOR ON-SITE CONSUMPTION WITHIN THE CENTENNIAL PLAZA, LOCATED AT 241 WEST FIFTH STREET (APN 202-0-104-41), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY FIFTH STREET PARTNERS, 340 ROSEWOOD AVENUE, SUITE D, CAMARILLO, CA 93010

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 06-510-5, a special use permit to allow the sale of general alcoholic beverages for on-site consumption in a restaurant with outdoor dining, filed by Fifth Street Partners in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, Section 15301 of the California Code of Regulations exempts the project from the requirements for the preparation of documents imposed by the California Environmental Quality Act; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the following circumstances exist:

1. That the proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. That the proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. That the site for the proposed project is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. That the site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. That the site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The presumption of undue concentration has been rebutted by a preponderance of the evidence, which shows that the establishment is in a retail center where restaurant establishments selling alcoholic beverages for consumption on the premises are appropriate.

7. With the attached conditions, the proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves this permit subject to the following conditions. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-544 of the Oxnard City Code.

STANDARD CONDITIONS OF APPROVAL

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic
PD	Police	B	Building Plan Checker
SC	Source Control	FD	Fire
PK	Parks	CE	Code Enforcement

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated September 10, 2006 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a major modification to the plans is approved by the Planning Commission. (PL, *G-2*)

3. By commencing any activity related to the project or using any structure authorized by this permit, applicant (as the context requires, the term "applicant" can refer to either the owner of the property, the lessee of the property, or the operator of the use permitted on the property by this resolution) accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
4. Applicant agrees, as a condition of adoption of this resolution, at applicant's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Applicant's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
5. Applicant shall record with the Ventura County Recorder a "Notice of Land Use Restrictions and Conditions" in a form acceptable to the City Attorney. Before the City issues building permits or allows applicant to occupy the project, applicant shall submit a copy of the recorded document to the Planning and Environmental Services Manager. (PL, G-8)
6. Applicant shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)

PLANNING CONDITIONS

7. Prior to issuance of building permits, applicant shall pay a document-imaging fee for the Planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, PL-26).
8. Applicant shall recess or screen roof heating and cooling systems and other exterior mechanical equipment from adjoining property and public streets, as required by this permit. Plumbing vents, ducts and other appurtenances protruding from the roof of structures shall be placed so that they will not be visible from the front of the property or other major public vantage points. Applicant shall include a note on the construction plumbing drawings of exterior elevations to indicate to contractors that roof features shall be grouped and located in the described manner. Roof vents shall be shown on construction drawings and painted to match roof material color. (PL/B, PL-41)
9. For any exterior utility meter panels, applicant shall paint such panels to match the structure upon which it is located. Such panels shall be located to take advantage of screening (e.g. landscaping or other building elements) from public right-of-ways, to the maximum extent feasible. (PL, PL-43)
10. Applicant shall install in public restrooms toilets that have automatic flush sensors. Such toilets shall be included on the plans submitted for a building permit and shall be maintained and in working order at all times. (PL, PL-44)

11. Applicant shall install individual mirrors above each sink in a public restroom to the satisfaction of the Planning and Environmental Services Manager. The details of such mirrors shall be approved prior to issuance of a building permit. Applicant shall remove graffiti from the mirrors or replace the mirrors within 24 hours of graffiti appearance. (PL, *PL-45*)
12. Before the City issues building permits, Applicant shall submit and obtain approval from the Planning and Environmental Sciences Manager of signs consistent with the approved master sign program for the project. Submittal shall indicate on the site plan the elevations, the size, placement, materials, and color of all proposed signs. (PL/ B, *PL-46*)
13. Applicant shall submit all details of the proposed exterior modifications to the Planning Division for review and recommendation of approval from the Downtown Design Review Committee (DDRC) prior to the issuance of building permits related to this permit. The details of the modifications shall be to the satisfaction of the Planning and Environmental Services Manager.
14. Applicant shall remove any and all graffiti from the project premises, including but not limited to graffiti within the building, such as in restrooms or fitting rooms, within 24 hours of its appearance. The surface of such areas shall be matched to blend in with the underlying colors and/or design, and shall not look like a paint patch.
15. This permit shall automatically be null and void 12 months from the date of issuance, unless Applicant has received from the State Department of Alcoholic Beverage Control (“ABC”) a license to sell alcoholic beverages on the project property. (PL)

POLICE CONDITIONS

16. Applicant and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of ABC license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
17. Applicant and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of ABC license granting and/or date of employment. (PD)
18. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Applicant shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)

19. When security personnel are present or required, applicant shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations.
20. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC license , or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
21. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area.
22. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Applicant shall at all times maintain records that reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
23. Applicant shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
24. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers that can be used for cooking or heating foods on the type heating device employed. (PL/PD)
25. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
26. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring businesses. (PD)

27. There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
28. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
29. Alcoholic beverages shall be served only in mugs, glasses or clear plastic cups. The service of alcoholic beverages in bottles or cans is strictly prohibited. (PD)
30. Sales of alcohol shall not occur between the hours of 1:00 a.m. and 6:00 a.m. (PL/PD)
31. Alcoholic beverages shall not be offered at significantly reduced prices that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Applicant shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
32. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts.
33. In the areas surrounding the business that are not otherwise licensed by the ABC for the service of alcohol, applicant shall post prominent, permanent signs indicating that loitering, open containers or the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under applicant's reasonable control. (PD)
34. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed through the ABC and the entire patio shall be adequately enclosed to the satisfaction of the Police Chief. Low or excessively wide spaced fencing will not be considered sufficient. (PD)
35. Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". (PD)
36. Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift.
37. Applicant shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 19, above, shall be adhered to regardless of where customers are seated. (PD)

38. The subject ABC license shall not be exchanged for any other type of ABC license without review and approval by the Police Chief or his designee, Planning Commission or City Council.
39. Upon any individual transfer (person-to-person) of the subject ABC license , or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review of the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems.
40. Any graffiti painted or marked upon the premises or on any adjacent area under the control of applicant shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
41. Applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which applicant has reasonable control. (PL/PD)
42. The area surrounding premises under the reasonable control of applicant (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
43. No new pay phone on the exterior of the premises shall be allowed and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
44. Applicant shall regularly police the area under applicant's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
45. Any rear door of the premises shall be equipped on the inside with an automatic locking device and shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
46. Applicant shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
47. Applicant shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
48. Applicant shall install height gauges at all exit doors prior to final inspection. (PD)
49. Prior to issuance of certificate of occupancy, applicant shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
50. Applicant shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601. (PD)

51. Applicant shall bolt down all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)
52. Applicant shall have drop-safes installed to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50). (PD)
53. Applicant shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register. (PD)
54. If the project property is already occupied or use has already been initiated, applicant shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-9)
55. A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

POLICE SPECIAL CONDITIONS

56. Any emergency exit gate/door on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The gate shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
57. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
58. There shall be no dancing or amplified music allowed on the patio.
59. The patio area shall not be used for large private parties or events that require the entire patio to be reserved exclusively for the private party.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 21st day of September, 2006, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Ronald R. Fischer, Chairman

ATTEST: _____
Susan L. Martin, Secretary