



*Planning Division*

**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Planning Commission

**FROM:** Linda Windsor, Associate Planner

**DATE:** October 2, 2008

**SUBJECT:** Planning and Zoning Permit No. 08-510-08 (Special Use Permit-Alcohol)  
Located at 1201 South Victoria Avenue.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 08-510-08 for a special use permit for alcohol sales, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** 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 2500 square foot restaurant (Smokey's BBQ Restaurant) located at 1201 South Victoria Avenue, within the Seabridge Marketplace shopping center. Filed by designated Attorney in Fact, Mike Christian, Smokey's BBQ, 1201 South Victoria Avenue, Suite A, Oxnard, CA 93035.
- 3) **Existing & Surrounding Land Uses:** The subject site is located within the recently completed Seabridge Marketplace. The tenant space currently being completed for Smokey's BBQ 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-1-PD (garden apartment planned development)	RL (Residential Low)	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 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 Marketplace was approved as part of the development. Several minor modifications have been approved for the various sections of Seabridge, as well as alcohol use permits for a grocery store and 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 Smokey's BBQ restaurant. The zoning regulations and City Council Resolution No. 11,896 require approval of a special use permit for all new alcohol sales.

Operating hours for this restaurant would generally be 7 am to 11 pm every day, with 24 employees; 12 employees per shift.

Smokey's BBQ Restaurant will occupy a 2500 square foot suite within Phase I of the Seabridge Shopping Center. The main entrance faces northeast, toward the parking area, and other doors lead to the outdoor dining area and the walkway along the waterway. The north side of the restaurant opens onto a plaza and the center's public art piece, a playful ship sculpture. Planning staff is in the process of reviewing the final design of the outdoor dining area (conceptually shown on the attached floor plan) as a minor modification to the coastal development permit approving the shopping center. A special condition included in the resolution requires the Planning Manager's approval of the final outdoor dining area design.

**b) General Plan/Coastal 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 requires the approval of a special use permit. Approval of this special use 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 a Type 47 License pending City of Oxnard approval of this special use 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 bona fide eating establishment (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 are two similar uses within 350 feet of the site (Round Table Pizza and Anaba Sushi) and two alcohol outlets within 1000 feet (Vons Grocery -- Off-sale General -- and Yolanda's restaurant – 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 126 during the same 12-month time period. This is consistent with 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, 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 area other than to note that be more outlets will likely be proposed as the shopping center fills and at that time, density may become an issue.

The report notes that the Seabridge Marketplace is along the recently completed bay and has an amphitheater behind the complex, facing the water. Outdoor seating exists along the walkways in front and back of the buildings, and a large common area is adjacent to this business. The scenic and inviting nature of the area is likely to attract many

customers from throughout the complex. The Police Department's concern is that customers purchasing alcohol from this business (and potentially from other alcohol sites within this complex) would take their drinks outside and that people outside the restaurant would interfere with customers of the restaurant.

The applicant plans to enclose the outdoor dining area with six-foot high glass panels to minimize wind interference and improve customer comfort. (Planning staff is reviewing the final design of this enclosure as a minor modification to the coastal development permit approving the shopping center.) The Police Department feels that the design of the fence and limited access to the patio would adequately mitigate the police concerns.

Other than the discussion above, the Police Department has no serious concerns about adding an alcohol outlet in this particular area. The report notes that this will be the third alcohol outlet permitted within a 350 foot radius, and future outlets in this immediate area will be discouraged by the Police Department.

The Responsible Alcohol Policy Action Coalition (RAPAC) discussed this proposal at their monthly meeting, agreeing with the concern about outdoor seating. They also noted that careful review and consideration will be given to each use to ensure that the businesses are successful and that the area does not become a problem environment. RAPAC also recommended restricting the use of amplified music on the patio to minimize the likelihood of noise problems. This restriction is included in the recommended conditions of approval.

- iv) *Conclusion.* The Police Department's statistical analysis shows the area to have a crime rate consistent with the citywide average, with most incidents being property crimes and very few violent or personal crimes. The Police Department does not consider this area to be a policing problem.

This site has an issue of undue concentration, and more uses selling alcohol nearby are likely as other spaces become occupied. The primary issue relates to outdoor seating, especially related to alcohol consumption where it is not permitted, and noise impacts on neighbors.

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

- 7) Community Workshop:** On September 2, 2008, the applicant mailed notices of the Community Workshop 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 September 15, 2008. Of the 19 people who attended the community workshop, no one spoke in support of or against this project.

**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, Aerial)
- 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



## NOTICE OF EXEMPTION

### ***Project Description:***

PLANNING & ZONING PERMIT NO. 08-510-08 (Special Use 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 2500 square foot restaurant (Smokey's BBQ), located on South Victoria Avenue south of Wooley Road, commonly known as 1201 South Victoria Avenue, within the Seabridge Marketplace shopping center (APN: 188-0-250-225), within the Coastal Planned Community (CPC) zone, in the Channel Islands Neighborhood. The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by designated Attorney in Fact Mike Christian, Smokey's BBQ, 1201 South Victoria Avenue, Suite A, Oxnard CA 93035

### ***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).

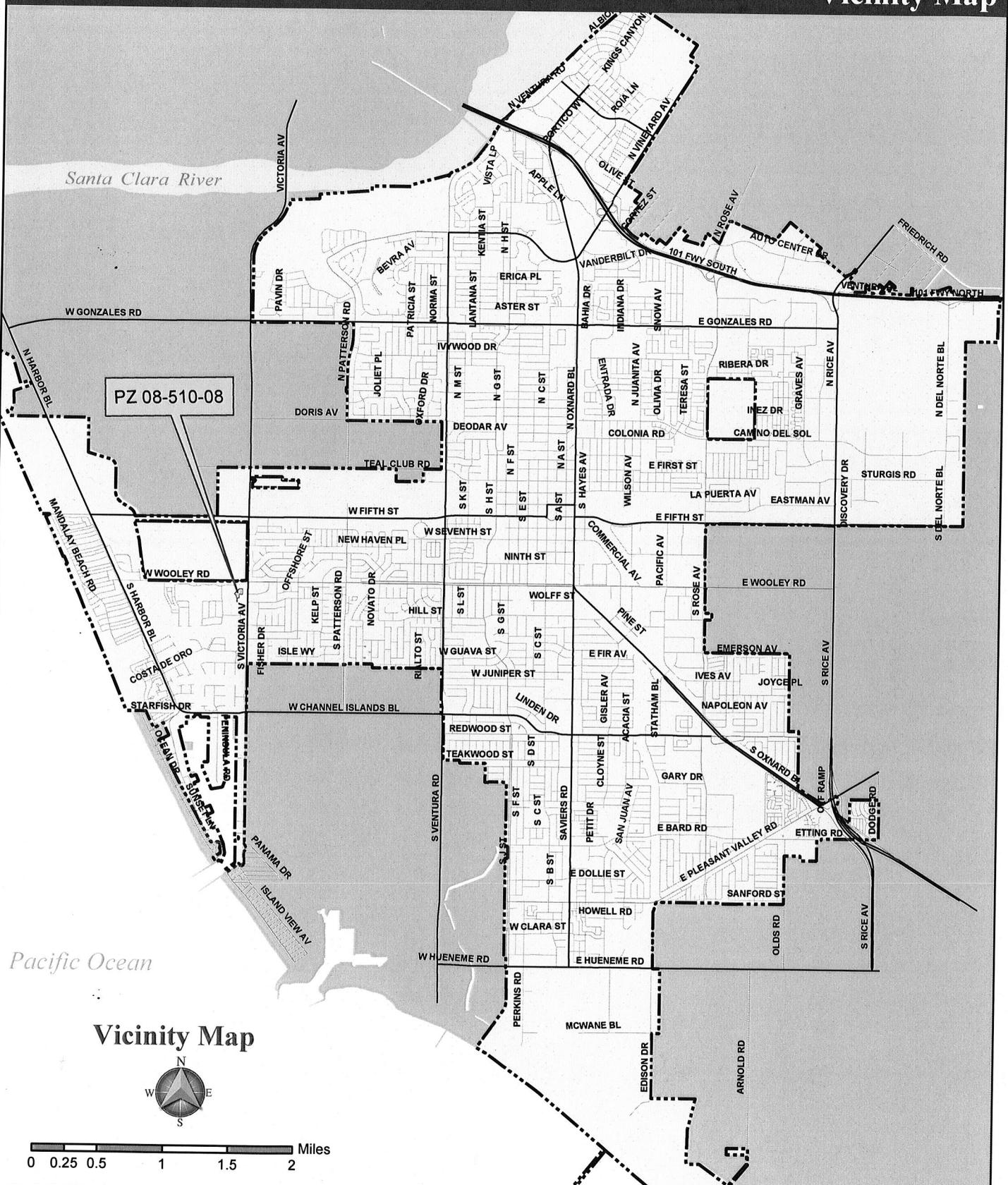
- Ministerial Project
- Categorical Exemption
- Statutory Exemption
- Emergency Project
- Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

***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

# Vicinity Map

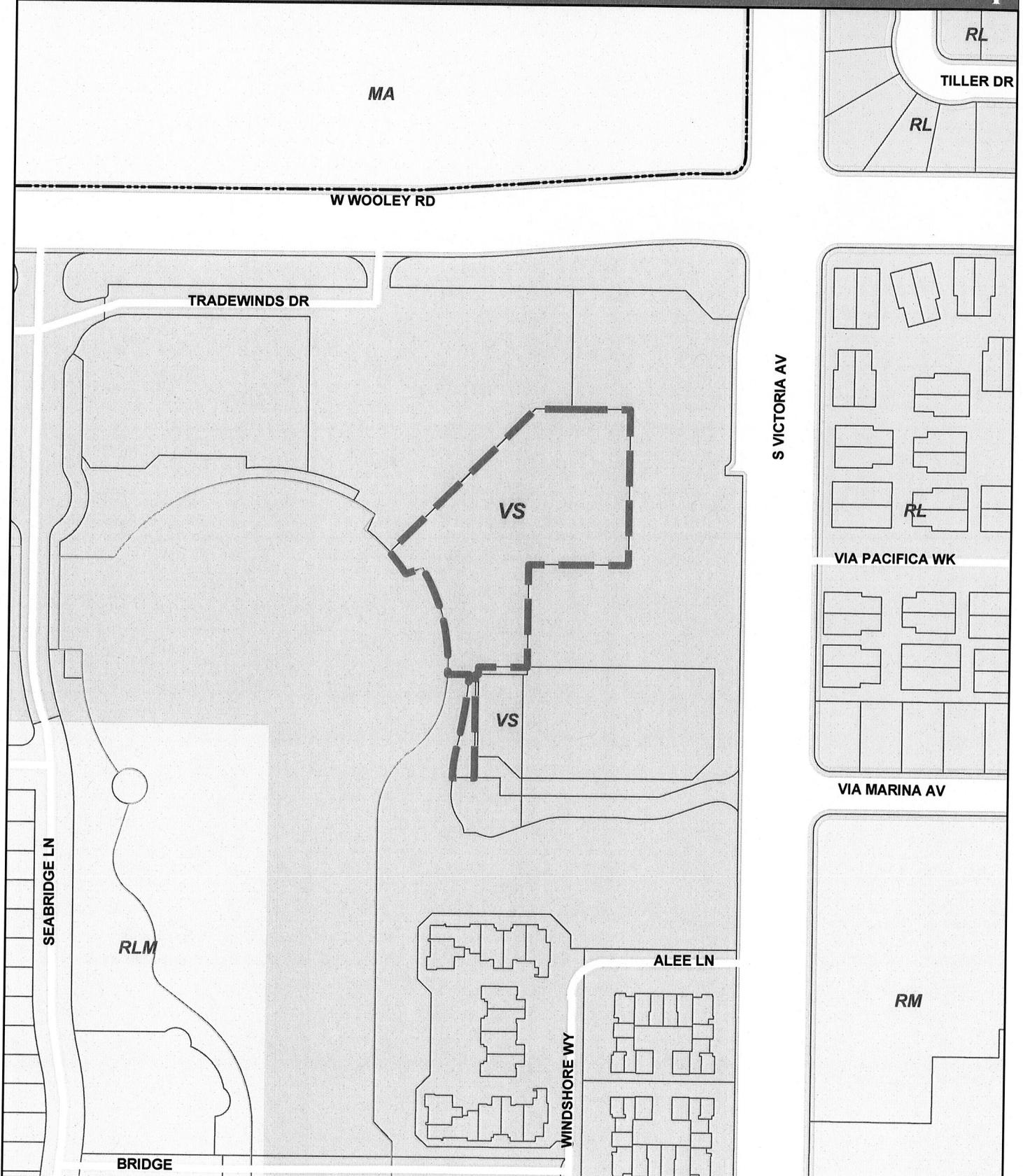


## Vicinity Map



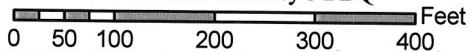
**PZ 08-510-08**  
 Location: 1201 S. Victoria Av  
 APN: 188025008  
 Mike Christian- Smokey's BBQ

# General Plan Map



Oxnard Planning  
September 10, 2008

PZ 08-510-08  
Location: 1201 S. Victoria Av  
APN: 188025008  
Mike Christian- Smokey's BBQ

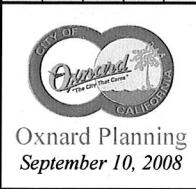
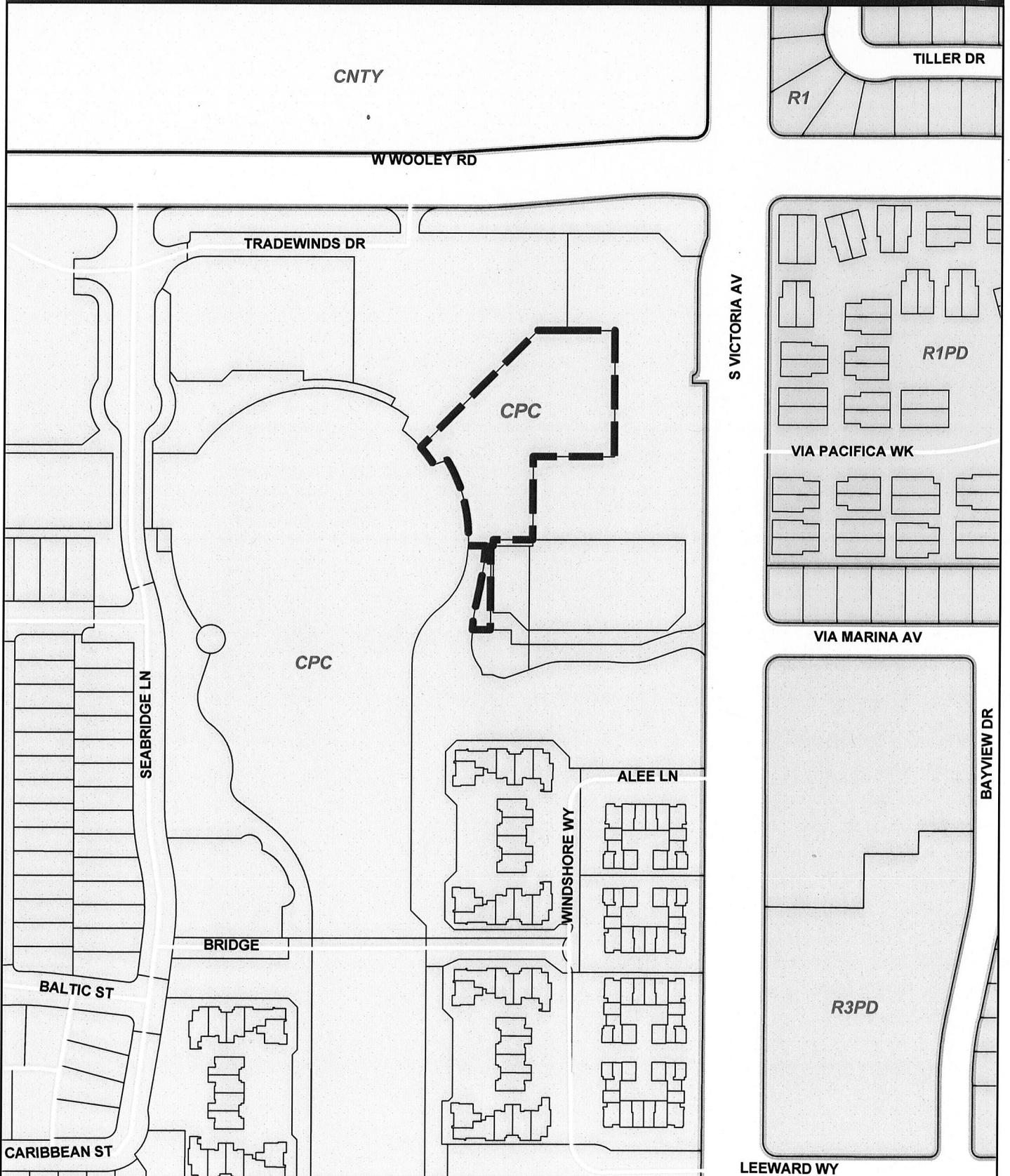


## General Plan Map



1:2,188

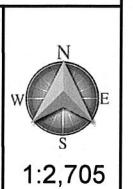
# Zone Map



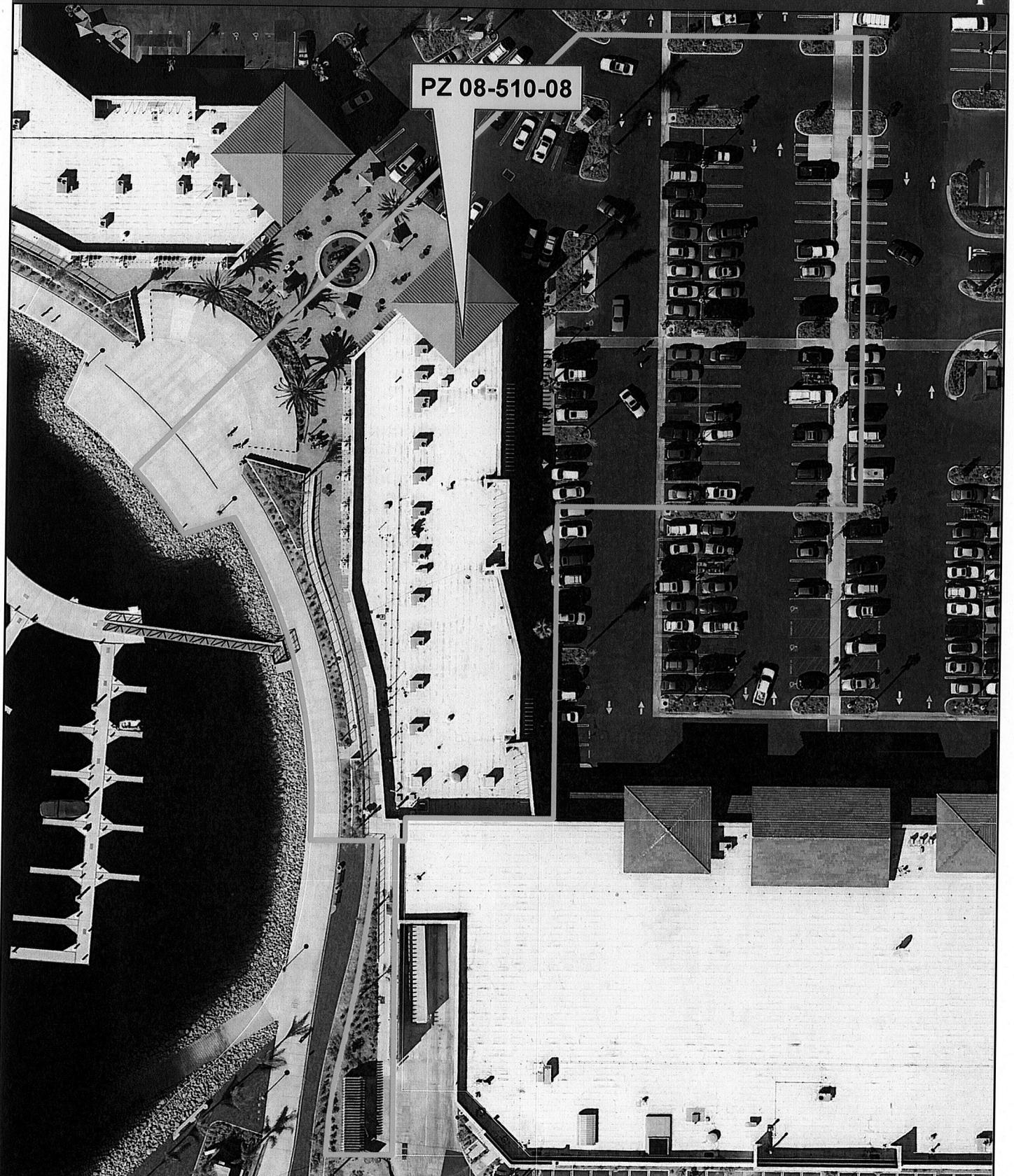
PZ 08-510-08  
Location: 1201 S. Victoria Av  
APN: 188025008  
Mike Christian- Smokey's BBQ

0 50 100 200 300 400 Feet

Zone Map



# Aerial Map

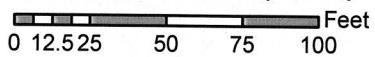


PZ 08-510-08



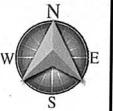
Oxnard Planning  
September 10, 2008

PZ 08-510-08  
Location: 1201 S. Victoria Av  
APN: 188025008  
Mike Christian- Smokey's BBQ



## Aerial Map

2007 Aerial



1:720







## Police Department

John Crombach, Police Chief

Date: September 15, 2008

To: Linda Windsor, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 1201 S. Victoria Ave. (Smokey's BBQ)  
**PZ-08-510-06**

### **Site Information:**

The proposed site is located within the Seabridge shopping center at 1201 S. Victoria Avenue which is near the southwest corner Victoria Ave. and Wooley Road. The suite is situated near the center of the complex with the front doors facing northeast into the parking lot. The side door will open to a substantial outdoor seating area alongside the main breezeway which bisects the complex and extends to a small, outdoor amphitheater approximately 50 feet west of the doors. The patio has a gate that opens to the pedestrian walkway that meanders behind the complex and alongside the harbor. The site is generally bordered by Victoria Ave. and residences to the east, the harbor and residences to the west, agriculture to the north and commercial/residential to the south. There are currently two similar uses within 350 feet of the site and one Off-Sale outlet (Vons Grocery Store) in the same center. 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. Round Table Pizza	1213 S. Victoria Ave.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Anaba Sushi	3941 Tradewinds	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
1. Vons Grocery	1218 S. Victoria Ave.	Type 21	Off-Sale General	Grocery Store	Beer, Wine and Spirits
2. Yolanda's Restaurant	1601 S. Victoria Ave.	Type 47	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 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 126 during the same 12-month time period. This is consistent with 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, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

**Police Department Input:**

This particular development is situated alongside the newly constructed bay and has a small, unique amphitheater behind the complex, facing the water. There is outdoor seating along the walkways in the front and rear of the buildings and also in a large common area dividing the complex. This area is very scenic and inviting and will likely be used by many customers throughout the complex. The concern of the Police Department would be that customers purchasing alcohol at the proposed site (and likely other future alcohol sites within this complex) would take their drinks outside. Outdoor areas like this are generally unrestricted and unmonitored. Allowing the consumption of alcohol under such circumstances could aggravate policing problems. The applicant has proposed to create their own outdoor seating area that is quite large and amounts to nearly half of the business' overall seating capacity. The Police Department recognizes that this area offers a very attractive and inviting environment that is uniquely suited for outdoor dining. However, failure to adequately secure such outdoor areas where alcohol is available can be particularly problematic for police and potentially detrimental to the serene setting that currently exists. Our experience with similar uses has been that inadequate separation can be inviting for non-customers who either cause problems for restaurant guests or socialize and loiter along the fence line. Short or widely spaced fences with no significant distance between guests and non-customers can create a risky environment that can be

difficult for employees to monitor. Items (such as alcohol) can easily be passed back and forth and persons can often enter or exit the patio unnoticed.

The applicant has indicated they plan to surround the patio with a six-foot high fence that will have glass panels to minimize wind interference and improve customer comfort. As described, this type of fence should adequately mitigate the police concerns mentioned above regarding the potential for non-customer interference. The applicant has also stated that they intend to only allow customer access to the patio from inside the business and that the outdoor gates will be for emergency use only. The Police Department supports this policy as it will provide employees with a greater ability to monitor guests and better control access.

Other than indicated above, the Police Department has no serious concerns about adding an alcohol outlet in this particular area except to note that this will be the third alcohol outlet permitted within 350 feet of each other and future outlets in this immediate area will be discouraged by the Police Department.

**Community Input:**

The Responsible Alcohol Policy Action Coalition (RAPAC) has discussed this proposal at their monthly meetings and shared the concern about outdoor seating. They felt that the proposed use was appropriate for the site as long as there were adequate conditions that would minimize the likelihood of non-customer contamination and the risk of customers taking alcohol outside the patio area. They also recognized that the overall development will likely attract other businesses that may intend to sell alcoholic beverages and that careful consideration should be given to each use to ensure that the businesses are successful and the area does not become a problem environment. RAPAC also noted that loud noise tends to travel especially well near the water and particularly across narrow, quiet channels. One member cited how noise is often an issue along Harbor Blvd. and Peninsula where the expansive harbor separates the two roadways. A check of police records indicate that over the past year, there were several complaints about excessive noise coming from the opposite side of the harbor (usually during special events or construction) which confirms the observations of RAPAC members. Restricting the use of amplified music on the patio was recommended to minimize the likelihood of noise problems.

**Conclusion:**

The statistical analysis shows the area to have a crime rate that is consistent with 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 are two similar uses within 350 feet so there is an issue of undue concentration. There is also one Off-Sale alcohol outlet (Vons) located within 1000 feet of the site and there is very likely to be a few more similar uses nearby as other spaces become occupied.

The primary issue regarding this proposal is the potential for problems related to the outdoor seating. Since the site overlooks a scenic bay, customers are more likely to take advantage of the outdoor seating and businesses selling alcohol at this complex are going to face unique challenges to ensure that their customers do not contribute to problems by consuming alcohol where it is not permitted or desired.

The Police Departments 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**

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- 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 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. (PD)
- 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 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. (PD)

- 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. (PD)
- 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. (PD)
- 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. (PD)
- 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 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)
- 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 height gauges at all exit doors prior to final inspection. (PD)
- 32) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 33) 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)
- 34) 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)

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## **Police Special Conditions**

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- 1) Permittee shall post prominent signs near each of the exits (including the patio) indicating that it is unlawful to remove alcohol from the premises and that violators may be cited.
- 2) Any emergency exit gate/door on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The gate shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
- 3) There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
- 4) There shall be no dancing or amplified music permitted in the enclosed patio.

RESOLUTION NO. 2008 – [PZ 08-510-08]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 08-510-08 (SPECIAL USE PERMIT), TO ALLOW ON-SITE SALES OF BEER, WINE, AND SPIRITS WITH MEALS (ABC LICENSE TYPE 47) IN A NEWLY ESTABLISHED 2500 SQUARE FOOT RESTAURANT (SMOKEY'S BBQ), LOCATED AT THE SOUTHWEST CORNER OF WOOLEY ROAD AND SOUTH VICTORIA AVENUE, ALSO KNOWN AS 1201 SOUTH VICTORIA AVENUE, SUITE 1, WITHIN THE SEABRIDGE MARKETPLACE, (APN 188-250-225), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY ATTORNEY IN FACT, MIKE CHRISTIAN, SMOKEY'S BBQ, 1201 SOUTH VICTORIA AVENUE, SUITE A, OXNARD CA 93035.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 08-510-08, filed by Attorney-in-Fact, Mike Christian, 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.

**STANDARD CONDITIONS OF APPROVAL  
FOR LAND USE PERMITS**

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 26, 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

and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. (PL, G-2)

3. By commencing any activity related to the project or using any structure authorized by this permit, 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. 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)
7. 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)
8. This permit includes conceptual approval of the outdoor dining area. Final review of the outdoor dining area building materials, design and colors is subject to approval by the Planning Manager. (PL)

#### **POLICE STANDARD OPERATING CONDITIONS**

9. 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)
10. 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)

11. 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)
12. 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.
13. 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)
14. 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.
15. 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)
16. 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)
17. 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)

18. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
19. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
20. 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)
21. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
22. Sales of alcohol shall not occur between the hours of 1:00 a.m. and 7:00 a.m. (PL/PD)
23. 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)
24. 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. (PD)
25. 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)
26. 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)
27. 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. (PD)
28. 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)

29. 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. (PD)
30. 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. (PD)
31. 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)
32. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
33. 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)
34. 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)
35. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
36. 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)
37. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
38. 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)
39. Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
40. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)

41. 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)
42. 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**

43. Permittee shall post prominent signs near each of the exits (including the patio) indicating that it is unlawful to remove alcohol from the premises and that violators may be cited.
44. Any emergency exit gate/door on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The gate shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
45. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
46. There shall be no dancing or amplified music permitted in the enclosed patio.
47. Final design of the outdoor dining area enclosure shall be reviewed by the Police Department Alcohol compliance officer for compliance with the conditions above, prior to approval by the Planning Manager.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 2nd day of October, 2008, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

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Michael Sanchez, Chairman

ATTEST: \_\_\_\_\_  
Susan L. Martin, Secretary