



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Justin Beranich, Assistant Planner

DATE: October 4, 2007

SUBJECT: Planning and Zoning Permit No. 07-510-4 (Special Use Permit), for entertainment and alcohol use at 401 South A Street.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 07-510-4 a Special Use Permit (SUP), subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to add entertainment and permit on-site beer and wine consumption at an existing restaurant, located on the southwest corner of A Street and Fourth Street (401 South A Street), within the Woolworth Building (APN 202-0-104-015). The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by David Feigin, 401 South A Street, Oxnard, CA 93030.
- 3) **Existing & Surrounding Land Uses:** The existing restaurant, known as the Experimental Café, is located within a two-story, 7,434 square foot multi-tenant building.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	CBD	Central Business District	Multi-tenant commercial building
North	CBD	Central Business District	Doctors Office
South	CBD	Central Business District	Movie Theater (Plaza Cinemas)
East	CBD	Central Business District	Office
West	CBD	Central Business District	Vacant

- 4) **General Plan Policies and Land Use Designation Conformance:** The General Plan and the zoning designations for the subject parcel is Central Business District, which are characterized by *“relatively intense retail and office land uses in the core area of the City’s downtown area”* (page V-58). Entertainment and the sale of alcoholic beverages for on-site consumption in an eating establishment may be permitted with a special use permit.

- 5) **Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "minor alteration of existing... structures" may be found to be exempt from the requirements of CEQA. The request is for entertainment and on-site consumption of beer and wine. There is no new development or expansion of development associated with this request. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and recommends that Planning Commission accept the Notice of Exemption (see Attachment C).
- 6) **Analysis:**
- a) **General Discussion:** The restaurant has a maximum capacity of 50 occupants. Current hours of operation are from 8:00a.m. - 3:00p.m. Monday through Wednesday and 8:00am - 1:00a.m Thursday, Friday and Saturday.
 - b) **Relevant Project and Property History, Related Permits:** On February 7, 1950, a building permit was issued for construction of the subject commercial building. Additional building permits have been issued over the years for various tenant improvements. In February 2004, a permit was issued for façade improvements. In June of 2005, a zone clearance was issued for office use by Vista Real Charter High School. In February 2006, the Planning Commission approved Special Use Permit No. 05-510-11 (Resolution 2006-08), allowing the sale of wine for off-site consumption at a grocery store (Tonalli), which previously occupied the tenant space. In January 2007, the applicant and business owner opened The Experimental Café at this location. Currently, a Downtown Design Review Permit is under review by the Planning Manager, which proposes adding new awnings to the north and east elevations and establishing a master sign program.
 - c) **Site Design/Floor Plan Analysis:** The café is located on the first floor of the Woolworth Building and comprises 2,278 square feet of floor area. An entry at the corner provides excellent frontage on both Fourth and A Streets. The dining room is comprised of eight fixed booths and a six-seat service bar, which separates the restaurant from the kitchen area. There is a raised platform along the east side of the tenant space. This area can be used for patron seating or entertainment. Restrooms are situated in a common hallway and are accessed through a door in the rear of the dining room. The request to serve beer and wine will not increase the need for parking. At this time there is no outdoor dining at this site, nor is any proposed.
 - d) **Request for Entertainment:** The raised platform area measures 6 feet by 17 feet, and will serve as the stage when entertainment is scheduled. Entertainment will consist of small jazz bands, piano players, acoustic guitar players and other similar types of musical entertainment. The attached resolution contains conditions to regulate the entertainment associated with this permit.

- e) ***Request for Sale of Alcoholic Beverages for on-site consumption:*** A license for Type 41, On-sale Beer and Wine - Eating Place, is pending with the State Department of Alcoholic Beverage Control (ABC) for the restaurant.

The Oxnard Police Department provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment D). 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. There is one similar use within 350 feet of the proposed site, which is locally considered to be an issue of undue concentration. Within 1000 feet of the project site there are ten additional establishments selling alcoholic beverages.

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. 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 180 during the same 12-month time period. This is 29% 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 subject site and along Oxnard Boulevard between Third and Sixth Streets. Approximately 34% of the disturbance-related calls in this area listed alcohol as a contributing factor.

Additional Police Input- The Police Department is concerned with the site's proximity to the Vista Real Charter School, which is on the second floor of the Woolworth Building. There are more than 400 students enrolled in the program and each student must visit the site at least once weekly to follow up with teachers and tutors. Approximately 500-600 students come and go from the campus weekly. The school has a staff of approximately 20 persons at any given time and maintains a very structured environment that is conducive to learning.

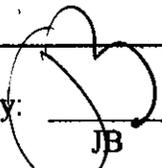
State law prohibits the presence of alcohol on all public campuses and it can be a misdemeanor to violate the law (Business and Professions Code section 25608). At the time of the writing of this report, State ABC officials are researching to determine if Vista Real is considered a school by their definition. If the State determines it is not a violation and would issue the ABC License, the Police Department would not have any further objections.

- 7) **Police Outreach to the Community:** The Responsible Alcohol Policy Action Coalition (RAPAC) has discussed this proposal at their monthly meetings and echoed the concern about the number of outlets already downtown. They did not oppose the intended use but felt that instead of adding new outlets to the already oversaturated area, that they transfer an ABC license from an existing outlet in the CBD. The Five Points North Neighborhood was also contacted and had no further objections or concerns other than the high number of alcohol outlets in the area. It should

be noted that at the time these two organizations reviewed the proposal and made their comments, they were not aware of the Vista Real School office located upstairs from the site. The Police Department plans to update these groups and allow them an opportunity to voice any additional concerns at upcoming public hearings. RAPAC and Five Points North neighborhood contributed to, and supported the attached conditions.

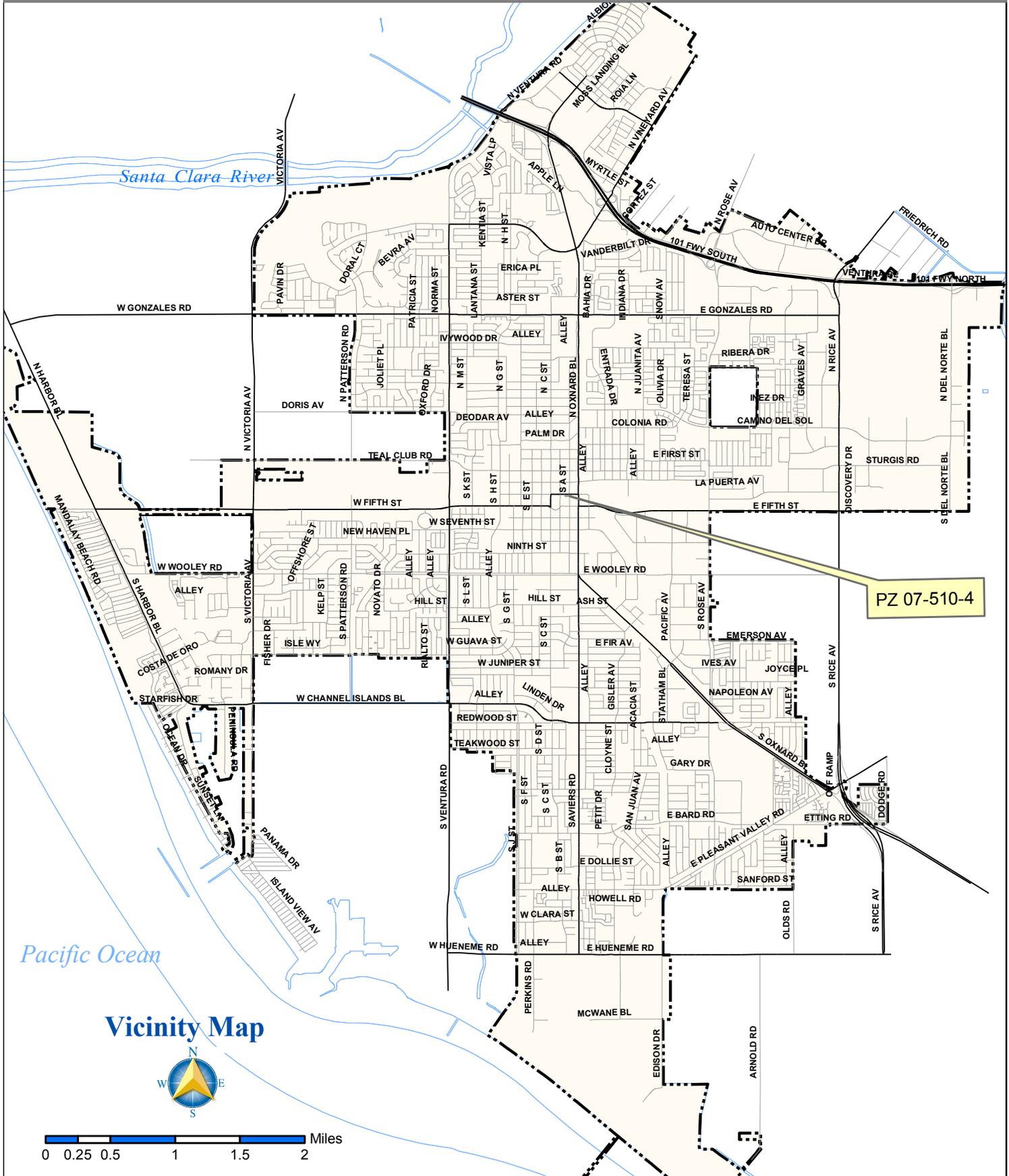
8) **Community Input:** The proposed project was agendized for a Community Workshop on September 17, 2007. The Applicant mailed notices to the Wilson Neighborhood and posted the site for the Community Workshop on September 7, 2007. No one from the community attended the workshop.

- 9) **Attachments:**
- A. Maps (Vicinity, General Plan, Zoning)
 - B. Reduced Project Plans
 - C. Notice Of Exemption
 - D. Police Report
 - E. Resolution

Prepared by: 
Approved by: 
JB
SM

Attachment A

Maps (Vicinity, General Plan, Zoning)

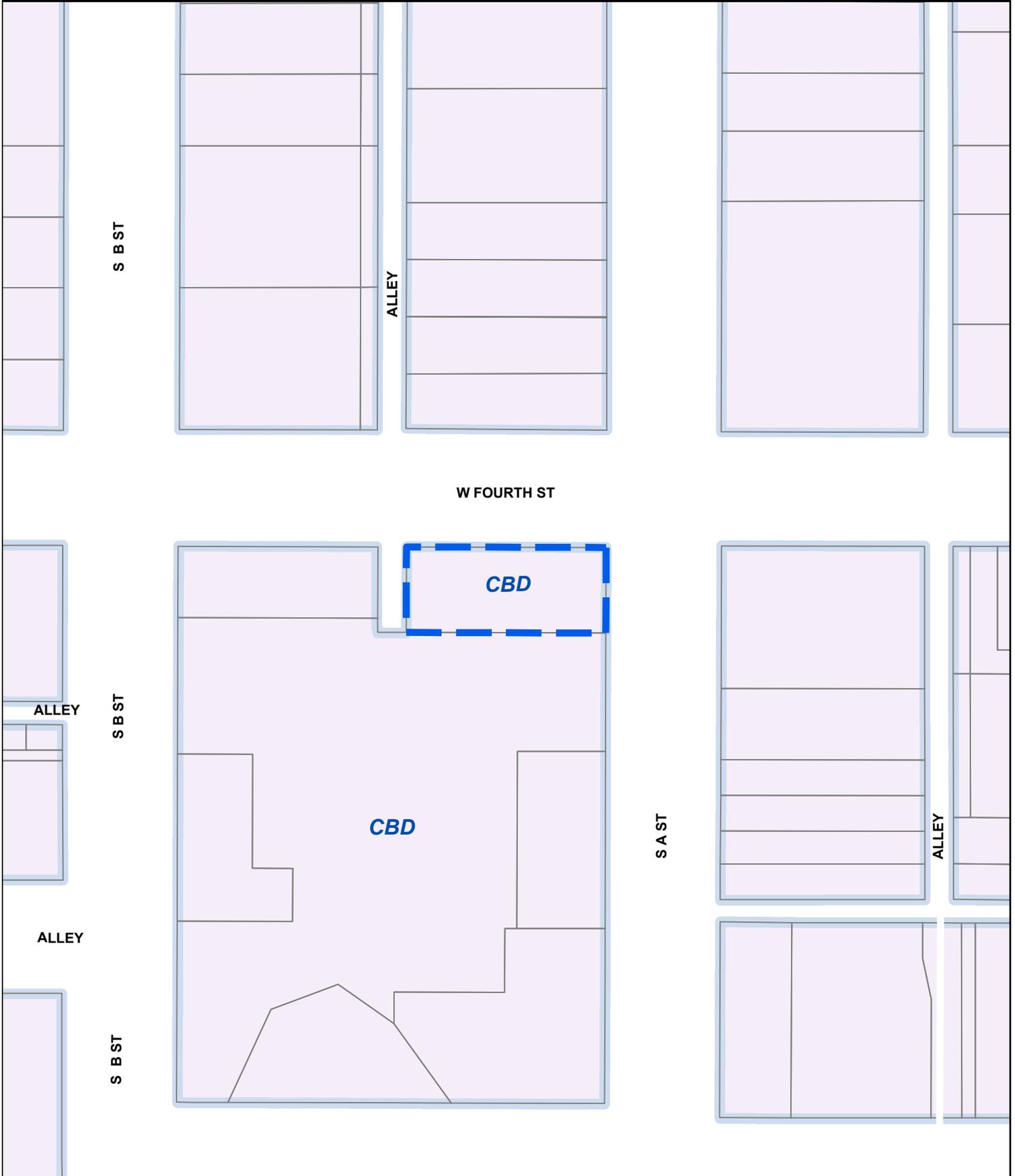


PZ 07-510-4

Vicinity Map



0 0.25 0.5 1 1.5 2 Miles



Oxnard Planning
September 25, 2007

PZ 07-510-4
Location: 401 S A St
APN: 202010401
David Feigin

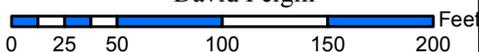


General Plan Map





PZ 07-510-4
Location: 401 S A St
APN: 202010401
David Feigin



Zone Map



Attachment B

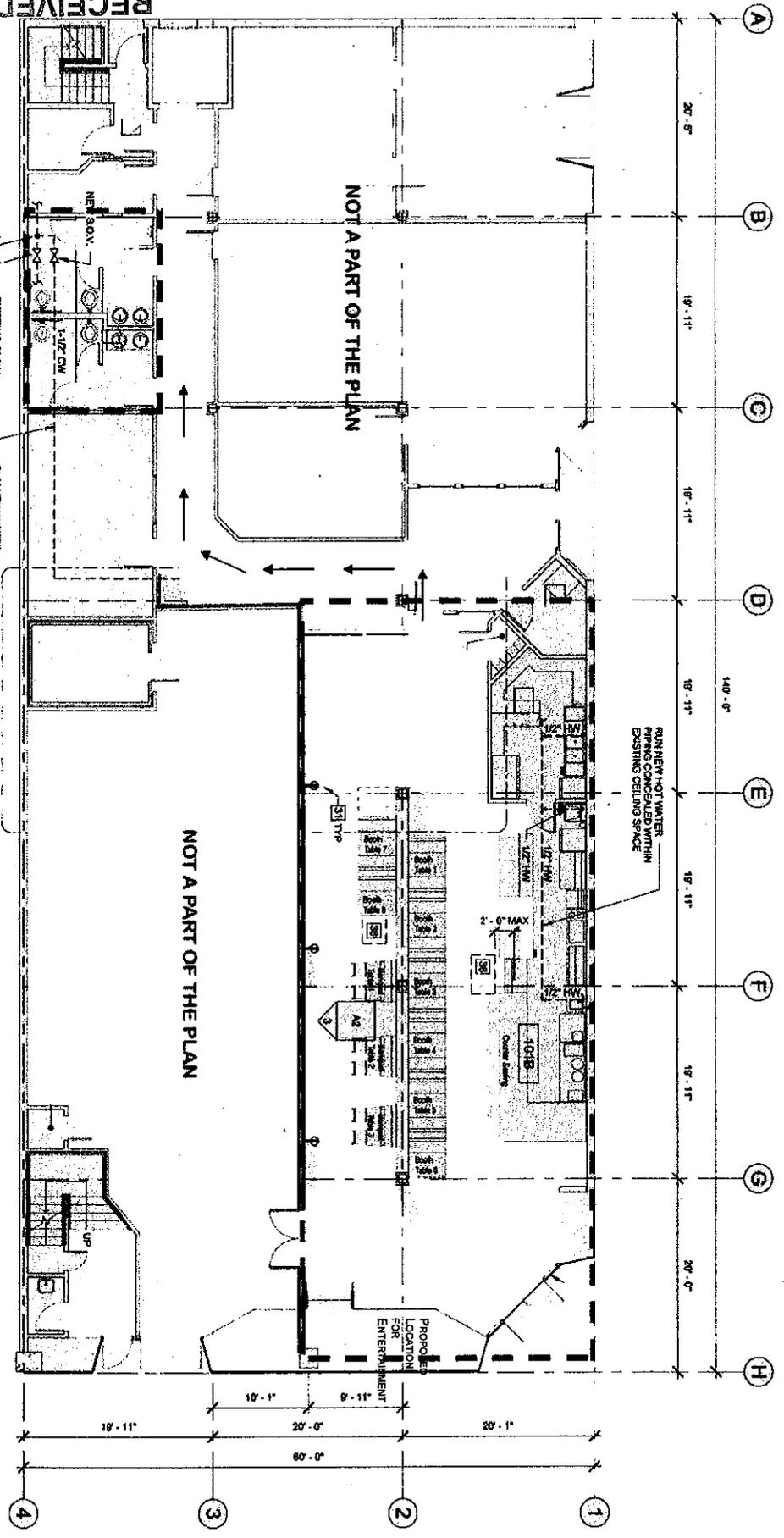
Reduced Project Plans

Occupancy Load: 49

RECEIVED
MAY 22 2007
PLANNING DIVISION
CITY OF OXNARD

1 OVERALL FIRST FLOOR PLAN
1/8" = 1'-0"

THE WOOLWORTH BUILDING, INC. - 401 SOUTH A STREET
SUP (PZ 07-510-04)
FLOOR PLAN



Attachment C

Notice Of Exemption



NOTICE OF EXEMPTION

Project Description:

PLANNING & ZONING PERMIT NO. 07-510-4, a request to add entertainment and permit on-site beer and wine consumption at an existing restaurant, located on the southwest corner of A Street and Fourth Street (401 South A Street), within the Woolworth Building (APN 202-0-104-015). The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by David Feigin, 401 South A Street, Oxnard, CA 93030.

Finding:

The Planning 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, 14 Cal. Code of Regs. 15270]
- No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

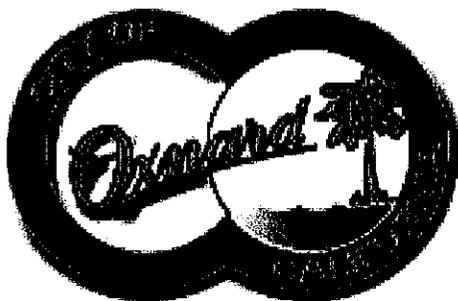
Supporting Reasons: In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "minor alteration of existing... structures" may be found to be exempt from the requirements of CEQA. The request is for entertainment and on-site consumption of beer and wine. There is no new development or expansion of development associated with this request. 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 Division Manager

Attachment D

Police Report



Police Department

John Crombach, Police Chief

Date: July 17, 2007
To: Justin Beranich, Planner
From: Cliff Waer, Alcohol Compliance Officer
Subject: 401 S. "A" Street (Woolworth Bldg.)

Re: PZ 07-510-04

Site Information:

The proposed site is in an existing, occupied two-story building (known as the Woolworth's Building) located on the southwest corner of Fourth Street and "A" Street. The location is presently being operated as a restaurant/deli called the Experimental Café with a maximum occupancy of approximately 50. The business does not currently sell alcohol but, prior to this application, had allowed customers to bring in their own alcoholic beverages to consume on the premises.

The site 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 second floor consists of office space and a charter high school. The nearest residences are approximately 1000' away, both to the east and west of the site. The applicant has requested to add the service of alcohol to their menu and obtain a California Alcoholic Beverage Control (ABC) License Type-41 which is an On-Sale License that allows for the sale of beer and wine with food.

Alcohol outlets located within 350' of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	BUSINESS TYPE	ALCOHOL ALLOWED
1. Casa Escobar	455 S. "A" Street	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits

Alcohol outlets located within 1000' of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	BUSINESS TYPE	ALCOHOL ALLOWED
1. Meson Viejo	124 E. Fifth St.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Nuevo Carmelita	113 E. Fifth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
3. Capri Bar	140 E. Sixth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
4. Ruby's Café	350 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
5. Bahia Del Mar	349 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
6. La Mexicana Market	601 S. "A" St.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
7. Circle 9 Market	521 S. "C" St.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
8. La Gloria Market	430 S. Oxnard Blvd.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
9. Capriccios	221 W. Fifth St.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
10. 5 th Street Steakhouse	241 W. Fifth St.	Type 48	On-Sale General	Restaurant	Beer, Wine and Spirits

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 180 during the same 12-month time period. **This is 29% 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 Sixth Street. Approximately 34% of the disturbance-related calls in this area listed alcohol as a contributing factor.

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:

Among the main concerns of the Police Department is the sites proximity to a charter high school known as Vista Real. This charter school is directly upstairs from the proposed site and is a state funded program that assists students who have had difficulties succeeding in the traditional school settings. The principal, Nancy Spencer, describes many of the students as "high-risk" and that oftentimes, this program is their final option to receive a public education. There are more than 400 students enrolled in the program and each student must visit the site at least once weekly to follow up with teachers and tutors. Approximately 500-600 students come and go from the campus weekly. The school has a staff of approximately 20 persons at any given time and maintains a very structured environment that is conducive to learning.

The concern of the Police Department is not so much the behavior or conflict with the students while they are on campus; rather, it is the conduct of and exposure to these high-risk students when leaving the school or loitering nearby after visiting the campus. Officers working downtown are familiar with the activity of the school and report some nuisance activity related to students loitering in the area. Most of the activity reported is relatively minor in nature and similar to experiences at traditional school settings; however, the addition of an alcohol outlet just outside the door of the campus could increase the risk of these students using the business as a place to socialize and increase the potential for policing problems. Research has shown that youth exposure and easy access to alcohol significantly increases the risk for minors consuming alcohol and should be carefully considered when reviewing new alcohol outlets.

Senior Officer Scott Swenson, the Beat Coordinator for the downtown area, shared the concern about youth exposure and supported the standard conditions to mitigate any potential problems. He was also concerned about the technical legalities of allowing an alcohol outlet on virtually the same premises as a school campus. State law prohibits the presence of alcohol on all public campuses and it can be a misdemeanor to violate the law (Business and Professions Code section 25608). At the time of the writing of this report, this issue was being considered by State ABC officials. If the State determines it is not a violation and would issue the ABC License, The Police Department would not have any further objections.

Lastly, the Police Department continues to be cautious about the density of alcohol outlets in the downtown area or Central Business District (CBD). There are more than 35 alcohol outlets in the CBD and the area has the highest concentration of alcohol outlets in the city. While the proposed use would normally be a very low risk type of alcohol outlet, the fact that there is a high density of similar uses and a crime rate that is still above average, together with the close proximity to a youth facility is a cause for concern and should not be taken lightly.

Community Input:

The Responsible Alcohol Policy Action Coalition (RAPAC) has discussed this proposal at their monthly meetings and echoed the concern about the number of outlets already downtown. They did not oppose the intended use but felt that instead of adding new outlets to the already oversaturated area, that they transfer an ABC license from an existing outlet in the CBD. The Five Points North Neighborhood was also contacted and had no further objections or concerns other than the density issue. It should be noted that at the time these two organizations reviewed the proposal and made their comments, they were not aware of the charter school located upstairs from the site. The Police Department plans to update these groups and allow them an opportunity

to voice any additional concerns at upcoming public hearings. RAPAC and Five Points North neighborhood contributed to, and supported the attached conditions.

The Principal of the Vista Real charter school was asked about this proposed use and if she had any concerns. She said that she did not think the availability of alcohol would have a negative impact on her students or the activities at the campus. She said there may be a potential for the students, as they are coming to and from the facility, to gather or cause problems for the business but added that it is not the typical environment that teens tend to be drawn to. She recommended that the business adopt a strict policy of checking identification and closely monitoring the customers to ensure there is not excessive loitering or problems created by passing students.

Conclusion:

The statistical analysis shows the area to have a crime rate that is 29% greater than the city-wide average and that the downtown area has an inordinately high number of active ABC licenses. Some of those were issued more than 20 years ago and have no preventative conditions of operation attached to them since Special Use Permits were not required at the time they obtained their ABC license.

There is one similar use within 350 feet of the proposed site which is locally considered to be an issue of undue concentration. The guidelines for the Department of Alcoholic Beverage Control (ABC) use census tracts to determine the "allowable" number of alcohol outlets in a particular census tract. In this case, the census tract surrounding this proposal allows for only one On-Sale Outlet. Currently however, that same census district actually has 25 active On-Sale licenses. In other words, the area has an undue concentration of alcohol outlets by both local and state standards. That being said, it is understood that business districts, such as the area surrounding the proposed site, often include many restaurants that serve alcoholic beverages and it is not uncommon to have technical issues of undue concentration. The concern of the Police Department, and echoed by the community, is that we need to be careful not to irresponsibly or excessively increase alcohol outlet density to the point that it significantly contributes community and policing problems.

Other than the density issue, the potential conflict with the charter school students was carefully considered. The substantial numbers of students, many of whom are considered high risk or troubled teens, are significant concerns. The fact that the principal of the school was not opposed to the use and did not think there would be a major conflict was one of the primary factors that influenced the Police Department not to oppose this use. In addition, the proposed business is relatively small and can only accommodate approximately 50 customers at a time. This should further reduce their risks of experiencing problems as such a small number of guests can be more easily monitored by staff.

Similar uses, when responsibly operated and adequately conditioned, do not typically increase policing problems. While there are many concerns with this proposal and we are cautious about the sales of alcohol at this site, The Police Department believes that the potential negative impacts can be effectively mitigated through the adoption of all of the conditions of operation detailed 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)

Attachment E

Resolution

RESOLUTION 2007 – (PZ 07-510-4)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 07-510-4 (SPECIAL USE PERMIT), TO ALLOW ENTERTAINMENT AND THE ON-SITE CONSUMPTION OF BEER AND WINE (ABC LICENSE TYPE 41) IN AN EXISTING CAFE LOCATED AT 401 S. A STREET, (APN 202-0-104-015), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DAVID FEIGIN, 401 S. A STREET, OXNARD, CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 07-510-4, a special use permit to allow entertainment and the on-site sale of beer and wine in an existing cafe located at 401 S. A Street, filed by David Feigin, in accordance with sections 16-530 through 551 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. 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 16-530 through 551 of the Oxnard City Code.

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 Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning and Environmental Services Division (“Planning Division”), and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated October 4, 2007 (“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 minor modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. By commencing any activity related to the project or using any structure authorized by this permit, Developer 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. Developer agrees, as a condition of adoption of this resolution, at Developer’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. Developer'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. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
6. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
7. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
8. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)
9. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
10. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

11. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)
12. If the project property is already occupied or use has already been initiated, Developer shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-6)
13. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, PL-7)
14. Within 30 days of approval of this permit, Developer 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-16).

15. Within 30 days of approval of this permit, Developer shall provide to the Planning Division Manager a disk in DWG format of a 100-foot scale site plan of the project as approved. (PL, PL-50)

PLANNING DIVISION SPECIAL CONDITIONS

16. This permit shall automatically be null and void 12 months from the date of issuance, unless Developer has received from the State Department of Alcoholic Beverage Control a license to sell alcoholic beverages on the project property. (PL)

POLICE STANDARD CONDITIONS

17. 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)
18. 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)
19. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers, who are waiting to be seated for the service of food, are served alcoholic beverages in any lounge, bar or staging area. 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)
20. 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.
21. 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)
22. 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.

23. 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)
24. 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)
25. 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)
26. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
27. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring businesses. (PD)
28. 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)
29. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
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. 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)
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, 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)
34. 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)

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. 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 21, above, shall be adhered to regardless of where customers are seated. (PD)
38. 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.
39. 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.
40. 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)
41. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
42. 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)
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. Permittee shall regularly police the area under Permittee'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. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)

47. 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)
48. Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
49. 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)
50. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601. (PD)
51. 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)
52. 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)
53. 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)
54. 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)
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)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 4th day of October, 2007, by the following vote:

AYES: Commissioners
NOES: Commissioners
ABSENT: Commissioners

Dr. Sonny Okada, Chairman

ATTEST: _____
Susan L. Martin, Secretary