



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Linda Windsor, Associate Planner

DATE: August 21, 2008

SUBJECT: Planning and Zoning Permit No. 08-510-06 (Coastal Development Services)
Located at 1601 South Victoria Avenue.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 08-510-06 for a coastal development permit, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to allow on-site sales of beer, wine, and spirits with meals (ABC License Type 47) in a newly established 6500 square foot restaurant (Yolanda's) located at 1601 South Victoria Avenue, within Phase II of the Seabridge Shopping Center (APN: 188-0-272-215), in the Mandalay Bay Specific Plan area, Channel Islands Neighborhood, and adjacent to the Via Marina Neighborhood, as designated in the Oxnard General Plan. Filed by designated Attorneys in Fact Rod and Yolanda Gietzen, 1363 Donlon Street #20, Ventura CA 93003.
- 3) **Existing & Surrounding Land Uses:** The subject site is located within the recently completed portion of the Seabridge shopping center. The space currently being completed has not been previously occupied

| LOCATION | ZONING | GENERAL PLAN | EXISTING LAND USE |
|--------------|---|-------------------------|--|
| Project Site | CPC (Coastal Planned Community) | VS (Visitor Serving) | Vacant tenant space in Seabridge Shopping Center |
| North | CPC | VS (Visitor Serving) | Seabridge Shopping Center |
| South | CPC (Coastal Planned Community) | VS (Visitor Serving) | Seabridge Shopping Center |
| East | R-3-PD (garden apartment planned development) | RM (Residential Medium) | Townhomes (across Victoria Avenue) |
| West | CPC | VS (Visitor Serving) | Waterway |

- 4) **Background Information:** The Planning Commission approved Resolution No. 02-106 on December 5, 2002, approving a coastal development permit to allow construction of the

- 4) Background Information:** The Planning Commission approved Resolution No. 02-106 on December 5, 2002, approving a coastal development permit to allow construction of the Seabridge planned community on 135 acres within the Mandalay Bay Specific Plan area. A tentative subdivision map and development agreement were also approved in conjunction with the coastal development permit. The Seabridge Shopping Center was approved as part of the development. Several minor modifications have been approved for the various sections of Seabridge, as well as several alcohol use permits for restaurants within the two portions of the shopping center.
- 5) Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "existing structures" may be found to be exempt from the requirements of CEQA. This proposal consists of adding alcohol sales to an existing restaurant, as part of a shopping center approved within the Seabridge planned community. 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 owners are completing the tenant improvements for the Yolanda's restaurant. The Yolanda's restaurant operated since 1982 at Saviers Road and Channel Islands Boulevard, and the owners have recently closed that location in preparation of their new restaurant at the subject location. Yolanda's on Saviers Road operated with a Type 47 alcohol license, which the applicant has retained for the new restaurant. The Coastal Zoning regulations require approval of a coastal development permit for all new alcohol sales, regardless of the existence of an ABC license at another location within the City.

Operating hours for this restaurant would be 11 am to 10 pm every day, with 50 to 60 employees, and approximately 10 to 15 employees per shift.

Yolanda's Restaurant will occupy a single 6500 square foot suite within Phase II of the Seabridge Shopping Center, with approximately 1500 square feet of outdoor dining area on the south side of the space. The main entrance faces southeast, toward the parking area, and other doors lead to the outdoor dining area and the walkway along the waterway. A 5 foot tall wall with Plexiglas in the upper 2 feet separates the outdoor dining area from the walkway.

- b) General Plan Consistency:** The General/Coastal Plan and zoning land use designation for the subject property is Mandalay Specific Plan and the proposed use is consistent with the project site's zoning designation of Coastal Planned Community (CPC). The CPC permits a variety of commercial retail/service uses consistent with the Coastal Neighborhood Commercial and Coastal Visitor-Serving Commercial zones. Restaurants are listed as a principally permitted use; however, ancillary sales of alcoholic

beverages require the approval of a coastal development permit. Approval of this coastal development permit is consistent with the policies and standards of the General/Coastal Plan and the CPC zoning designation.

- c) **Request for Sale of Alcoholic Beverages for On-site Consumption:** The applicant has filed an application with the Department of Alcoholic Beverage Control (ABC) for transfer of their Type 47 License to the subject location, and is waiting for City of Oxnard approval of this coastal development permit prior to opening for business. The Type 47 License (On-sale Beer, Wine and Spirits – Eating Place) allows alcohol sales in conjunction with a restaurant.
- d) **Police Department Review:** The Police Department reviewed the proposed alcohol use as required by City Council Resolution No. 11,896 for sale of alcoholic beverages. The Police Department's report (Attachment D) 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 coastal development permit is likely to significantly aggravate policing problems.
- i) **Concentration of Alcohol Sales:** There is one similar use within 350 feet of the site (Me-n-Ed's Pizza) and two alcohol outlets within 1000 feet (Vons Grocery -- Off-sale General -- and Old Dublin Pub -- On-Sale General Eating Place).
- ii) **Crime Statistics 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 126.

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 99 during the same 12-month time period. This is 21% lower than the average crime rate citywide. The heaviest concentration of incidents occurred across Victoria Ave. near the more densely populated apartments and condominiums. The majority of events were thefts or other property-related crimes and the area is generally not considered a police problem. The numbers of disturbance-related incidents that list alcohol as a contributing factor are below the citywide average.

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, sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct

- iii) **Additional Police Input:** The Police Department has no serious concerns about adding an alcohol outlet in this particular area other than to note that there will likely be more outlets proposed as the shopping center is fully occupied and at that time, density may become an issue.

The area to the south of the proposed site had previously experienced a run of property crimes, many of which were associated with the construction site itself. The most recent statistics indicate that the problem has subsided as the site development nears completion.

This particular development is situated alongside the newly constructed bay and has outdoor seating along the walkways and common areas throughout the complex. The floor plan for the restaurant indicates there is a substantial amount of outdoor seating (1500 sq. ft.) on the south and west sides of the building overlooking the bay. Allowing outdoor seating where alcohol is being served can often create security concerns if there is not adequate separation between customers and non-customers. The applicant is proposing to construct a short block wall around the patio that is capped with a transparent material to block the wind and will be at least five feet high. As proposed, this wall/windscreen should adequately secure the patio and sufficiently addresses the police concerns.

The rear door on the west side that opens to the common areas could also present some problems if the door is to be used for customer entry or exit. It is often difficult for staff to effectively monitor multiple entry points and managing customer behavior becomes an issue. This door should be maintained as an emergency exit only and have appropriate hardware to warn employees of an unauthorized entry or exit.

Members of the Responsible Alcohol Policy Action Coalition (RAPAC) discussed this proposal at their monthly meetings and had no serious concerns with this proposal. Members echoed the police concerns and added that outdoor activity should be limited to prevent disruption to neighboring uses. They suggested that the outdoor areas not be permitted to allow amplified music or live entertainment to reduce the potential for problems.

- iv) **Conclusion:** The statistical analysis shows the area to have a crime rate that is 21% lower than the city-wide average with most of the incidents being property crimes and very few violent or personal crimes. The Police Department does not consider this area to be a policing problem.

There is one similar use within 350 feet so there is a local issue of undue concentration. The presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where restaurant establishments selling alcoholic beverages for consumption on the premises are appropriate. There are two alcohol outlets located within 1000 feet of the site and there is very likely to be a few more similar uses as other spaces become occupied. According to Department of Alcoholic Beverage Control guidelines, there is no issue of undue concentration on the state level.

The primary issue regarding this proposal is the outdoor seating which has been mitigated by the applicant's proposal to surround the site with a five-foot fence. Also, this location has both front and rear customer access; however, the Police Department does not recommend the use of a rear door for customer access as it creates a more difficult environment for employees to monitor.

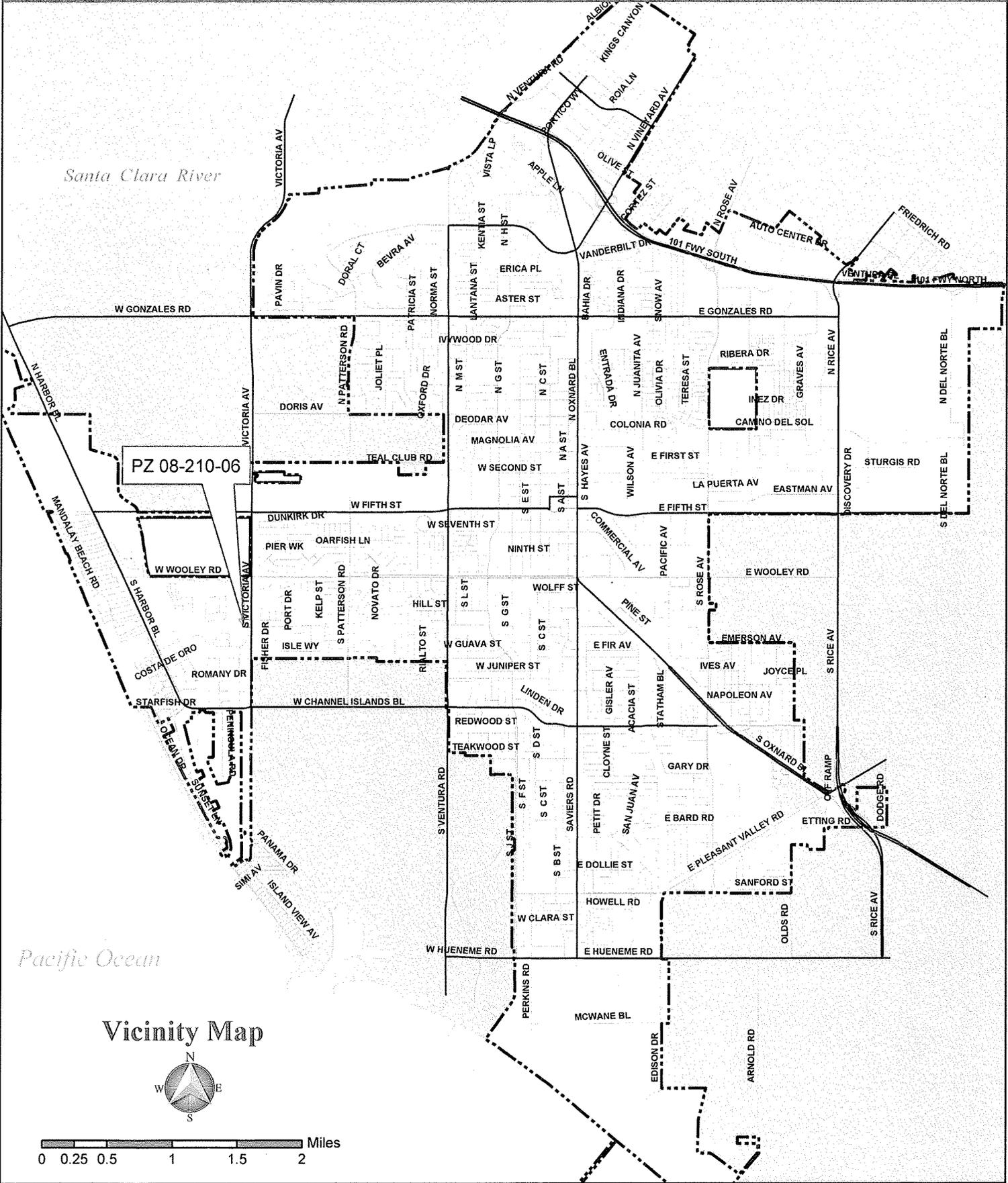
The Police Department's experience is that the proposed license (Type 47 - Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly. The Police Department's standard and special recommended operating conditions have been incorporated into the attached Planning Commission resolution.

- 7) Community Workshop:** On August 8, 2008, the applicant mailed notices of the Community Workshop meeting to all property owners within the Channel Islands and Via Marina Neighborhood. The applicant also provided notice on the project site with a brief description of the project and contact information for the Community Workshop, conducted on August 18, 2008.
- 8) Appeal Procedure:** In accordance with Section 17-58 of the City Code, the Planning Commission's decision may be appealed to the City Council within 18 days.

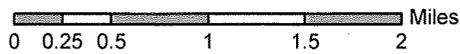
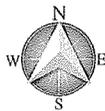
Attachments:

- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Police Department Report
- E. Resolution

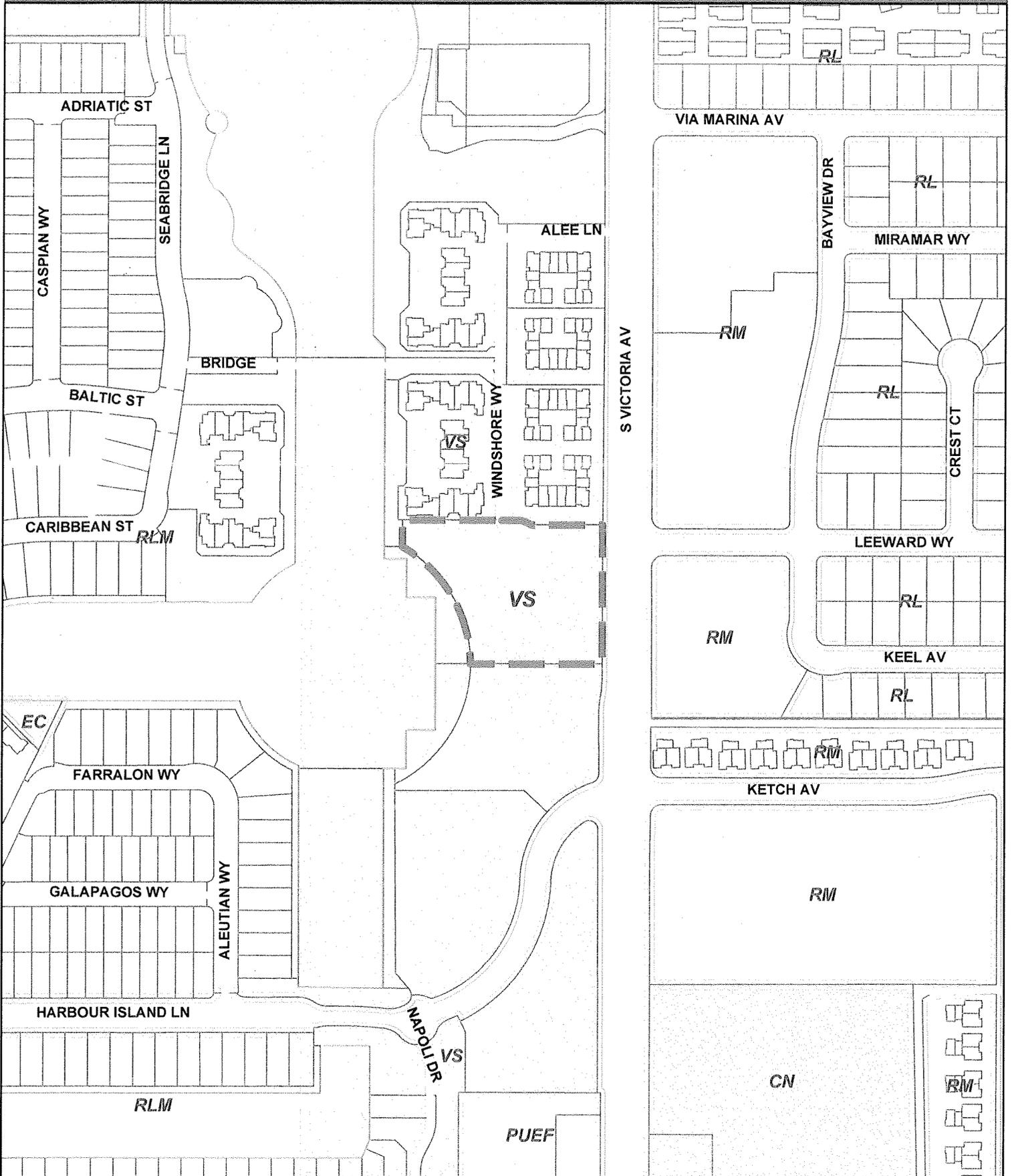
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| Prepared by: <u>LJW</u> LJW |
| Approved by: <u>SM</u> SM |



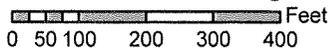
Vicinity Map



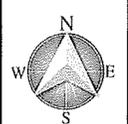
General Plan Map



PZ 08-510-06
 Location: 1601 S. Victoria Av
 APN: 188027220
 Yolanda's at SeaBridge



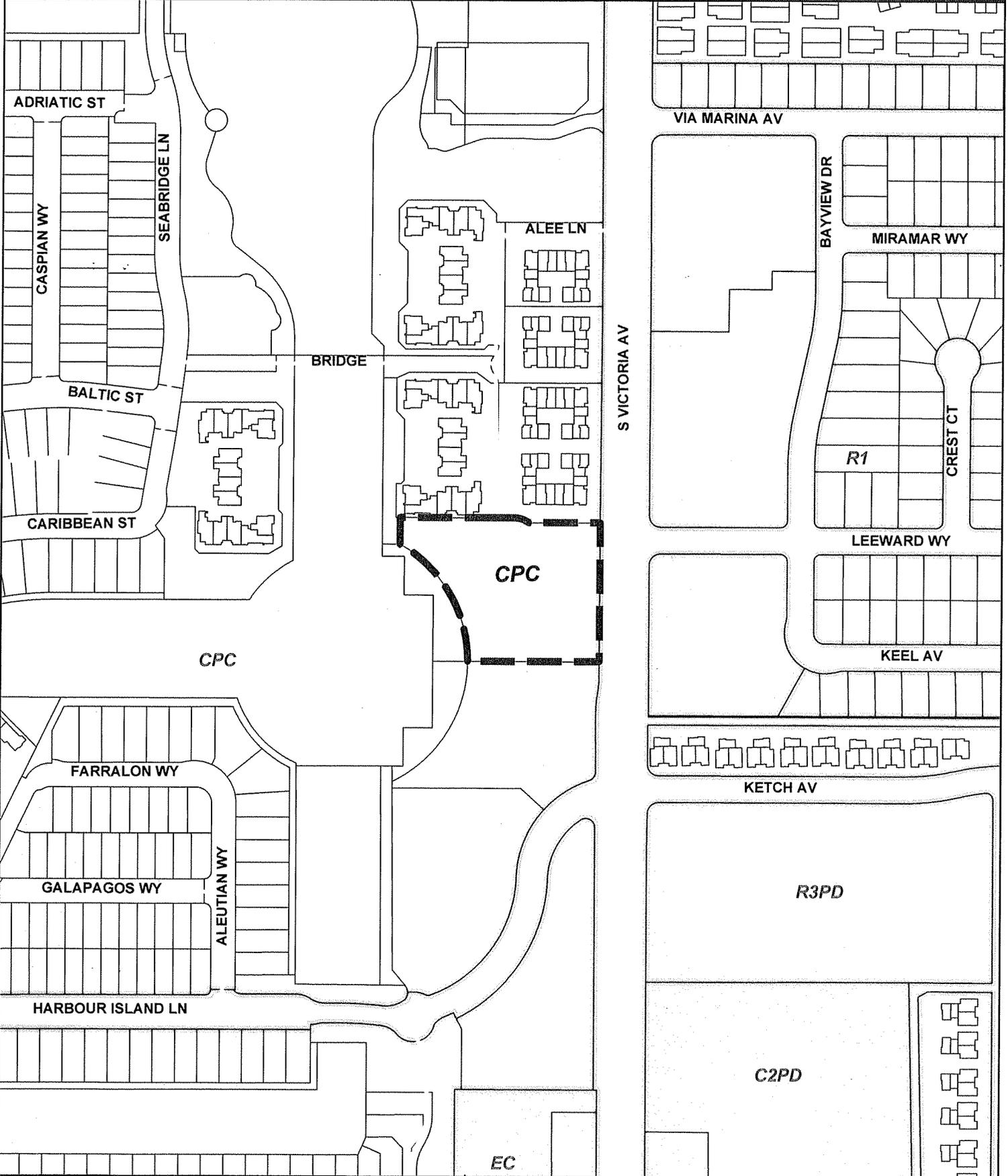
General Plan Map



1:3,425



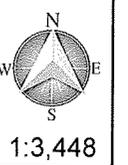
Zone Map

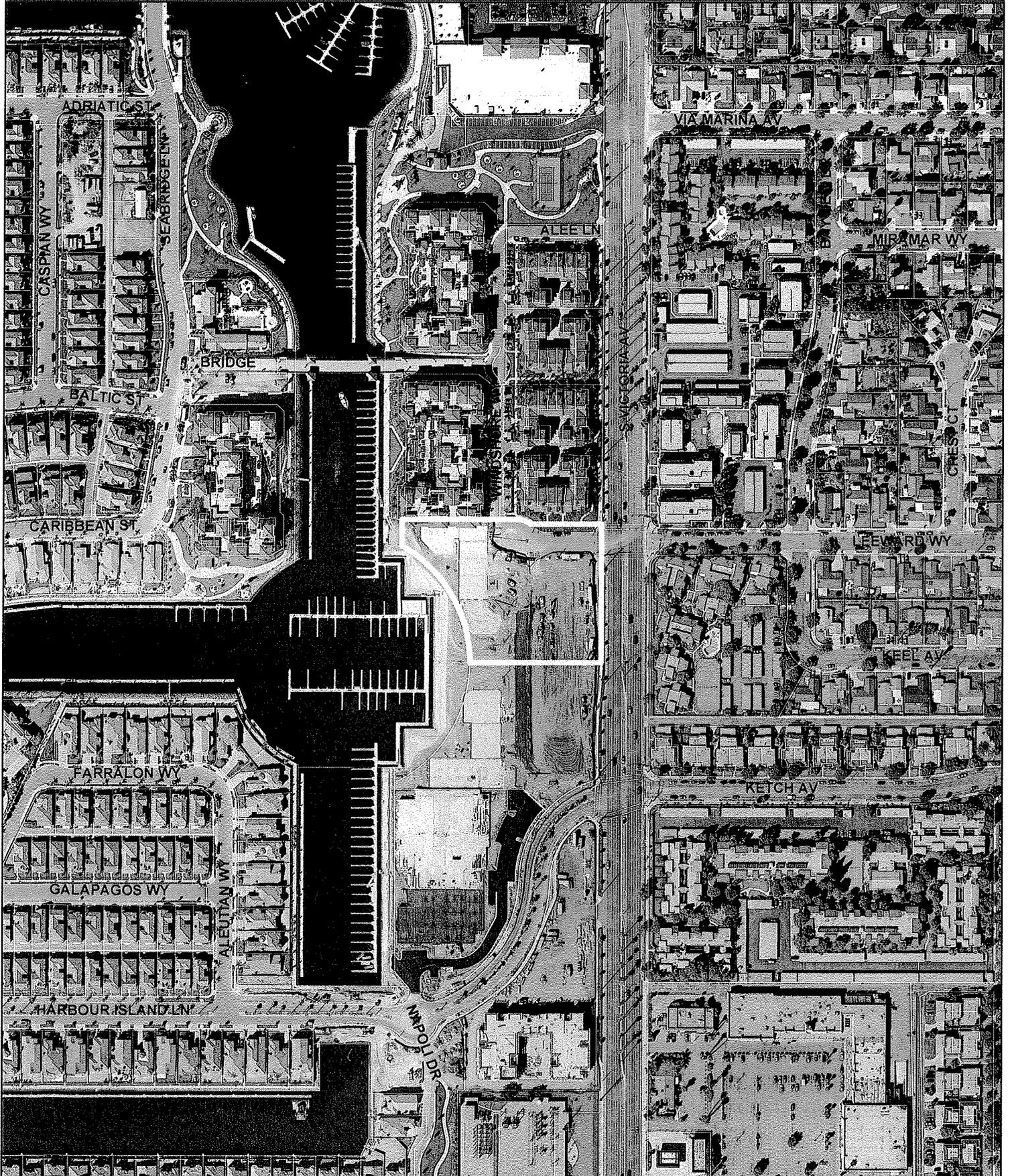


PZ 08-510-06
Location: 1601 S. Victoria Av
APN: 1820272215
Yolanda's At SeaBridge

0 62.5 125 250 375 500 Feet

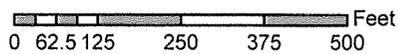
Zone Map





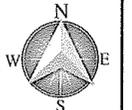
Oxnard Planning
August 1, 2008

PZ 08-510-06
Location: 1601 S. Victoria Av
APN: 188027220
Yolanda's at SeaBridge

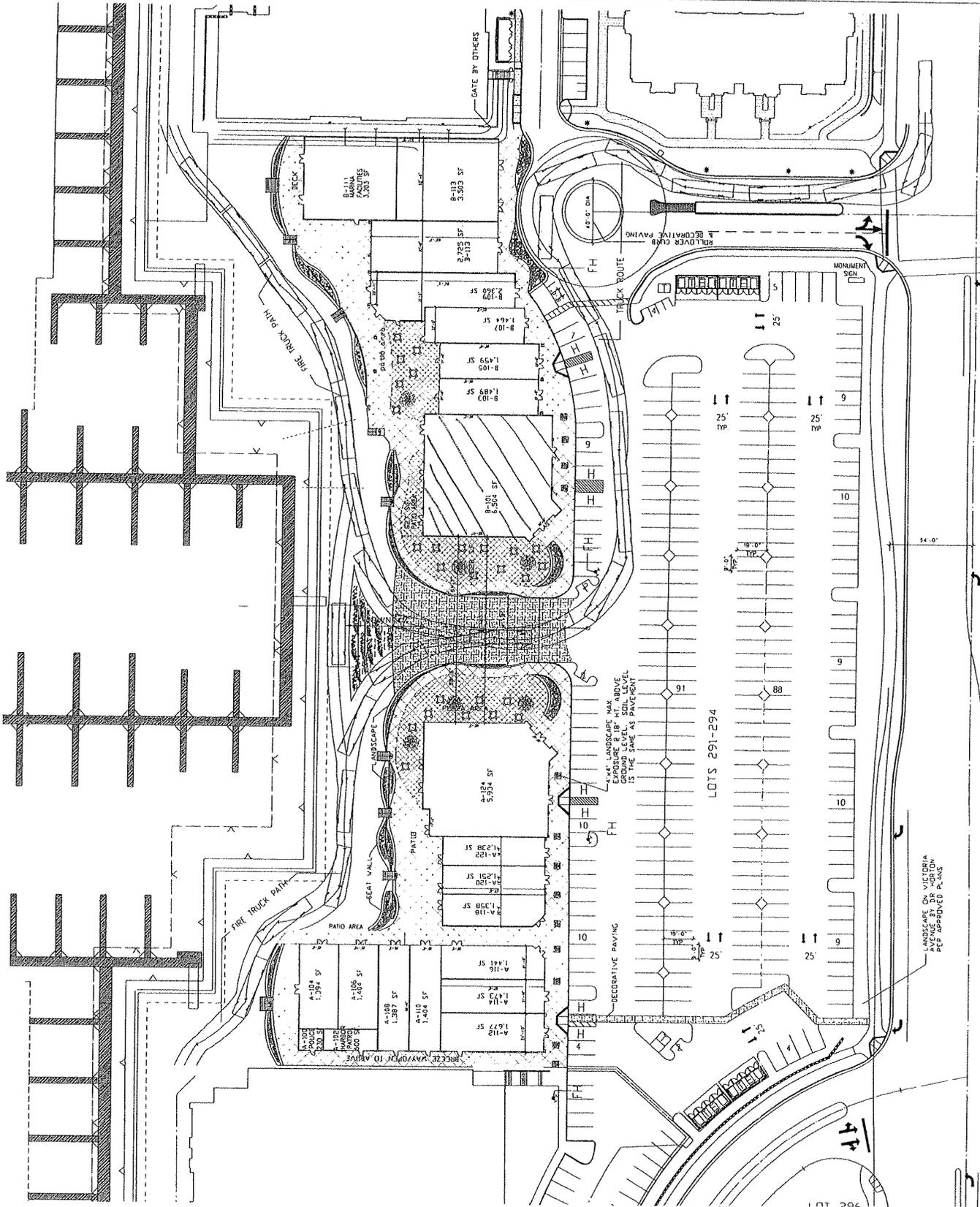


Aerial Map

2003 Aerial



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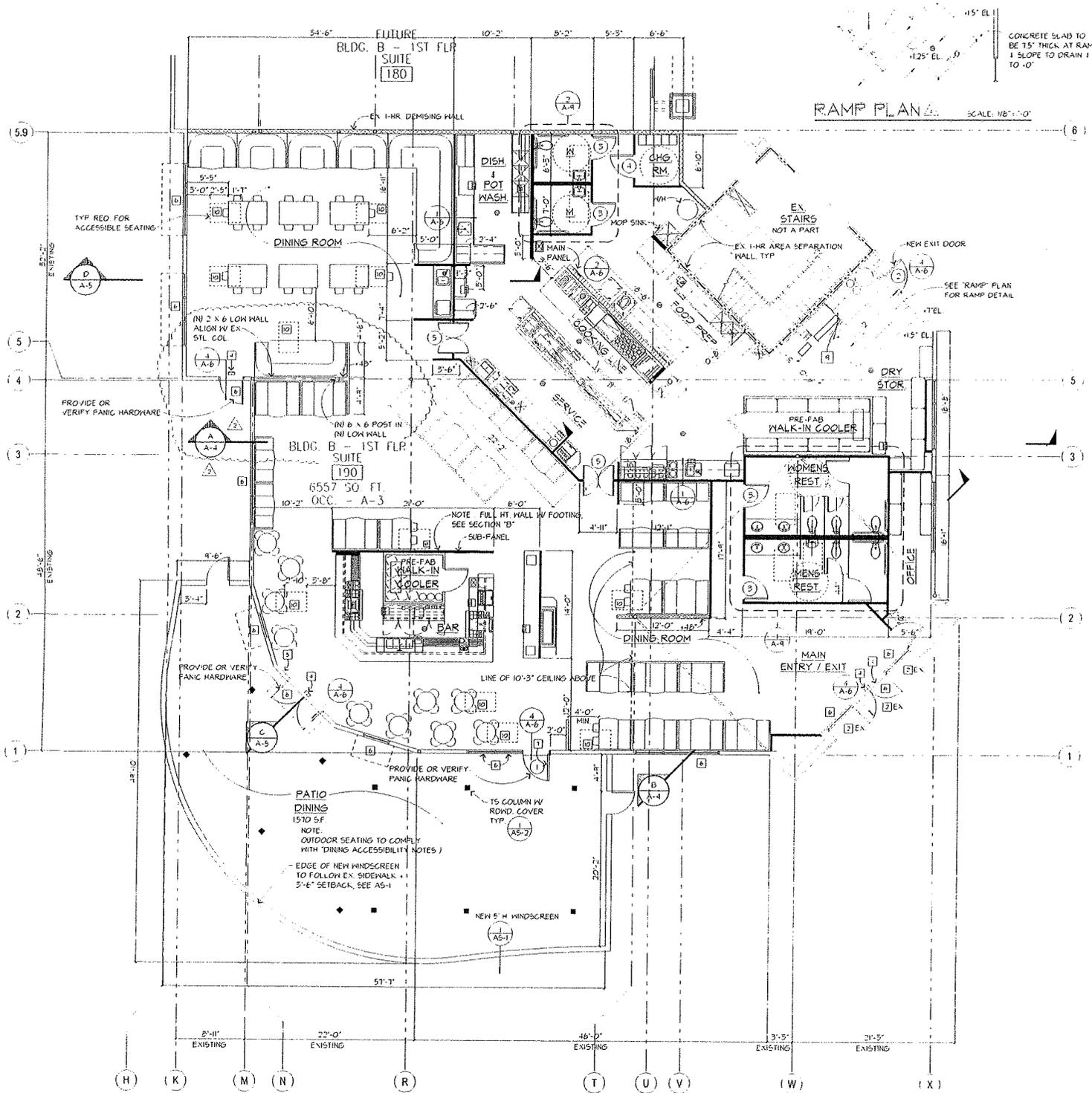


VICTORIA AVENUE

VICTORIA AVENUE

PHASE II
 MARINA CENTER
 OXNARD, CALIFORNIA

UNDERWOOD
 ARCHITECTS
 CORPORATION
 1000 Newport Beach, CA 92660
 FAX 949.757.0511



CONCRETE SLAB TO BE 15" THICK AT RAMP & SLOPE TO DRAIN 1" TO 10'

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

SEE KITCHEN EQUIPMENT PLANS FOR KITCHEN / BAR EQUIPMENT

FLOOR PLAN

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



- ▲ ADDED OUTDOOR DINING AREA, ACCESSIBLE DINING, CHANGED RAMP DESIGN AT KITCHEN, DEFINED MAIN ENTRY & EXITING REQUIREMENTS, ADDED TRELLIS AT OUTDOOR DINING AREA, ADD PANIC HARDWARE REQUIRED AT ALL EXIT DOORS INCLUDING EXISTING DOORS
- ▲ ADDED POSTS IN WALLS FOR (N) TRELLIS IN DINING RMS, SEE NEW SHEET A-2.2 FOR FRAMING.



Police Department

John Crombach, Police Chief

Date: August 4, 2008

To: Linda Windsor, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 1601 S. Victoria Ave. (Yolanda's Restaurant)

PZ-08-510-06

Site Information:

The proposed site is located within the Seabridge South Marina shopping center at 1601 S. Victoria Avenue. The shopping center is on the southwest corner of Victoria Ave. and Leeward Way and is in the final stages of construction. The suite is situated near the center of the complex and lies alongside a large pathway that bisects the development. The front doors face southeast into the parking lot and the rear doors open to a pedestrian walkway that meanders behind the complex and alongside the harbor. There is approximately 1,500 square feet of outdoor dining to the south of the building and the patio will be surrounded by a 5-foot high wall/windscreen. The site is generally bordered by Victoria Ave. and residences to the east, the harbor and residences to the west, and residential to the north and south. The nearest residences are approximately 200 feet to the north of the business. There is one similar use within 350 feet of the site and two alcohol outlets within 1000 feet. 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 feet of the establishment include:

| BUSINESS NAME | LOCATION | LICENSE TYPE | LICENSE TITLE | LICENSE DESC. | ALCOHOL ALLOWED |
|----------------------|--------------------|--------------|--------------------------|---------------|------------------|
| 1. Me-n-Eds Pizza | 1601 S Victoria | Type 41 | On-Sale Beer and Wine | Restaurant | Beer and Wine |

Alcohol outlets located within 1000 feet of the establishment include:

| BUSINESS NAME | LOCATION | LICENSE TYPE | LICENSE TITLE | LICENSE DESC. | ALCOHOL ALLOWED |
|-------------------|-----------------------|--------------|--------------------------------|----------------|------------------------|
| 2. Vons Grocery | 1218 S. Victoria Ave. | Type 21 | Off-Sale General | Grocery Store | Beer, Wine and Spirits |
| 3. Old Dublin Pub | 1900 S. Victoria | Type 47 | On-Sale General (Eating Place) | Restaurant-Pub | 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 126.

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Police Department Input:

The Police Department has no serious concerns about adding an alcohol outlet in this particular area other than what is noted below and that there will likely be more outlets proposed as the site becomes fully occupied and density may become an issue.

This particular development is situated alongside the newly constructed bay and has outdoor seating along the walkways and common areas throughout the complex. The floor plan for the restaurant indicates there is a substantial amount of outdoor seating (1500 sq. ft.) on the south and west sides of the building overlooking the bay. Allowing outdoor seating where alcohol is being served can often create security concerns if there is not adequate separation between customers and non-customers. The applicant is proposing to construct a short block wall around the patio that is capped with a transparent material to block the wind and will be at least five feet

high. As proposed, this wall/windscreen should adequately secure the patio and sufficiently addresses the police concerns.

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Members of the Responsible Alcohol Policy Action Coalition (RAPAC) discussed this proposal at their monthly meetings and had no serious concerns with this proposal. Members echoed the police concerns and added that outdoor activity should be limited to prevent disruption to neighboring uses. They suggested that the outdoor areas not be permitted to allow amplified music or live entertainment to reduce the potential for problems

Conclusion:

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The primary issue regarding this proposal is the outdoor seating which has been mitigated by the applicant's proposal to surround the site with a five-foot fence. Also, this location has both front and rear customer access; however, the Police Department does not recommend the use of a rear door for customer access as it creates a more difficult environment for employees to monitor.

The Police Department's experience is that the proposed license (Type 47 - Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly. Listed below are the Police Department's recommended operating conditions for the 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. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (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 per Oxnard City Code, 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 uses. (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) Sales of alcohol shall not occur between the hours of 1:00 a.m. and 7:00 a.m. (PL/PD)
- 15) Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) 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)
- 16) 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.
- 17) 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, walkways and other adjacent areas under Permittee's reasonable control. (PD)

- 18) 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)
- 19) 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.
- 20) 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)
- 21) 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.
- 22) 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.
- 23) 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)
- 24) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
- 25) 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)
- 26) No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
- 27) Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
- 28) Any rear door of the premises shall be equipped on the inside with an automatic locking device, 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)

- 29) Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
- 30) 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)
- 31) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 32) 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)
- 33) 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) If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly permitted by the Oxnard Planning Department and licensed by the Department of Alcoholic Beverage Control. 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.
- 2) The rear door (west side) shall not be used as a method of customer access or egress and shall be maintained as an emergency exit only. The door shall have emergency exit hardware and a sounding device to alert employees when the door is opened.
- 3) There shall be no live entertainment or amplified sound permitted in the outdoor dining area.

RESOLUTION NO. 2008 -510-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD, APPROVING PLANNING AND ZONING PERMIT NO. PZ 08-510-6 (COASTAL DEVELOPMENT PERMIT) TO ALLOW BEER, WINE AND SPIRITS SALES FOR ON-SITE CONSUMPTION WITHIN A 6,500 SQUARE FOOT RESTAURANT (YOLANDA'S), LOCATED ON THE WEST SIDE OF VICTORIA AVENUE, SOUTH OF LEEWARD WAY, ALSO KNOWN AS 1601 SOUTH VICTORIA AVENUE (APN 188-0-272-215), IN PHASE II OF THE SEABRIDGE SHOPPING CENTER AND THE MANDALAY BAY SPECIFIC PLAN AREA SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DESIGNATED ATTORNEYS IN FACT ROD AND YOLANDA GIETZEN, 1363 DONLON STREET #20, VENTURA CA 93003.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 08-510-6, filed by Rod and Yolanda Gietzen, 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 Title 14 of the California Code of Regulations exempts the project from the requirement for the preparation of environmental 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. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. 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. The site for the proposed use 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. 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. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. That the proposed development is in conformance with adopted goals, policies and standards of the Mandalay Bay Specific Plan.

7. The presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where the possibility of additional restaurant establishments selling alcoholic beverages for consumption on the premises is appropriate.
8. 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 16-545 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 Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated August 4, 2008, (“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 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. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
6. 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)
7. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
8. Before placing or constructing any signs on the project property, Developer shall obtain a sign permit from the City. Except as provided in the sign permit, Developer may not change any signs on the project property. (PL/B, G-10)
9. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
11. 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)

12. 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)
13. 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

14. 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)
15. Prior to issuance of building permits, 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).

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 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)
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 uses. (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 7:00 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, walkways and other adjacent areas under Permittee’s reasonable control. (PD)
34. 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)
35. 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.
36. 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 19, above, shall be adhered to regardless of where customers are seated. (PD)
37. 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.
38. 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.
39. 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)
40. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)

41. 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)
42. No pay phone on the exterior of the premises shall be allowed within 50 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
43. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
44. Any rear door of the premises shall be equipped on the inside with an automatic locking device, 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)
45. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
46. 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)
47. Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
48. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
49. 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)
50. 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

51. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly permitted by the Oxnard Planning Department and licensed by the Department of Alcoholic Beverage Control. 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.
52. The rear door (west side) shall not be used as a method of customer access or egress and shall be maintained as an emergency exit only. The door shall have emergency exit hardware and a sounding device to alert employees when the door is opened.

53. There shall be no live entertainment or amplified sound permitted in the outdoor dining area.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 21st day of August, 2008, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Michael Sanchez, Chairman

ATTEST: _____
Susan L. Martin, Secretary



NOTICE OF EXEMPTION

Project Description:

PLANNING & ZONING PERMIT NO. 08-510-06 (Coastal Development Permit), a request to allow on-site sale of beer, wine, and spirits as part of a bona fide public eating place (restaurant) (ABC License Type 47) within a proposed 6500 square foot restaurant (Yolanda's Restaurant), located on South Victoria Avenue south of Leeward Way, commonly known as 1601 South Victoria Avenue, within the Seabridge Shopping center (APN: 188-0-272-215), within the Coastal Planned Community (CPC) zone, in the Channel Islands Neighborhood. This use would be transferred from the restaurant's previous location at the northeast corner of Saviers Road and Channel Islands Boulevard. The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by designated Attorneys in Fact Rod and Yolanda Gietzen, 1363 Donlon St #20, Ventura CA 93003

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 the California Environmental Quality Act Guidelines and Section 15301 of the California Code of Regulations, projects involving existing building may be found to be exempt from the requirements of CEQA. The proposed project consists of adding alcohol sales to an existing building. 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