



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Linda Windsor, Associate Planner

DATE: February 18, 2010

SUBJECT: Planning and Zoning Permit No. 09-510-09 (Special Use Permit-Alcohol),
Located at 3960 Tradewinds Drive.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 09-510-09 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 and wine, as part of a bona fide public eating place (restaurant; ABC License Type 41) within a 2000 square foot restaurant (Fishermen’s Catch) located at 3960 Tradewinds Drive, within the Seabridge Marketplace shopping center. Filed by designated agent, Nicholas Guglielmo, Fishermen’s Catch, 3960 Tradewinds Drive, Oxnard, CA 93035.
- 3) **Existing & Surrounding Land Uses:** The subject site is a seafood restaurant located within the recently completed Seabridge Marketplace.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	CPC (Coastal Planned Community)	VS (Visitor Serving)	Existing restaurant in Seabridge Shopping Center
North	CPC	VS	Seabridge Shopping Center
South	CPC	VS	Seabridge Shopping Center (Smokey’s BBQ restaurant)
East	R-1-PD (Garden Apartment Planned Development)	RL (Residential Low)	Townhomes (across Victoria Avenue)
West	CPC	VS	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 this shopping center, as well as alcohol use permits for a grocery store and three other restaurants within this portion of the shopping center. Camino Real Mexican restaurant previously occupied this location, and had applied for the same type of alcohol SUP as this applicant. However, the restaurant closed and the applicant withdrew their alcohol SUP request before it could be considered by the Planning Commission.

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 involves 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 have been operating in the project location since December 31, 2009. The zoning regulations and City Council Resolution No. 11,896 require approval of a special use permit for all new alcohol sales.

In addition to selling meals, the business also sells fresh fish, crab and other shellfish. As a side note, the applicant's family operates two fishing boats, and provides fresh-caught seafood for the restaurant and fish market. The restaurant is generally open from 11 AM to 11 PM every day, with approximately 12 employees; 6 employees per shift.

Fishermen's Catch occupies a 2000 square foot suite within Phase I of the Seabridge Marketplace Shopping Center. Approximately 60 customers can be seated in the restaurant. The main entrance faces north, toward the parking area, and the south side of the restaurant opens onto a plaza with the center's public art piece, a playful ship sculpture.

Parking for the shopping center meets the City Code requirements. No problems with parking availability have been reported in this portion of the shopping center, which operates independently from and is not physically connected to the southern portion of the shopping center.

b) General Plan Consistency: The General/Coastal Plan and zoning land use designation for the subject property is Mandalay Bay 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, Mandalay Bay Specific 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 41 License pending City of Oxnard approval of this special use permit. The Type 41 License (On-sale Beer, and Wine – 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 special use permit is likely to significantly aggravate policing problems.
- i) **Concentration of Alcohol Sales:** There are three similar uses within 350 feet of the site (Round Table Pizza, Smokey's BBQ, and Anaba Sushi) and one off-sale general alcohol outlet within 1000 feet (Vons Grocery).
- 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 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 116 during the same 12-month time period. This is consistent with the average Part I and II crime rate citywide. The Police Department received 97 calls for police service at the Seabridge shopping center, with the majority of those calls attributed to theft-related incidents at the grocery store in the same shopping center. The Police Department responded to a total of 40 disturbance-related calls, which were also primarily generated from confrontations at Vons. The area is generally not considered to be a policing problem. The number of disturbance-related incidents listing alcohol as a contributing factor is 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 law violations, 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 this will be the fourth alcohol outlet of a similar type and density may become an issue. While multiple outlets in a shopping center of this type is common and may be appropriate for the setting, research shows that as the number of alcohol sales outlets increases, crime and neighborhood disturbances tend to increase as well.

Outdoor seating exists along the walkways in front and back of the buildings, with a large common area, including the amphitheater overlooking the marina, adjacent to this business. The scenic qualities of the area and available outdoor seating are likely to attract customers from throughout the complex. The Police Department's concern is that customers purchasing alcohol from this business (and potentially from other businesses within this complex) would take their drinks to this unmonitored outdoor area and that allowing alcohol consumption here could create additional policing problems and interfere with the area's quiet setting. The Police department believes that specific operational conditions would mitigate this concern, and these conditions are included in the resolution. The permit allows alcohol to be served only inside the restaurant, and no alcohol could be taken outside the restaurant for consumption.

Other than the discussion above, the Police Department has no serious concerns about adding an alcohol outlet in this particular area.

The Responsible Alcohol Policy Action Coalition (RAPAC) discussed this proposal at their monthly meeting. Members were concerned that the restaurants with alcohol sales are concentrated in the center of the development, close to the amphitheatre where most of the outdoor seating is located. They expressed concern about the potential for the existing businesses to modify their uses or change ownership, which could lead to a cluster of problematic outlets that could interfere with the peaceful environment of the shopping center's common area.

- 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 because there are three similar uses (restaurants with on-site alcohol sales) within 350 feet and one off-sale outlet (Vons) within 350 feet. However, the presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises are generally appropriate. The California Department of Alcoholic Beverage Control uses census tract statistics to determine over-concentration issues and the addition of this outlet will not exceed what is permitted by their standards.

The main issues regarding this proposal are the potential for customers to take their alcoholic beverages outside to the common area and the density of alcohol outlets at the center. The conditions include a requirement that if the applicant decides they want to serve meals with alcohol outdoors, an enclosed patio would need to be provided. This patio would require approval of a Minor Modification by the Planning Manager, with Police Department input and review of the Minor Modification to ensure that the Police Departments requirements regarding alcohol sales on the patio are met.

The Police Department's experience is that this proposed license type (Type 41 - 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 January 14, the applicant mailed notices of the Community Workshop to all property owners within the Channel Islands 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 January 25, 2010. The one person who attended the community workshop did not speak in support of or against this project.

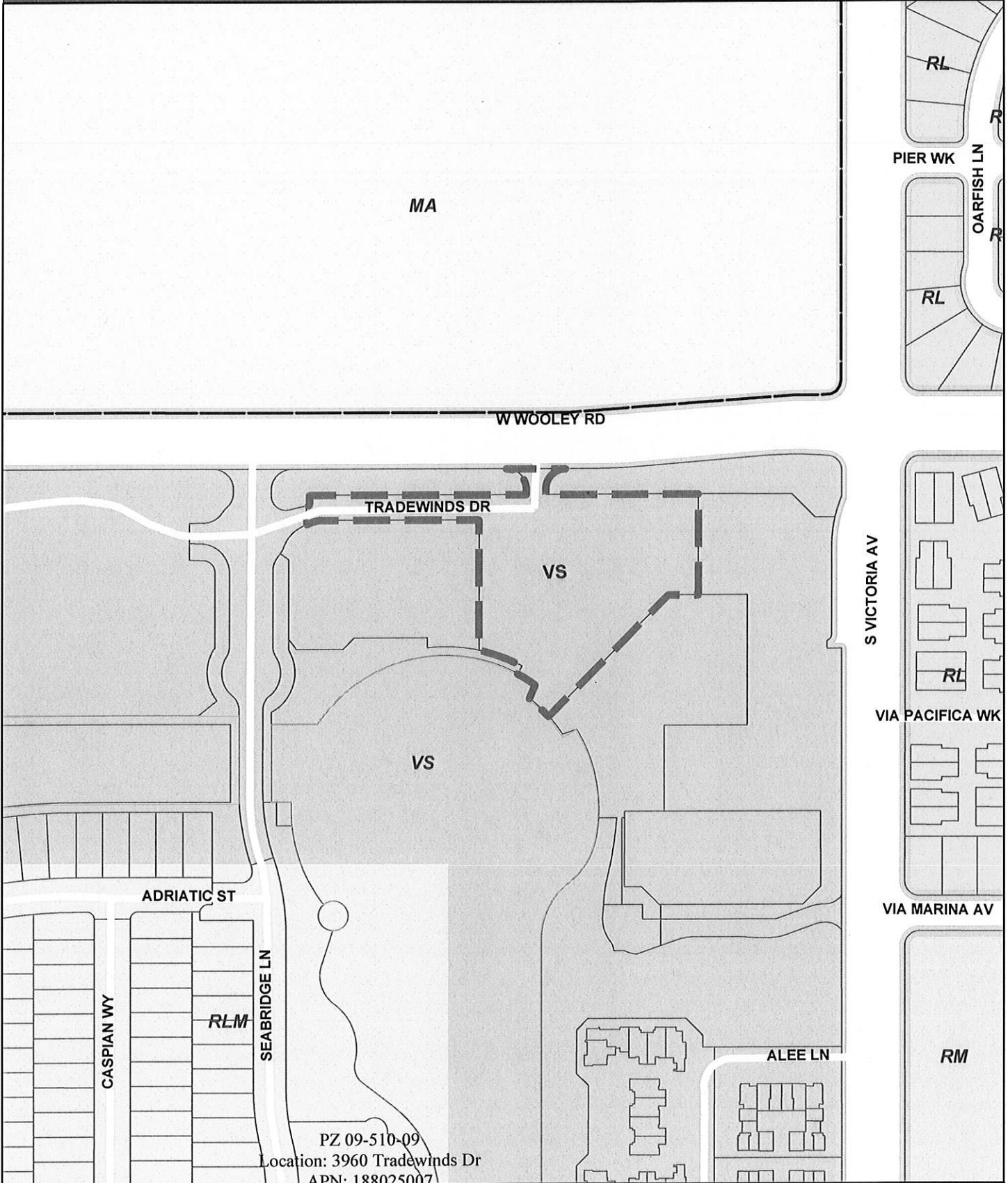
Appeal Procedure: In accordance with Section 16-545 of the City Code, the Planning Commission's action may be appealed to the City Council within 18 days after the decision date. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal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

General Plan Map



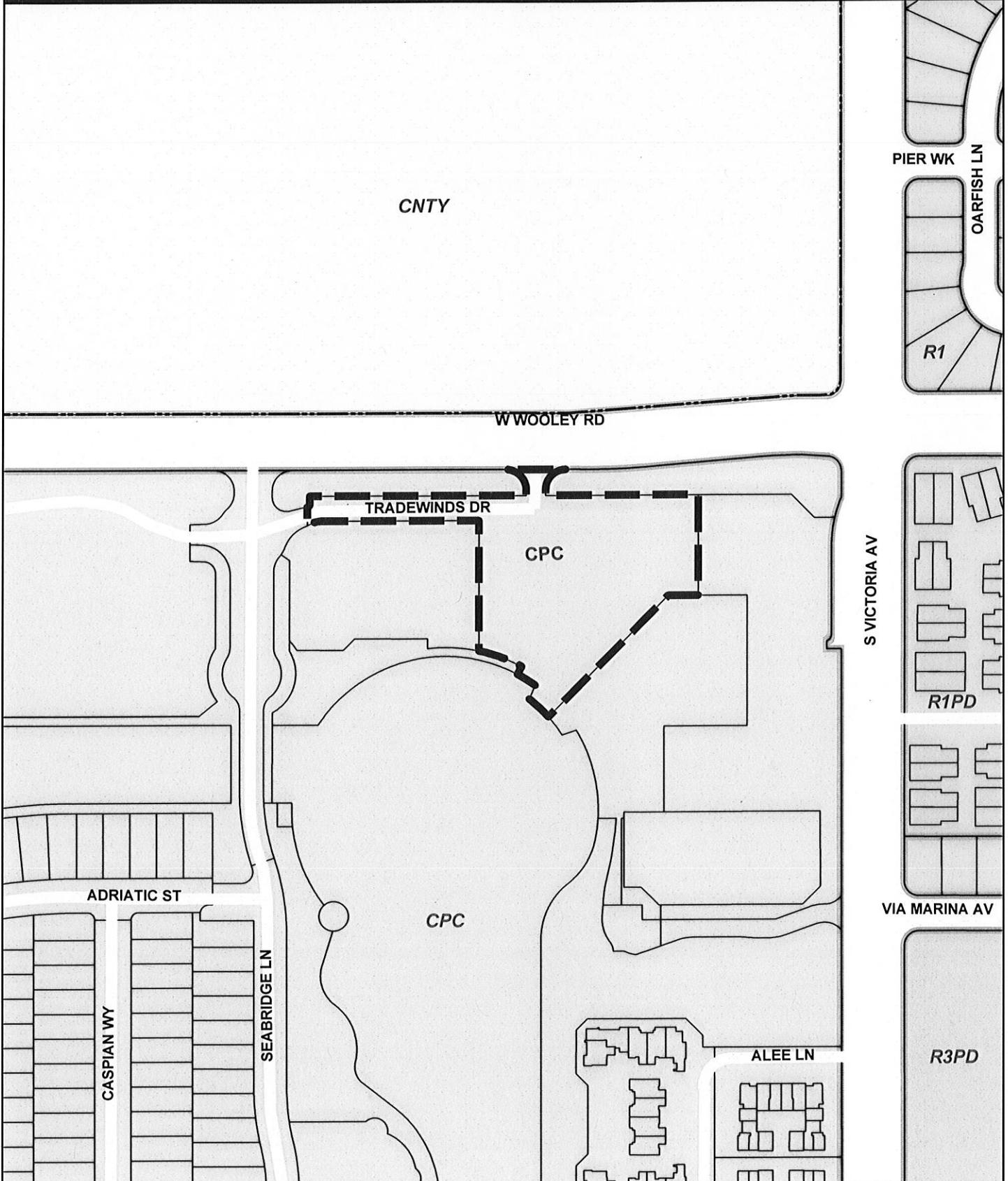
Fisherman's Catch
Location: 3960 Tradewinds Dr
APN: 188025007
Fisherman's Catch

0 50 100 200 300 400 Feet

General Plan Map

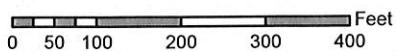


Zone Map



Oxnard Planning
January 6, 2010

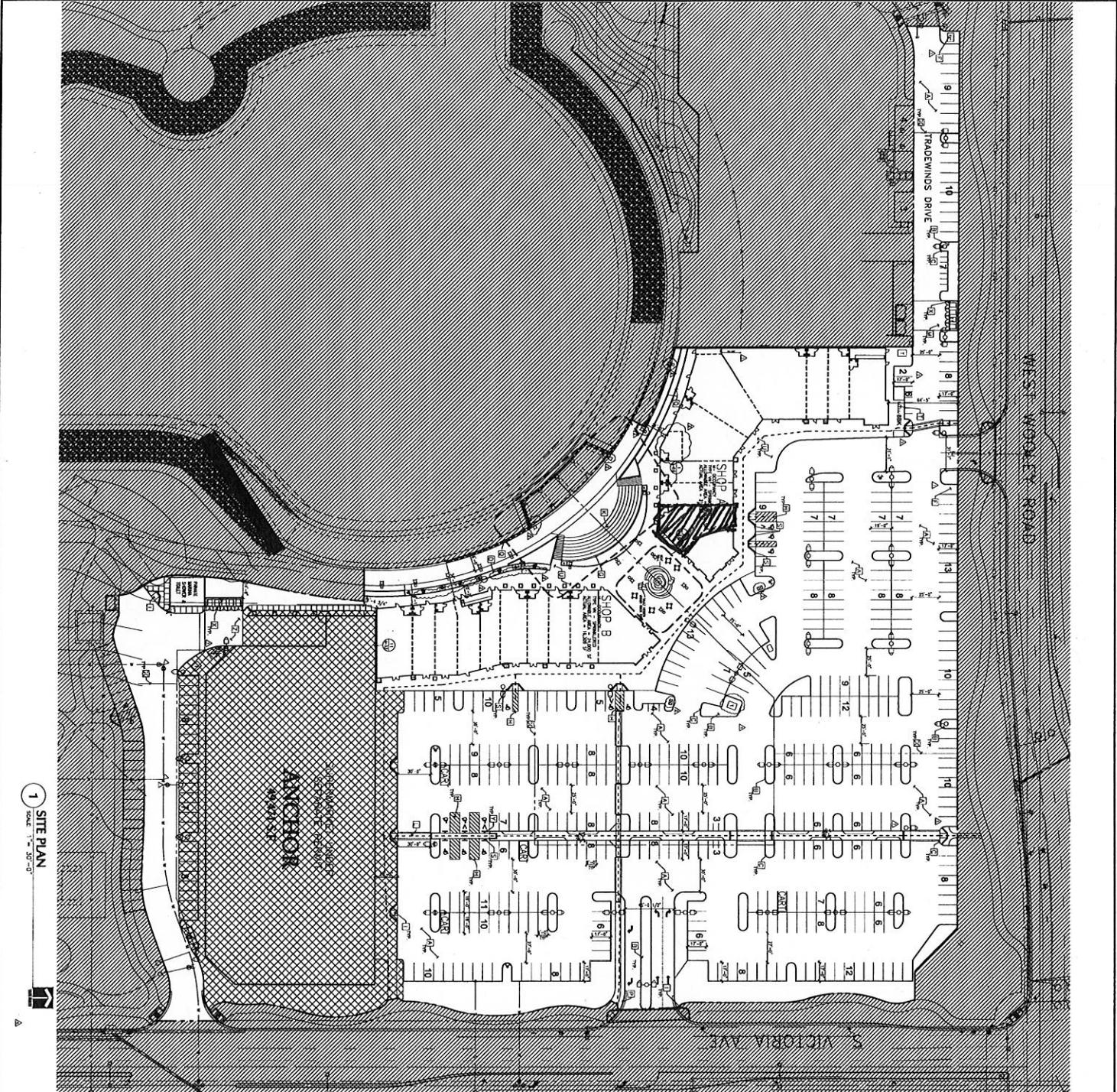
PZ 09-510-09
Location: 3960 Tradewinds Dr
APN: 188025007
Fisherman's Catch



Zone Map



1:2,730



1 SITE PLAN
SCALE: 1" = 20'-0"

SCOPE of WORK

NO.	DESCRIPTION OF WORK	MARK
1	REMOVE EXISTING 800 SQ. YARD CONCRETE DRIVEWAY	(A)
2	REMOVE EXISTING 800 SQ. YARD CONCRETE DRIVEWAY	(B)
3	CONCRETE DRIVEWAY 8' WIDE, 8" THICK, 10% SLOPE TO CURB AND DRAIN	(C)
4	CONCRETE DRIVEWAY 8' WIDE, 8" THICK, 10% SLOPE TO CURB AND DRAIN	(D)
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SYMBOLS LEGEND

- (A) EXISTING DRIVEWAY
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- (CI) EXISTING DRIVEWAY
- (CJ) EXISTING DRIVEWAY
- (CK) EXISTING DRIVEWAY
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- (CU) EXISTING DRIVEWAY
- (CV) EXISTING DRIVEWAY
- (CW) EXISTING DRIVEWAY
- (CX) EXISTING DRIVEWAY
- (CY) EXISTING DRIVEWAY
- (CZ) EXISTING DRIVEWAY

BICKEL UNDERWOOD
 JAMES S. BICKEL JR. ARCHITECT
 A CALIFORNIA CORPORATION
 3600 Birch Street, Suite 120, Newport Beach, CA 92660
 949.757.0411 FAX 949.757.0511

SEABRIDGE MARKETPLACE
 WOOLEY ROAD & VICTORIA AVENUE
 OXNARD, CALIFORNIA 93030

REVISIONS
 DATE
 BY
 CHECKED
 APPROVED

1 SITE PLAN
 SCALE: 1" = 20'-0"

A-02

DATE: 07/20/00
 DRAWN BY: J.S.B.
 CHECKED BY: J.S.B.
 APPROVED BY: J.S.B.

EQUIPMENT SCHEDULE

ITEM	DESCRIPTION	BASE	QTY	WATER	ELECTRICAL	MISC	REMARKS
1	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS	12,000 BIV		120V 6.5A		NSF APPROVED
2	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS	12,000 BIV		120V 6.5A		NSF APPROVED
3	NEW STOCK POT RACK	LESS	50,000 BIV				NSF APPROVED
4	NEW COUNTER BRACKET	STAND	50,000 BIV				NSF APPROVED
5	NEW COUNTER BRACKET	STAND	50,000 BIV				NSF APPROVED
6	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS	12,000 BIV		120V 6.5A		NSF APPROVED
7	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS	12,000 BIV		120V 6.5A		NSF APPROVED
8	NEW WORKTOP 30.00 DRAIN FRETTER TRIM	CASTERS			115/60V/1		NSF APPROVED
9	NEW GAS CHARBROILER BY WOLF	CASTERS	87,000 BIVS		10.3A		NSF APPROVED
10	NEW HOT FOOD TANK	LESS			115-120V 13.3 A		NSF APPROVED
11	NEW HAND WASH SINK	WALL			208V 13.3A		NSF APPROVED
12	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL			115/60V/1		NSF APPROVED
13	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL			120V 12.4A		NSF APPROVED
14	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL					NSF APPROVED
15	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
16	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	6" LESS					NSF APPROVED
17	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL					NSF APPROVED
18	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL					NSF APPROVED
19	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	6" LESS	45,000 BIV				NSF APPROVED
20	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	COUNTER			120V 1.5A		NSF APPROVED
21	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
22	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
23	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	CASTERS			115/60V/1		NSF APPROVED
24	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	CASTERS			9.0A		NSF APPROVED
25	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS			115/60V/1		NSF APPROVED
26	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL			120V 5.1A		NSF APPROVED
27	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL					NSF APPROVED
28	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	WALL					NSF APPROVED
29	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	6" LESS					NSF APPROVED
30	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
31	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
32	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
33	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
34	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED
35	NEW 1/2" X 1/2" BRASS SINK (QTY. 1)	LESS					NSF APPROVED

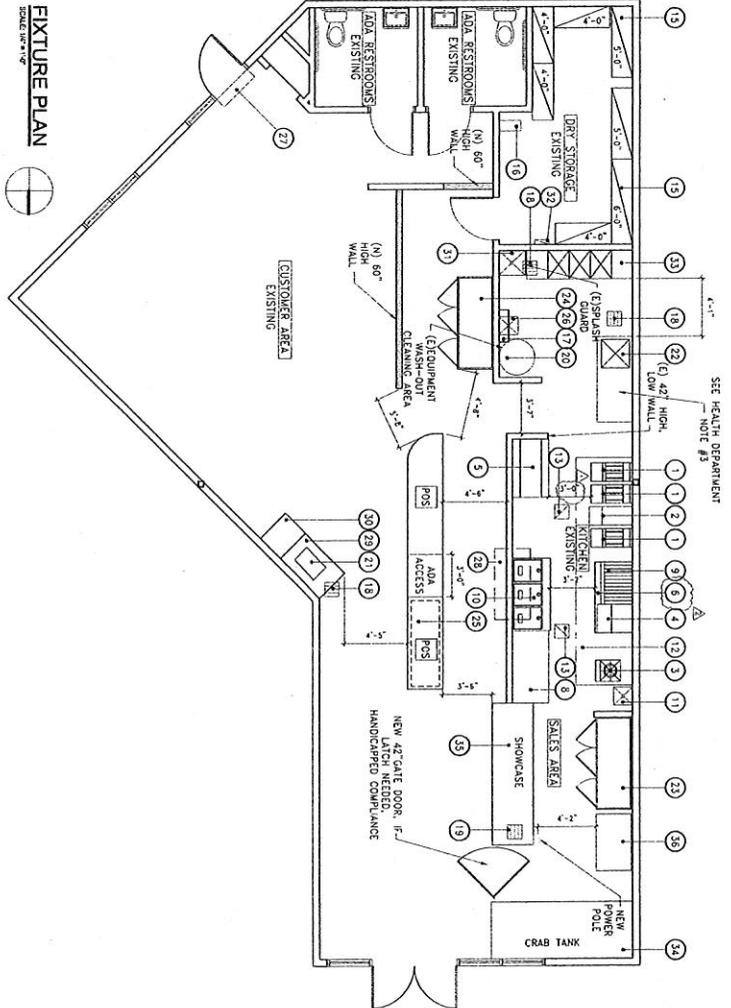


FIGURE PLAN

AREA	FLOOR	BASE	WALLS	CEILING
FOOD PREP AREA	(1) CERAMIC TILE	CONC 3/8" INTERCAL W/1/4" UP WALL	CRISUM PAINTED SEMI-GLOSS ENAMEL	"T" BAR W/SCISSOR SCREWBART PANEL
REST ROOM AREA	(1) CERAMIC TILE	CONC 3/8" INTERCAL W/1/4" UP WALL	CRISUM PAINTED SEMI-GLOSS ENAMEL	"T" BAR W/SCISSOR SCREWBART PANEL
DRY STORAGE AREA	(1) CERAMIC TILE	CONC 3/8" INTERCAL W/1/4" UP WALL	CRISUM PAINTED SEMI-GLOSS ENAMEL	"T" BAR W/SCISSOR SCREWBART PANEL
CUSTOMER AREA	(1) STAINED CONCRETE	CONC 3/8" INTERCAL W/1/4" UP WALL	CRISUM PAINTED SEMI-GLOSS ENAMEL	"T" BAR W/SCISSOR SCREWBART PANEL
SALES AREA	(1) STAINED CONCRETE	CONC 3/8" INTERCAL W/1/4" UP WALL	CRISUM PAINTED SEMI-GLOSS ENAMEL	"T" BAR W/SCISSOR SCREWBART PANEL

FINISH SCHEDULE

PROJECT: FISHMAN'S CATCH
3360 TRADEWINDS DRIVE OAKLAND, CA 94635

DATE: 06-29-09
DESCRIPTION: HEALTH DEPARTMENT APPROVAL

DATE: 10-08-09
DESCRIPTION: PLAN CHECK SUBMITTAL

PROJECT NO: 09-00000000
DRAWN BY: CONNY SAUNDERS
CHECKED BY: LIT

PROJECT TITLE: FISHMAN'S CATCH
SCHEMATIC

PROJECT: FISHMAN'S CATCH
3360 TRADEWINDS DRIVE OAKLAND, CA 94635

A.2

SHEET 2 OF 1



NOTICE OF EXEMPTION

Project Description:

PLANNING AND ZONING PERMIT NO. 09-510-09 (Special Use Permit for Alcohol) a request to permit the sale of beer and wine for on-site consumption (ABC License Type 41) in a restaurant and known as Fishermen's Catch, located at 3960 Tradewinds Drive, in the Seabridge Marketplace. The restaurant provides seating for up to 60 customers, and hours of operation will generally be 11 am to 11 pm. The project site is within the City's Coastal Zone. Filed by Designated Agent Nick Guglielmo, Fishermen's Catch, 3960 Tradewinds Drive, Oxnard, CA 93035, on behalf of K&G Seabridge I, LLC, 250 Brooks Street, Laguna Beach, CA 92651.

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)]

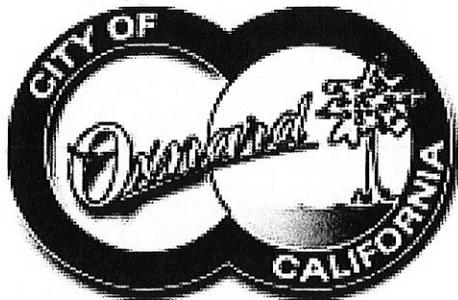
Supporting Reasons: In accordance with the California Environmental Quality Act Guidelines and Section 15301 of the California Code of Regulations, projects involving "existing structures" may be found to be exempt from the requirements of CEQA. The proposed project involves adding alcohol sales to an 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.

(Date)

Susan L. Martin, AICP
Planning Division Manager

Planning Division

214 South C Street, Oxnard, CA 93030 ♦ (805) 385-7858 ♦ FAX (805) 385-7417



Police Department

John Crombach, Police Chief

Date: January 4, 2009

To: Linda Windsor, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 3960 Tradewinds Dr. (Fishermen's Catch) **PZ-09-510-09**

Site Information:

The proposed site is located within the Seabridge shopping center at 3960 Tradewinds Drive 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 east into the parking lot. The rear doors open to a pedestrian walkway that meanders behind the complex and alongside the harbor. There is also a small, outdoor amphitheater within 100 feet of the rear doors.

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 three similar uses within 350 feet of the site and one off-sale outlet (Vons Grocery Store) in the same center. The nearest residences are approximately 500 feet to the east and across Victoria Avenue. The applicant has requested to obtain an ABC License Type-41 which is a restaurant that allows for the sale of beer and wine.

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	3942 Tradewinds	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Smokey's	1201 S. Victoria	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
4. Vons	1218 S. Victoria Ave.	Type 21	Off-Sale General	Grocery Store	Beer, Wine and Spirits

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 116 during the same 12-month time period. This is consistent with the average Part I and II crime rate citywide. There were 97 calls for police service at the Seabridge shopping center with the majority of those attributed to theft related incidents at the Vons grocery store in the same complex. The Police Department responded to a total of 40 disturbance related calls which were also primarily generated from confrontations at Vons. The area is generally not considered to be a policing problem. The numbers of disturbance-related incidents that list alcohol as a contributing factor are below the citywide average; however, the vast majority of thefts from Vons were alcohol related.

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. Any reference to police "calls for service" include all types of requests for police which may not necessarily result in a police report or meet the definition of a Part I or II crime. These types of calls may include fights, loud music or disturbances, domestic disputes and others.

Police Department Input:

The Police Department has no serious concerns about adding an alcohol outlet in this particular area other than to note that this will be the fourth alcohol outlet of a similar type and that density may become an issue. While having multiple outlets in a commercial center like this are not uncommon and may be appropriate for the setting, research indicates that as alcohol outlet density increases, crime and neighborhood disturbances also tend to rise.

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 others nearby would take their drinks outside. Outdoor areas like this are generally unrestricted and unmonitored and allowing the consumption of alcohol under such circumstances could aggravate policing problems and upset the serene environment of the site. The Police Department believes that this concern can be sufficiently mitigated with appropriate conditions of operation. The applicant has not indicated that they intend to utilize any outdoor seating for their customers or create any patio seating area other than what is provided of the overall development.

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 risk of customers taking alcohol outside. Members were also concerned about the density of outlets and that they are concentrated toward the center of the development, close to the amphitheatre where most of the outdoor seating is located. Their concerns were not so much the current uses but the potential for the businesses to modify their use or change ownership which could lead to a cluster of problematic outlets. They felt that the pristine and peaceful environment currently existing near the bay and within the development would be jeopardized if the businesses became excessively lively or contributed to disruptive behavior.

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 three similar uses within 350 feet and one more Off-Sale outlet within 350 feet so there is a local issue of undue concentration. However, the presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises are generally appropriate. The California Department of Alcoholic Beverage Control uses census tract statistics to determine over-concentration issues and the addition of this outlet will not exceed what is permitted by their standards.

The primary issues regarding this proposal are the potential for customers to take their alcoholic beverages outside to the very accommodating outdoor tables and the growing density of alcohol outlets at the center. 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 outside. Also, this location has both front and rear customer access. Typically, the Police Department does not recommend the use of a rear door for customer access as it creates a more difficult environment for employees to monitor. Because of the way this site is situated and for the convenience of the customers, the standard condition restricting access to or from the rear door has been removed. The Police Department will closely monitor this situation and will work with the applicant should any problems arise.

The Police Department's experience is that the proposed license (Type 41 - Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly. Listed below are the Police Department's recommended operating conditions for the Planning Commission Resolution.

Police Standard Operating Conditions

- 1) Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. 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.
- 14) Sales of alcohol shall not occur between the hours of 11:00 p.m. and 7:00 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 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 exceeding 36 oz. total.
- 17) In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (PD)
- 18) Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". (PD)

- 19) Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift.
- 20) Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
- 21) The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council.
- 22) Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems.
- 23) Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
- 24) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
- 25) The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
- 26) No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
- 27) Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
- 28) Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
- 29) 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)

- 30) Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
- 31) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 32) Permittee shall bolt down all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)
- 33) A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

Police Special Conditions

- 1) Permittee shall post prominent signs near each of the exits indicating that it is unlawful to remove alcohol from the premises and that violators may be cited.
- 2) If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly approved under a Minor Modification by the Planning Manager (including review by the Police Chief or designate), receive building permits from the Development Services Department, and licensed by the State Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Police Chief. Low or excessively wide spaced fencing will not be considered sufficient.

RESOLUTION NO. 2008 – [09-510-9]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD, APPROVING PLANNING AND ZONING PERMIT NO. PZ 09-510-9 (SPECIAL USE PERMIT-ALCOHOL) TO ALLOW BEER AND WINE SALES FOR ON-SITE CONSUMPTION WITHIN A 2000 SQUARE FOOT RESTAURANT (FISHERMEN'S CATCH), LOCATED ON THE WEST SIDE OF VICTORIA AVENUE, SOUTH OF WOOLEY ROAD, ALSO KNOWN AS 3960 TRADEWINDS DR (APN 188-0-250-075), IN PHASE I OF THE SEABRIDGE SHOPPING CENTER AND THE MANDALAY BAY SPECIFIC PLAN AREA, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DESIGNATED AGENT NICHOLAS GUGLIELMO, 3960 TRADEWINDS DR, OXNARD CA 93035.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 09-510-9, filed by Nick Guglielmo, 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, including the Mandalay Bay Specific Plan.
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. The presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center within a specific plan area where the possibility of additional restaurant establishments selling alcoholic beverages for consumption on the premises is appropriate.

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

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves this permit subject to the following conditions. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

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

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated December 28, 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 Manager or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, *G-5*)

4. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
5. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
6. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
7. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
8. Before placing or constructing any signs on the project property, Developer shall obtain a sign permit from the City. Except as provided in the sign permit, Developer may not change any signs on the project property. (PL/B, G-10)
9. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
11. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)
12. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
13. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

14. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
15. Prior to issuance of building permits, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, *PL-16*).

PLANNING DIVISION SPECIAL CONDITION

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

POLICE STANDARD CONDITIONS

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

22. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area.
23. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
24. Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
25. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
26. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
27. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
28. There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
29. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
30. Sales of alcohol shall not occur between the hours of 11:00 p.m. and 7:00 a.m. (PL/PD)
31. 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 items shall not be considered a violation of this condition and are actually encouraged. (PD)
32. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36 oz. total.
33. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption

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

34. Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". (PD)
35. Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift.
36. Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
37. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council.
38. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems.
39. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
40. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
41. The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
42. No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
43. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
44. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
45. 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)

46. Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
47. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
48. 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)
49. 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

50. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly approved under a Minor Modification by the Planning Manager (including review by the Police Chief or designate), receive building permits from the Development Services Department, and licensed by the State Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Police Chief. Low or excessively wide spaced fencing will not be considered sufficient.
51. Permittee shall post prominent signs near each of the exits indicating that it is unlawful to remove alcohol from the premises and that violators may be cited.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 18th day of February, 2010, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

Randall Elliott, Chair

ATTEST: _____
Susan L. Martin, Secretary