



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Linda Windsor, Associate Planner

DATE: March 5, 2009

SUBJECT: Planning and Zoning Permit No. 09-510-01, (Major Modification to Special Use Permit No. 02-500-15 for Alcohol Use). Hilton Garden Inn, Located at 2000 Solar Drive.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 09-510-01 for a major modification to a special use permit for alcohol, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to upgrade an existing special use permit from On-sale Beer and Wine for a Bona Fide Public Eating Place (ABC License Type 41), to On-sale General (beer, wine and spirits) for a Bona Fide Public Eating Place (ABC License Type 47) at the existing hotel. The Hilton Garden Inn is located at 2000 Solar Drive. Filed by Alan Hurd, Wyche Oak Park Apartments, Inc., 2000 Solar Drive, Oxnard, CA 93036.
- 3) **Existing & Surrounding Land Uses:** The subject site is developed as the Hilton Garden Inn hotel, which opened in May 2005.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	BRP	BRP	Hilton Garden Inn
North	BRP	BRP	Medical offices
South	BRP	BRP	Existing office buildings
East	BRP	BRP	Beyond Rice Avenue Agriculture (Sakioka Specific Plan area)
West	BRP	BRP	Existing office development

- 4) **Background Information:** The Planning Commission approved a special use permit in 2002 allowing construction and operation of a 95,772 square foot hotel building containing 166 rooms and a restaurant/lounge selling alcoholic beverages for consumption on the premises. The restaurant/lounge is for hotel guests only. The project also includes a swimming pool, meeting rooms, business center, and exercise room.

5) Environmental Determination: In accordance with Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines (the "General Rule" exemption), the proposed project is not subject to environmental review. This exemption states that when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the project is not subject to the California Environmental Quality Act. This proposed upgrade in the alcohol sales use for the existing hotel does not increase the intensity, or change the land uses on the project site, and therefore would not create a significant effect on the environment. Staff recommends that Planning Commission accept the Notice of Exemption (see Attachment C).

6) Analysis:

a) General Discussion: Since 2005, the hotel has offered beer and wine with dinner to hotel guests only (in the dining room/lounge area) from 5 pm to 10 pm, and occasionally serves beer and wine with meals in the hotel's meeting room for private events. The requested modification would allow an upgrade of alcohol sales on the property. No other changes to the hotel and its permitted uses, either physical or operational, are proposed as part of this application.

As noted above, the approved special use permit resolution includes approval of the hotel and its ancillary uses, as well as the alcohol use. This resolution would specifically apply to the alcohol use, in addition to the existing resolution.

b) General Plan Consistency: The land use map of the General Plan designates the subject parcel for *Business & Research Park* development. The underlying zoning designation is BRP (Business & Research Park), which is consistent with the *Business & Research Park* General Plan Land Use designation. In approving the hotel for construction, the Planning Commission determined that the hotel is consistent with the General Plan and zoning designation. Approval of the modification to this special use permit is consistent with the policies and standards of the General Plan and the BRP 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) to change their Type 41 License to a Type 47 License pending City of Oxnard approval of this major modification to the existing special use permit. The Type 47 License (On-sale Beer, Wine and Spirits – Eating Place) allows alcohol sales in conjunction with a bona fide eating establishment (such as a restaurant/lounge in a hotel).

i) Police Department Review: The Police Department reviewed the proposed alcohol use upgrade 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 modification of the special use permit is likely to significantly aggravate policing problems.

- ii) **Concentration of Alcohol Sales:** There is one approved similar use within 350 feet of the site (Homewood Suites hotel, which has not yet begun construction) and three other alcohol outlets within 1000 feet (Outback Steakhouse – On-Sale General Eating Place; Asian Fuzian – On-Sale Beer and Wine Eating Place; and La Rosa Market – Off-Sale Beer and Wine market). There is no issue of undue concentration in this area.
- iii) **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 117.

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 122 during the same 12-month time period. This is approximately 4% higher than the average crime rate citywide, and is not considered by the Police Department to be significant. The numbers of disturbance-related calls were far below the citywide average. The Police Department responded to the location a total of 16 times in 2008 but only one incident (vandalism) generated a formal report. There were a few loud party calls and domestic calls which are typical of the transient nature of most hotels and the site is not generally considered a policing problem.

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

- iv) **Additional Police Input:** The Police Department has no serious concerns about modifying the alcohol use at this hotel from beer and wine only to on-site general alcohol sales, provided the hotel continues to operate in a responsible manner, and agrees to abide by standard and special conditions included in the attached resolution. These conditions are the same conditions applied to the adjacent Homewood Suites hotel, which was approved in 2007 and has the same operator.

The Responsible Alcohol Policy Action Coalition (RAPAC) was contacted by the Police Department prior to the Planning Commission hearing so they may provide any comments at the Planning Commission meeting, if they choose to do so. During processing of the special use permit for the adjacent Homewood Suites project in 2007, members of the community did not express opposition to the intended use, but expressed some caution that the surrounding area does not become oversaturated with alcohol and suggested that the sale of alcohol be limited to guests of the hotel and that alcohol not be permitted to leave the grounds of the hotel or be taken into the parking lots. Special conditions were applied to the Homewood Suites project to alleviate these concerns, and the same conditions are recommended for this project. The applicant has reviewed these conditions and has agreed to abide by them.

- v) **Conclusion.** As indicated previously, most incidents in this area are property crimes and very few are violent or personal crimes. It should be noted that in 2007, prior to many of the new developments being completed in the area, the crime rate was 58% below the citywide average. This may be an indication that, along with increased development, there is likely to be increased problems. The current crime rate in the surrounding area is still acceptable and the types of crimes are typically non-violent; however, such a dramatic increase in the crime rate should be carefully considered when approving future alcohol outlets. The Police Department does not consider this area to be a policing problem.

This site does not have an issue of undue concentration. The primary issue relates to guests purchasing alcohol on site and drinking it in the parking lot especially related to alcohol consumption where it is not permitted.

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.

- 5) Community Workshop:** This project is not within a neighborhood or adjacent to any neighborhoods, and therefore was not reviewed at a Community Workshop.

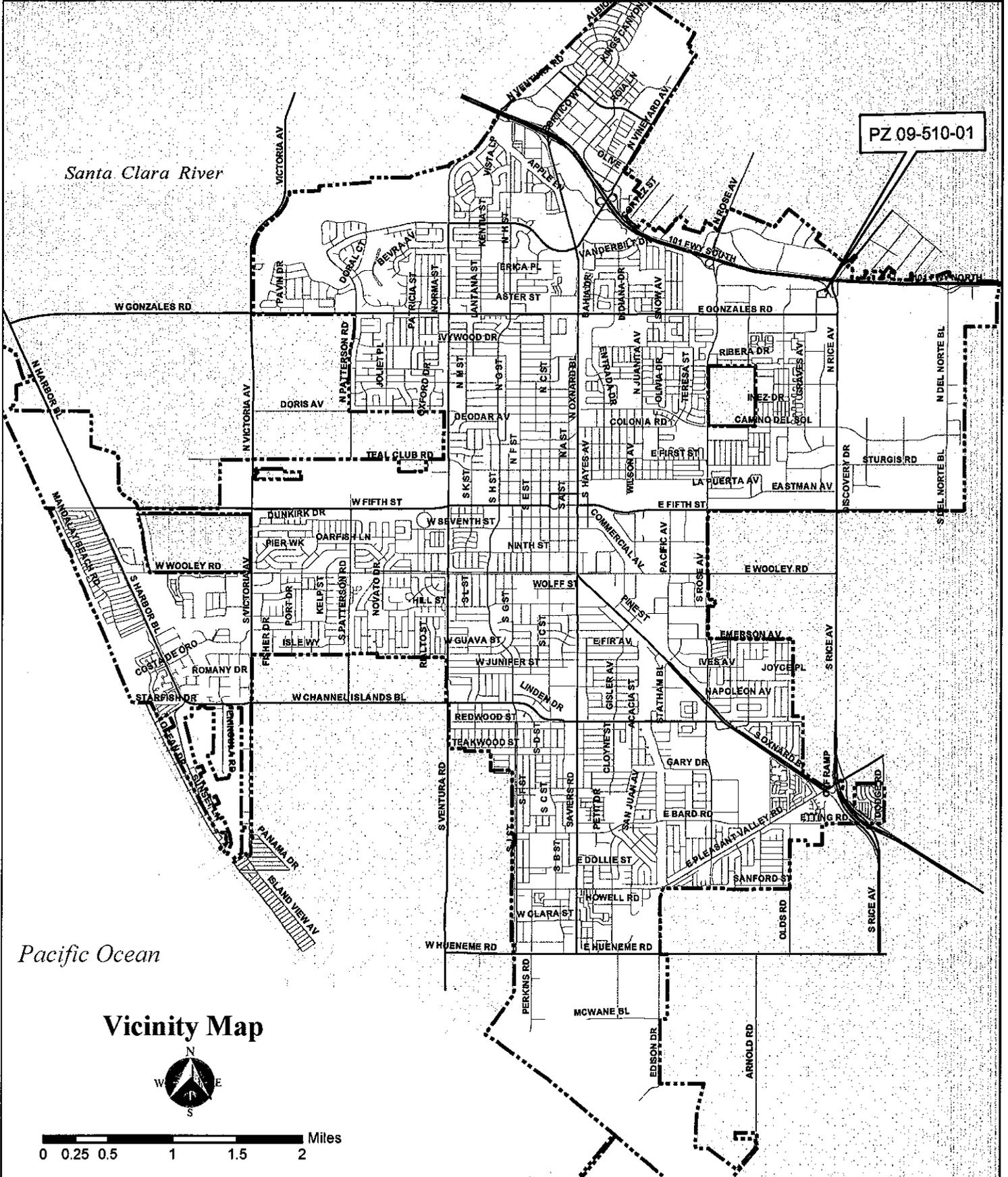
Appeal Procedure: In accordance with Section 16-545 of the City Code, the Planning Commission's action may be appealed to the City Council within 18 days after the decision date. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period.

Attachments:

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

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

Vicinity Map



Vicinity Map



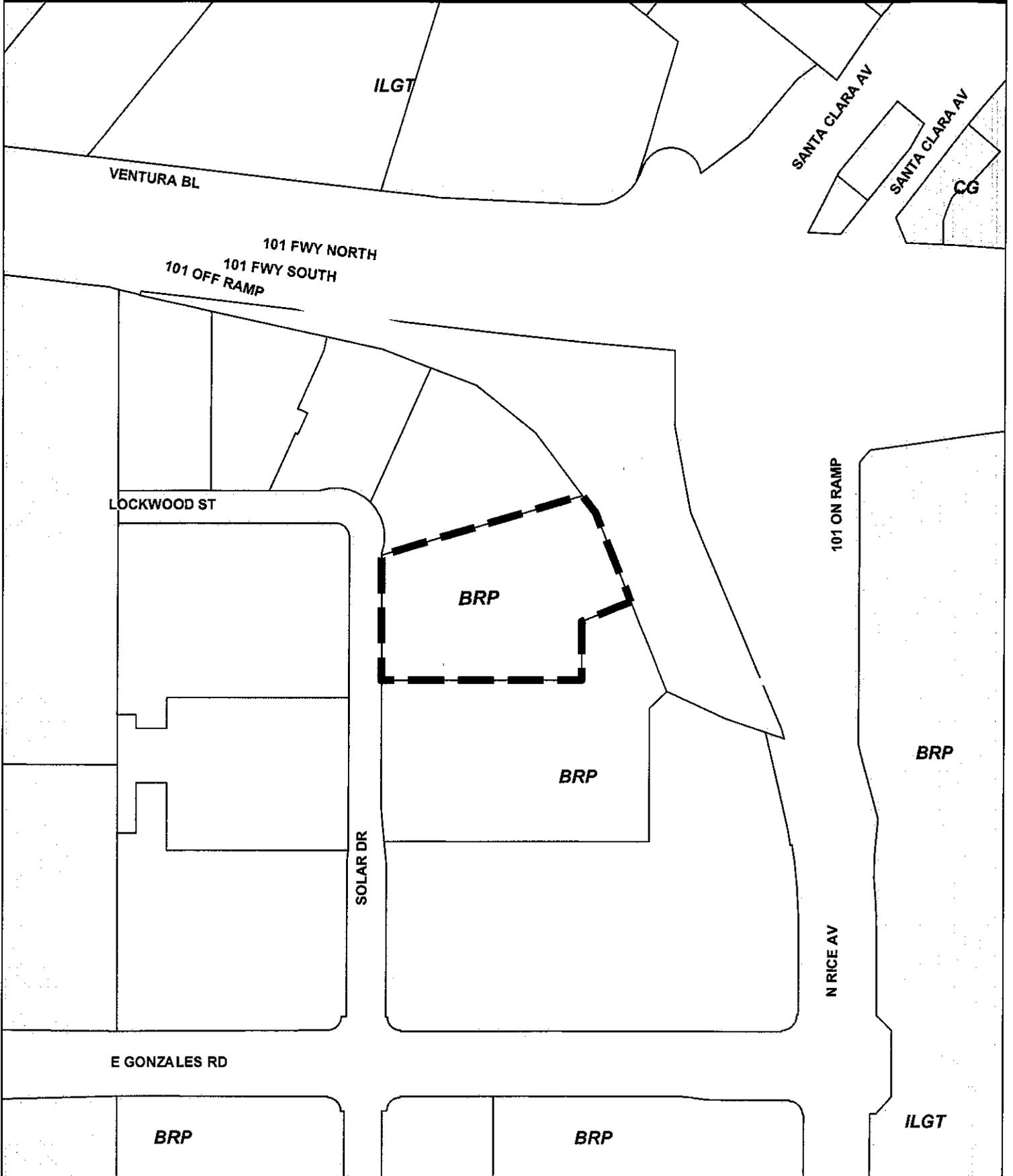
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Oxnard Planning
February 17, 2009

PZ 09-510-01
Location: 2000 Solar Dr
APN: 213005214
Hilton Garden Inn

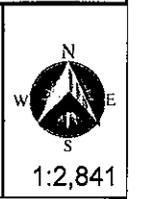
General Plan Map



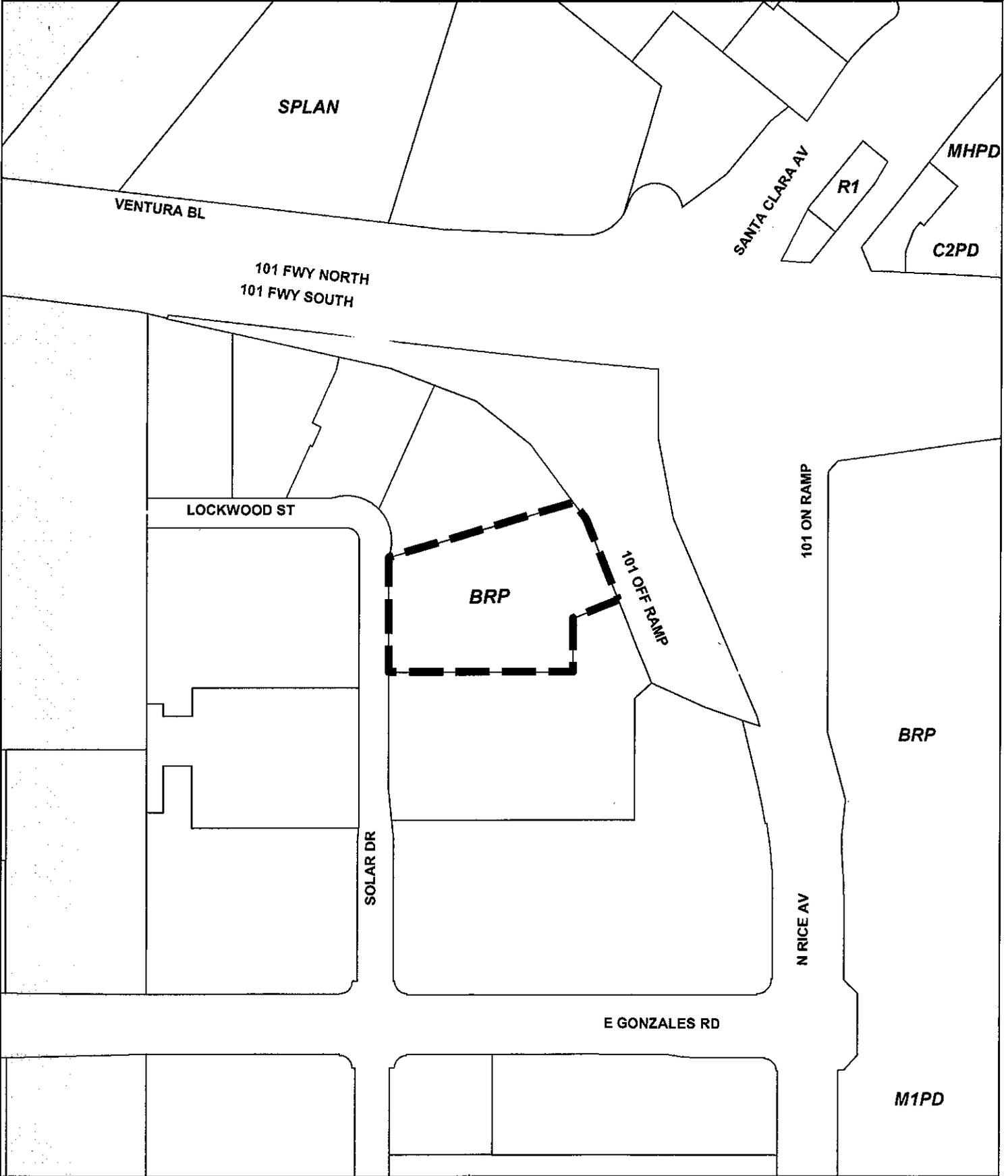
PZ 09-510-01
Location: 2000 Solar Dr
APN: 213005214
Hilton Garden Inn

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General Plan Map



Zone Map





SHEET: **FIRST FLOOR EXITING AND OCCUPANCY PLAN**

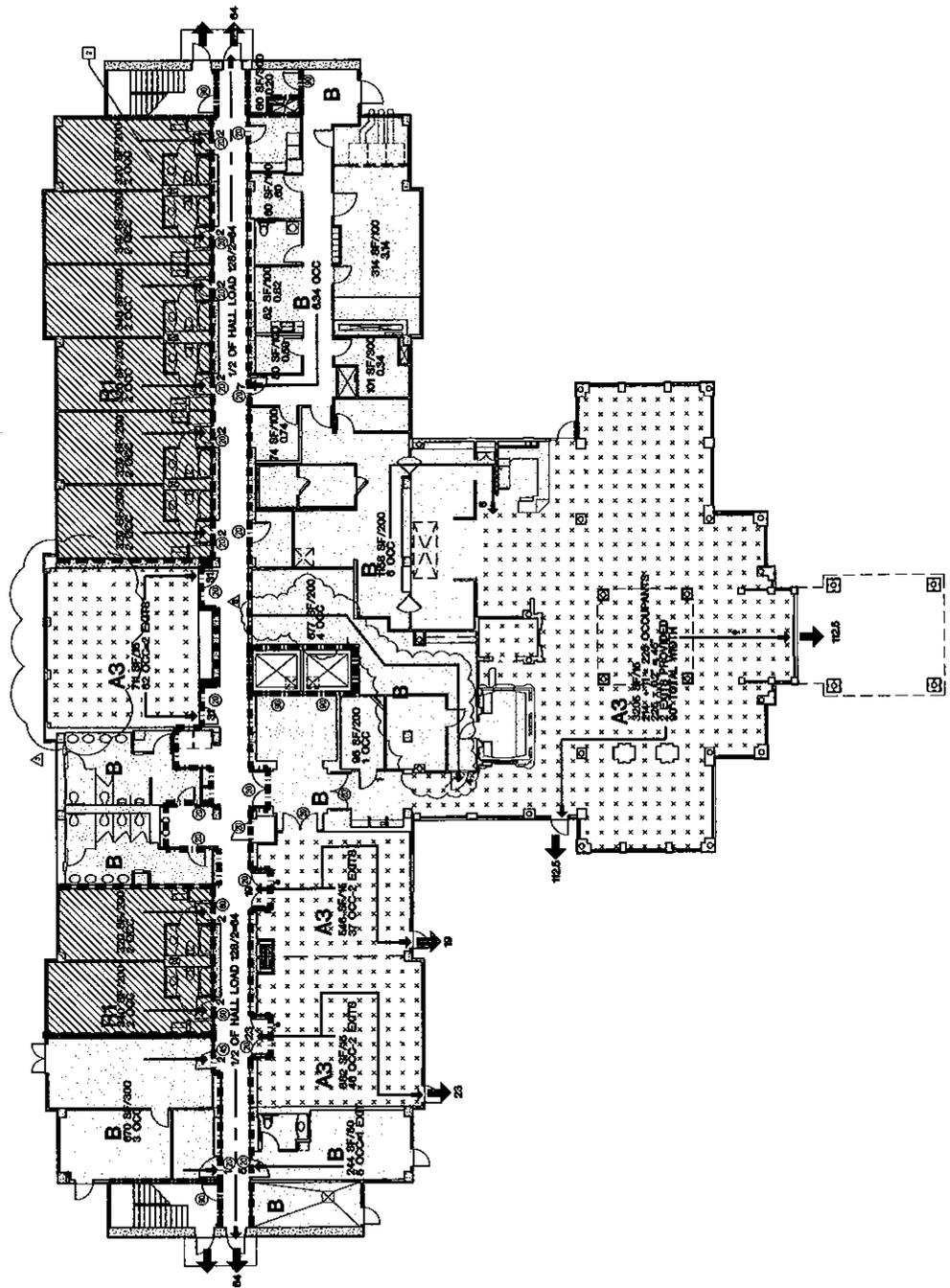
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6		ISSUED FOR ARCHIVE
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KEY NOTES

- 1. ALL EXITS MUST BE MARKED WITH EXIT SIGNS.
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FIRST FLOOR EXITING AND OCCUPANCY PLAN



NOTICE OF EXEMPTION

Project Description:

PLANNING AND ZONING PERMIT NO. 09-510-1 (Major Modification to a Special Use Permit for Alcohol) a request to upgrade an existing special use permit from beer and wine sales for on-site consumption to beer, wine and liquor (general alcohol) sales for on-site consumption as part of an existing hotel. The Hilton Garden Inn is located at 2000 Solar Drive. The proposed project is exempt from environmental review under Section 15061(b)(3) of the CEQA Guidelines. Filed by Alan Hurd, Wyche Oak Park Apartments, Inc., 2000 Solar Drive, Oxnard, CA 93036.

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 15061(b)(3) of the California Code of Regulations, when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, these projects may be found to be exempt from the requirements of CEQA. This proposal consists of modifying the alcohol sales for an existing hotel, involving no physical changes to the project. 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



Police Department

John Crombach, Police Chief

Date: February 17, 2009

To: Linda Windsor, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 2000 Solar Drive (Hilton Garden Inn) **PZ 09-510-01**

Site Information:

The proposed site is located at an existing 166 room hotel at 2000 Solar Drive which is near the Highway 101 and southbound Rice Road off-ramp. The site is generally bordered by Highway 101 on the north, Gonzales Road on the south, Solar Drive on the west and Rice Road on the east. The nearest residences are approximately 2000 feet south of the site and include the apartment complexes along Wankel Way. There are currently three similar alcohol outlets within 1000 feet of the site and none within 350 feet. In 2007, a Special Use Permit was granted for the sale of alcohol at a newly proposed hotel (Homewood Suites) directly alongside the proposed site and would be within 350 feet of the location; however, that project has not yet been completed and no ABC license has been issued for the site.

The applicant currently has a valid Type-41 ABC License which allows for the sale of beer and wine with food for on-site consumption. They are requesting to upgrade to a Type-47 which is a similar license but would also allow for the sale of distilled spirits. Such a license is for on-site consumption only and requires that the site maintain a bona fide restaurant.

Alcohol outlets located within 1000' of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Outback Steakhouse	2341 Lockwood Drive	Type 47	On-Sale Beer, Wine and Spirits	Restaurant	Beer, Wine and Spirits

2. Asian Fuzion	2100 Outlet Center Drive #310	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. La Rosa Market	2000 Outlet Center Drive #295	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine

Crime Statistic Review:

For comparison purposes the Police Department calculates the average number of part I and II crimes that occur per reporting district (grid) during a selected 12-month period. The average city-wide, per grid base number of Part I and II crimes is currently 117.

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 122 during the same 12-month time period. This is approximately 4% higher than the average crime rate citywide and is not considered significant. The numbers of disturbance-related calls were far below the citywide average. The Police Department responded to the location a total of 16 times in 2008 but only one incident (vandalism) generated a formal report. There were a few loud party calls and domestic calls which are typical of the transient nature of most hotels and the site is not generally considered a policing problem.

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:

Senior Officer Alex Rangel, the Beat Coordinator for the area surrounding the proposed site, had no significant concerns regarding the proposed use. He said the crime rate in the area is relatively low and the majority of reported incidents tend to be property crimes that are generally minor in nature. He added that there are some problem areas just outside the 1000 foot radius generally considered to be the area of influence for such uses. The problems primarily involve the dense apartment complexes to the southwest where the Part I and II crime rate is more than double the citywide average. That being said, he did not conclude that the proposed use would aggravate the existing problems.

Community Input:

There was no community input provided to the Police Department for this use. The Responsible Alcohol Policy Action Coalition (RAPAC) will be contacted by the Police Department prior to the Planning Commission hearing so they may provide any comments if necessary. When the Permit was granted in 2007 for the Homewood Suites project, members of the community expressed some caution that the surrounding area does not become oversaturated with alcohol outlets as the area near Rice Road and Highway 101 continues to develop. They suggested that the sale of alcohol be limited to guests of the hotel and that alcohol not be permitted to leave the

grounds of the hotel or be taken into the parking lots. That being said, they were not opposed the intended use.

Conclusion:

The statistical analysis shows the area to have a crime rate that is approximately 4% higher than the city-wide average and is not considered significant. It should be noted that in 2007, prior to many of the new developments being completed in the area, that the crime rate was 58% below the citywide average. This may be an indication that, along with increased density, there is likely to be increased problems. The current crime rate in the surrounding area is still acceptable and the types of crimes are typically non-violent; however, such a dramatic increase in the crime rate should be carefully considered when approving future alcohol outlets.

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

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

licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)

- 8) Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
- 9) The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
- 10) The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
- 11) The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring businesses. (PD)
- 12) There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
- 13) The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
- 14) Sales of alcohol shall not occur between the hours of 1:00 a.m. and 6:00 a.m. (PL/PD)
- 15) Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25%) 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 non-alcoholic 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 and other adjacent areas under Permittee's reasonable control. (PD)
- 18) If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed through the City of Oxnard and the Department of Alcoholic Beverage

Control and the entire patio shall be adequately enclosed to the satisfaction of the Police Chief. Low or excessively wide spaced fencing will not be considered sufficient. (PD)

- 19) 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)
- 20) 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)
- 21) 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)
- 22) 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)
- 23) 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)
- 24) 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)
- 25) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
- 26) 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)
- 27) No new pay phone on the exterior of the premises shall be allowed and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
- 28) Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/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) Prior to issuance of Certificate of Occupancy, Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 33) Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601. (PD)
- 34) 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)
- 35) Permittee shall have drop-safes installed or implement other safe cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50). (PD)
- 36) Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register. (PD)
- 37) If the project property is already occupied or use has already been initiated, Permittee shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-9)
- 38) 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) The sale of alcoholic beverages shall be limited to guests of the hotel only. (PD)
- 2) Alcoholic beverages shall be sold and consumed only within the enclosed areas of the hotel that are intended solely for the use of guests. These areas may include the restaurant, lobby, reception area, guest rooms and the pool area (as long as the pool is adequately enclosed to the satisfaction of the Police Chief or designee). Alcohol shall not be permitted in the parking lot or other outdoor common areas. (PD)

RESOLUTION NO. 2009 – [PZ 09-510-01]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. PZ 09-510-01 (MAJOR MODIFICATION TO SPECIAL USE PERMIT NO 02-500-15), TO ALLOW UPGRADE OF AN EXISTING SPECIAL USE PERMIT FROM ON-SALE BEER AND WINE FOR A BONA FIDE PUBLIC EATING PLACE (ABC LICENSE TYPE 41) TO ON-SALE GENERAL ALCOHOL (BEER, WINE AND SPIRITS) FOR A BONA FIDE PUBLIC EATING PLACE (ABC LICENSE TYPE 47) AT THE EXISTING HILTON GARDEN INN, LOCATED AT 2000 SOLAR DRIVE (APN 213-052-035), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY ALAN HURD, WYCHE OAK PARK APARTMENTS, INC., 2000 SOLAR DRIVE, OXNARD, CA 93036.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. PZ 09-510-01, filed by Alan Hurd, Wyche Oak Park Apartments, Inc., in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, the Planning Division has determined that the proposed project is not subject to environmental review pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations, because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; 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.

7. The proposed use will not result in or add to an undue concentration of establishments selling alcoholic beverages off-site consumption within 1000 feet of the subject location.
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 February 24, 2009, ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager ("Planning Manager") or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for

minimal changes or increases in the extent of alcohol use. A major modification shall be required for substantial changes in such use. (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)

STANDARD POLICE CONDITIONS

7. Permittee and all sellers or servers of alcoholic beverages 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)
8. 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)
9. 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)
10. 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.

11. 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)
12. 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.
13. 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)
14. 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)
15. 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)
16. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
17. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring businesses. (PD)

18. 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)
19. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
20. Sales of alcohol shall not occur between the hours of 1:00 a.m. and 6:00 a.m. (PL/PD)
21. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25%) 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 non-alcoholic items shall not be considered a violation of this condition and are actually encouraged. (PD)
22. 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.
23. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)
24. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed through the City of Oxnard and the Department of Alcoholic Beverage Control and the entire patio shall be adequately enclosed to the satisfaction of the Police Chief. Low or excessively wide spaced fencing will not be considered sufficient. (PD)
25. 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)
26. 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)
27. 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 9, above, shall be adhered to regardless of where customers are seated. (PD)
28. 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)

29. 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)
30. 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)
31. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
32. 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)
33. No new pay phone on the exterior of the premises shall be allowed and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
34. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
35. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
36. 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)
37. Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
38. Prior to issuance of Certificate of Occupancy, Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
39. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601. (PD)
40. 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)
41. Permittee shall have drop-safes installed or implement other safe cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50). (PD)

42. Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register. (PD)
43. If the project property is already occupied or use has already been initiated, Permittee shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-9)
44. 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

45. The sale of alcoholic beverages shall be limited to guests of the hotel only. (PD)
46. Alcoholic beverages shall be sold and consumed only within the enclosed areas of the hotel that are intended solely for the use of guests. These areas may include the restaurant, lobby, reception area, guest rooms and the pool area (as long as the pool is adequately enclosed to the satisfaction of the Police Chief or designee). Alcohol shall not be permitted in the parking lot or other outdoor common areas. (PD)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 5th day of March, 2009, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

Deirdre Frank, Chair

ATTEST: _____
Susan L. Martin, Secretary