Planning Division

PLANNING COMMISSION STAFF REPORT

TO: Planning Commission

FROM: Brian Foote, AICP, Associate Planner

DATE: March 15, 2012

SUBJECT: Planning & Zoning Permit No. 11-550-1 (Major Modification)

1) **Recommendation:** That the Planning Commission adopt a resolution approving Planning & Zoning Permit No. 11-550-1 for a major modification to Planning & Zoning Permit No. 04-500-28 (Special Use Permit), subject to certain findings and conditions.

2) **Project Description and Applicant:** A request for approval of a major modification to an approved Special Use Permit to remove one interior wall between dining rooms and relocate one existing bar in Ruby's Café. The project site is located at 348 and 350 South Oxnard Boulevard. The project is exempt from environmental review pursuant to Sections 15301 of the California Environmental Quality Act (CEQA) Guidelines. Filed by Mike Sanchez of Coastal Architects, on behalf of property owner Guadalupe Martinez, 505 South A St., Suite #200, Oxnard CA 93030.

3) **Existing & Surrounding Land Uses:** The subject property is a 10,233 square-foot restaurant, originally constructed as two attached suites. The adjacent parcel to the south is an existing parking lot. Both lots are under the ownership of Guadalupe Martinez. The surrounding properties and zones are listed in the following table (see Attachment A).

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	CBD	CBD	Ruby's Café
North	CBD	CBD	EZ Mart; Automotive Solutions
South	CBD	CBD	Public parking lot (Oxnard Transit Center); retail commercial center
East	CBD	CBD	Oxnard Transportation Center
West	CBD	CBD	Oxnard Blvd.; public parking lot; Bahia Del Mar restaurant

4) **Background Information:** On December 2, 2004, the Planning Commission adopted Resolution No. 2004-84 approving PZ No. 04-500-28 (Special Use Permit) for sale of alcoholic beverages for on-site consumption (ABC License Type 47, On-Sale General – Eating Place), a restaurant and banquet facility, a small nightclub on Thursday through Sunday nights, and the use of 112 off-site parking spaces to meet the parking requirement. The property has a current Certificate of Occupancy. The site is 10,380 square-feet in size and provides no on-site parking; however, the owner controls a parking lot adjacent to the site on the south side which can accommodate six parking spaces. The owner has recorded a Covenant to Allow Use of Off-Site Parking Spaces for both parcels. The business opened in 2006, with business tax certificates renewed annually for restaurant/café use and public dancing.

5) **Environmental Determination:** According to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving existing facilities may be found to be exempt from the requirements of CEQA. The project proposes interior alterations to an existing structure with no expansion of the existing use. Staff has determined that there is no substantial evidence that the project may have a significant effect on the environment, and recommends that the Planning Commission adopt the Notice of Exemption (Attachment C).

6) **Analysis:**

a) ***General Discussion:*** Ruby's Café operates a restaurant daily, and also an ancillary nightclub Thursday through Sunday. Hours of operation for the restaurant are Monday – Wednesday 10:00 a.m. to 9:00 p.m., and Thursday – Sunday 10:00 a.m. to 1:00 a.m. Hours of operation for the nightclub are Thursday – Sunday 9:00 p.m. to 1:00 a.m. Nightclub entertainment includes college night on Thursday; Spanish music (DJ) or bands on Friday and Sunday; and English and Latin music (DJ) on Saturday.

The property currently possesses a California Department of Alcoholic Beverage Control license Type 47 (On-Sale General – Eating Place) permitting the business to serve beer, wine and spirits with food sales as bona fide restaurant. The current licensee, Mora Entertainment Enterprises, acquired the ABC license in November 2010 via transfer from the property owner. The total number of employees is 40, with two shifts of 20 employees each. The numbers of security staff varies depending on the day of the week, with 13 provided on Saturday and Sunday nights, ten on Friday nights, and eight on Thursday nights.

Nightclubs are conditionally permitted uses pursuant to Zoning Code §16-148(C), and characterized by live or recorded entertainment, patron dancing, seating for patrons, and alcohol service on conjunction with a restaurant. At the time of original approval in December 2004, the Commission's intent was for the public dancing to be an ancillary and intermittent use, such as salsa lessons or small group dances for private parties or banquets, and only in the southerly half of the structure (see Attachment G – Staff Report). The northern portion of the building was not approved for nightclub use or public dancing (however, private parties and dancing were permitted if not in conjunction with the dancing

in the southern portion of the building). A primary reason for maintaining the dividing wall between the suites was to comply with the Building Code occupancy restrictions, and occupancy was limited to less than 300 persons. With the existing permanent dividing wall in place, the occupancy did not exceed 300 persons in the dining room, and therefore, the use did not require any upgrades to emergency egress (e.g. multiple means of exit, 1-hour fire-rated walls and doors in the rear hallway, etc.). The maximum occupancy of the entire building for a restaurant use was not to exceed 300 persons, and the approved plans indeed showed occupancy not exceeding 299 persons (155 patrons in the north suite plus 144 patrons in the south suite). The approved plans also showed other combinations of occupancies depending on dining or dancing uses, all of which show less than 300 persons maximum. The southerly half of the structure was approved for 132 patrons for dinner, and 89 patrons for dancing after the furniture was removed and stored for the nightclub use. The northerly half of the structure allows 145 patrons for a seated meal, 44 patrons for a seated meal when the dance floor is in use, and 29 patrons on the dance floor area.

The proposed modification to remove the interior dividing wall between suites would create one large room for dining during the day and early evening, and then dancing during the late evening. The restaurant use will remain as the primary use of the property, and food service must be made available at all times during business hours. However, the proposed enlargement of the dance floor area is a departure from the Planning Commission's original approval for the property, and expansion of the nightclub use must be approved by the Commission. If the Commission approves the modification, the future occupancy will exceed 300 persons (see paragraph *d) Floor Plan* for further detail).

b) ***General Plan Consistency:*** The 2030 General Plan designates the subject property as Central Business District (CBD). The existing business is consistent with the retail types of land uses permitted in the CBD, and therefore, the proposal is consistent with the General Plan and the Oxnard Downtown Strategic Plan.

c) ***Conformance with Zoning Development Standards:*** The existing property complies with the development standards of the CBD zone, including setbacks, structure height, architectural style, parking, and landscaping.

d) ***Floor Plan:*** The proposed floor plan (Attachment B) indicates that the permanent dividing wall will be removed between the two suites located 348 and 350, which will create one large dining room. During nightclub use, the modification would allow one large dance floor area, essentially doubling the size of the nightclub use. The proposed changes will not create any additional dining or bar areas, but would expand the dining/dancing area insofar as the wall removal would effectively double the size of the floor area. A modular folding partition wall is proposed in order to allow the dining room to be divided when desired (such as for banquet events, private parties, etc.), yet may be retracted to create a single large main dining/dancing room. One existing bar on the north side of the dining room will be reconstructed to mirror the shape of the bar on the south side. During nightclub use, most

tables and chairs utilized for dining would be removed, with the exception of high tables and chairs adjacent to the perimeter walls and one small dining room at the southwest corner of the building. Attachment B includes two floor plans, one depicting the seating arrangements for restaurant use, and another depicting the nightclub use. The analysis of occupancy included on the project plans (Attachment B) indicates that there may be up to 540 persons for the nightclub use, and up to 405 persons for the restaurant use.

As proposed, the occupancy rating would exceed 300 persons, and therefore the California Building Code will require upgrades to the exiting and emergency egress (e.g. multiple means of exit, including 1-hour fire-rated walls and doors in the rear hallway, possibly additional emergency hardware on doors, etc.). If the Commission approves the applicant's request, the conditions of approval require compliance with all applicable provisions of the California Building Code. Development Services Division staff will verify compliance and that all exiting and emergency egress requirements will be completed prior to issuance of a new certificate of occupancy (allowing more than 300 persons).

e) *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 E) provides information regarding the number of incidents of police response, and whether approval of the special use permit is likely to significantly aggravate policing problems.

Concentration of Alcohol Sales – Two businesses that sell alcohol are located within 350 feet of Ruby's Café, which are Bahia Del Mar restaurant (Type 47 – On-Sale General, Eating Place) and La Gloria Market (Type 20 – Off-Sale Beer & Wine). Ten other businesses selling alcohol are located within 1000 feet of Ruby's Café, nine of which are restaurants and one is a bar. A complete list of businesses and license types are included in the Police report.

Crime Statistics Review – For comparison purposes, the Police Department calculates the average number of Part I and Part II crimes that occur per reporting district (grid) during a selected 12-month period. 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. 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 136 during the same 12-month time period. This is approximately 16% higher than the average crime rate citywide, which is generally not considered to be significant. The numbers and types of crimes were spread evenly throughout the surrounding area, with the heaviest concentration along both sides of Oxnard Boulevard from Fourth Street to Eighth Street. The number of incidents that listed alcohol as a contributing factor is slightly above citywide averages.

There were 56 total police calls for service to this location during a recent 12-month period (July 2010 to June 2011). Of those, 26 were disturbance related such as fights and assaults. Of the 26 disturbance calls, 17 were listed specifically as fights. Compared to the previous 12-month period (July 2009 to June 2010), the overall calls for service have increased 10% and the number of disturbance related calls rose from 20 to 26 (30% increase). For comparative purposes, the Police Department reviewed the annual calls for service for eleven other businesses in Oxnard that are restaurants that also offer dancing and entertainment. For disturbance calls, Ruby's Café was at the top of the list and totaled nearly 30% higher than the number two location.

Police Department Input – This business was originally proposed to be predominantly a restaurant with only limited dancing and entertainment. When the Police Department conducted the original review in 2004, the applicant had proposed a dividing wall down the center of the building that was to allow the ability to host separate events or activities. Each room was to have restaurant seating throughout most of the room with a small area designated for dancing. Each room had an individual occupancy limit of less than 300 persons, and the dance areas were listed as having room for between 30 to 50 customers. As proposed, with only limited dancing and a focus on the restaurant, the Police Department was comfortable that the site would not significantly aggravate policing problems and, while concerned about the number of alcohol outlets in the downtown, did not oppose the use.

The applicant has now proposed to eliminate the dividing wall to allow more flexibility when hosting larger events or renting the facility to large private parties. This change will likely increase the building's capacity and effectively allow the entire venue to be joined and act as one massive area more conducive to nightclub activity. Such a use is a drastic departure from the original proposal, and significantly alters the use and environment initially envisioned by the Police Department. Among all types of businesses that sell alcohol, perhaps the ones that pose the greatest risk and potential for problems are those that rely heavily upon lively nightclub activity with alcohol and less so on food service. The proposed changes to this venue will undeniably alter the existing environment to be one that is more typical of a large urban nightclub and less like a family "café" as the business name implies.

While it is not the position of the Police Department to oppose the granting of this permit, police staff wish to emphasize the importance of understanding the existing conditions in the area. This proposal, perhaps innocuous by itself, will add one more layer of risk to the downtown and should not be taken lightly. The Police Department has recommended several operating conditions to ensure that the success of this business does not come at the expense of the community. If this type of use is the vision and desire of the community and its leaders, the Police Department is confident it can help to minimize the potential for problems by continuing to work collaboratively with the business owners and applying preventative conditions of operation to the special use permit. *Without the recommended police conditions, the Police Department would be opposed to the requested major modification.*

Conclusion – The statistical analysis shows the area to have a crime rate that is 16% greater than the city-wide average which reflects a sharp decrease from earlier reports that were more than 150% higher than average. The area has the highest concentration of alcohol outlets than anywhere else in the city, and some of those licenses were issued more than 20 years ago and have no preventative conditions of operation attached to them (since SUP's were not required at the time they obtained their ABC license). The Central Business District currently has at least 35 active ABC licenses within its boundaries, and there is one similar business within 350 feet of the site.

While cautious, the Police Department is not opposed to the proposal to modify the interior of the business. Many concerns were identified regarding the risks associated with this type of business and the reality of the current evolution of the Central Business District to include many entertainment venues. If it is the desire of the City to continue to evolve this type of use, the Police Department is confident it can work with the business to minimize problems. Police staff believes that the standard and special conditions recommended in the resolution should adequately mitigate the concerns mentioned in the Police report, and will provide the Police Department with multiple enforcement options if problems do arise.

f) ***Circulation and Parking:*** No changes are proposed to the approved site plan, and a total of six parking spaces are provided on the adjacent parcel to the south of Ruby's (also the same property owner). An adequate number of off-site parking spaces are available in the vicinity, as explained in the following paragraphs and Parking Study Update (Attachment F).

Previous Approval – The total parking required in 2004 for mixed restaurant /dance use was 119 spaces based on the City's parking requirements. The Planning Commission previously approved relief from parking requirements in accordance with Zoning Code §16-651(B), allowing off-site parking (in public parking lots) and shared parking (in the Oxnard Transit Center lot) rather than on-site parking. The Zoning Code allows the Commission to consider the use of off-site and on-street parking to meet some or all of a project's required parking, after review of a parking study. The 2004 parking study determined that sufficient off-site parking spaces were available in the public lots located at the northwest, southwest, and southeast corners of Oxnard Boulevard and Fourth Street, as well as at the Oxnard Transit Center. The parking study noted that many of the businesses in the area were closed during the evening hours, which increased the availability of parking. Additional excess parking spaces (in addition to those counted in the parking study) were also available in the public lots during the evening hours.

Parking Demand – The proposal for an expanded dance floor would require 110 parking spaces only during nightclub use (based on a total of 3,859-sq.ft. of dance area, with one space required per 35 square-feet); the remaining 6,374-sq.ft. of the restaurant would require 82 parking spaces (based one space per 75-sq.ft. for the first 6,000-sq.ft.; and one space per 180-sq.ft. thereafter). Therefore, the total parking needed during nightclub use is 192 spaces. During restaurant use at maximum occupancy, the parking requirement would be up to 104

spaces (i.e. without the nightclub during the day and early evening hours). Adequate off-street parking is expected to be available, as explained below.

Parking Provided – Based on the data in the Parking Study update (Attachment F), adequate off-site parking spaces will be available for the number of customers expected for the nightclub and restaurant uses. Zoning Code §16-152(G) allows required parking to be provided by one or a combination of the following: within the subject property; public parking structures within 1,000 feet of the subject property; public parking lots within 700 feet of the subject property; off-site private parking within 500 feet of the subject property; and on-street parking immediately adjacent and contiguous to the property line. Ruby's has six private parking spaces adjacent to the property, and therefore, virtually all of the required parking must be provided by public parking lots in the immediate vicinity.

Nearby public parking lots plus the City's parking structure can provide up to 565 off-street spaces. The three public parking lots located near the intersection of Oxnard Boulevard and Fourth Street (northwest corner, southwest corner, and between 321 and 349 S. Oxnard Blvd.) can provide a maximum of 106 parking spaces, and the furthest point would be within 500 feet of Ruby's front door. Subsequent to the original SUP approval in 2004, the public parking structure with 459 available spaces was constructed at the northeast corner of Fourth and B Streets (approximately 800 feet walking distance from Ruby's front door). The public parking lot underneath the Third Street bridge can provide up to 79 spaces. Therefore, sufficient off-site parking will be available for the intensified use. The Parking Study Update (Attachment F) provides a detailed explanation of the analysis.

7) **Community Workshop:** The Community Workshop meeting was held on March 21, 2011. On March 11, 2011, the applicant mailed notices to all property owners in the surrounding neighborhood. A sign was posted at the location facing Oxnard Boulevard. No residents or property owners attended for this specific project, and no opposition was noted.

8) **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. Project Plans
C. CEQA Notice of Exemption
D. Resolution
E. Police Report
F. Parking Study Update
G. Planning Commission Staff Report (December 2, 2004)

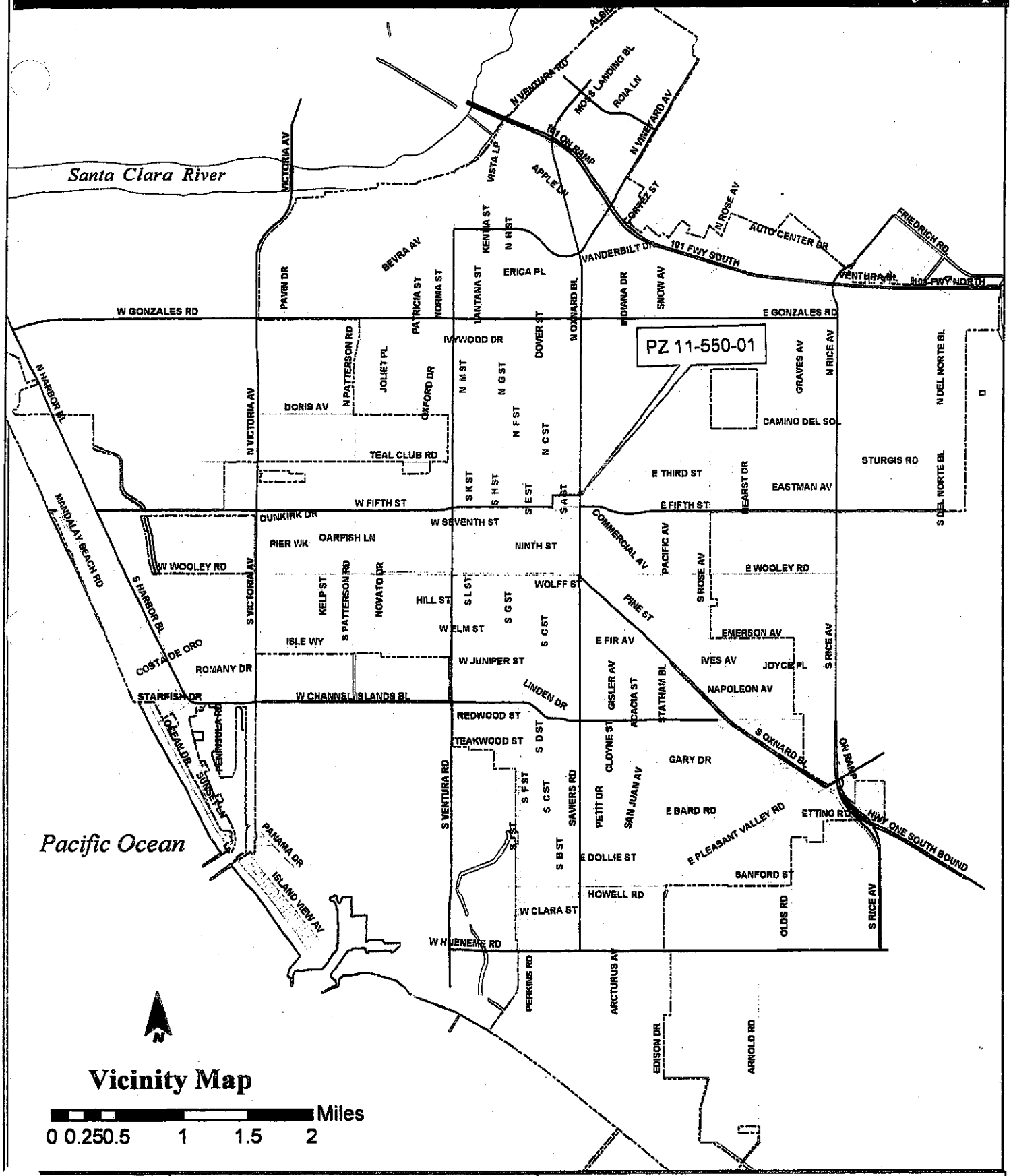
Prepared by: BF

Approved by: SM

ATTACHMENT A

Maps (Vicinity, General Plan, Zoning)

Vicinity Map



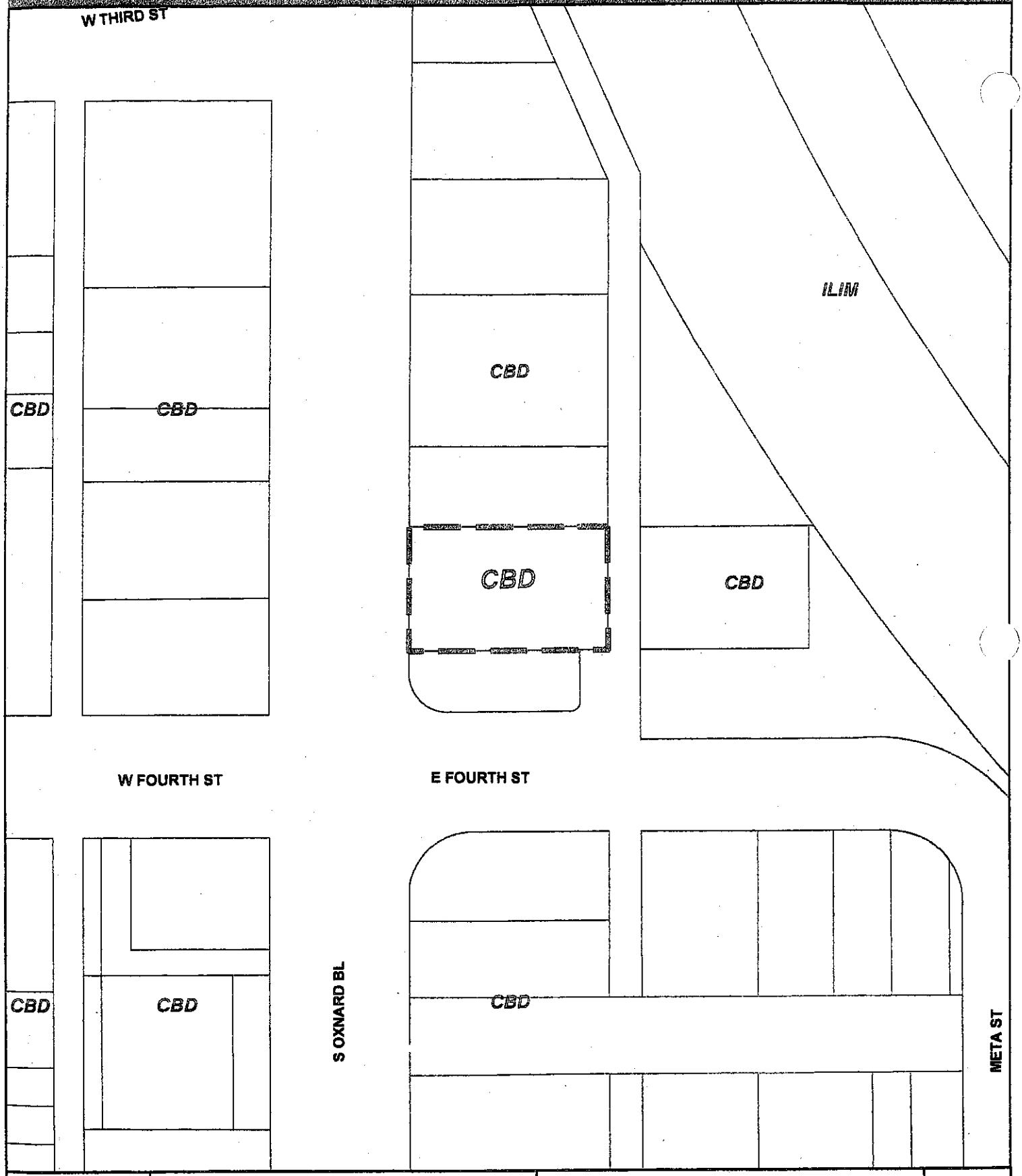
Oxnard Planning

March 9, 2011

PZ 11-550-01
Location: 348 S Oxnard Bl
APN: 201016026
Mike Sanchez

ATTACHMENT 3

General Plan Map



Oxnard Planning
March 9, 2011

PZ 11-550-01
Location: 348 S Oxnard Bl
APN: 201016026
Mike Sanchez

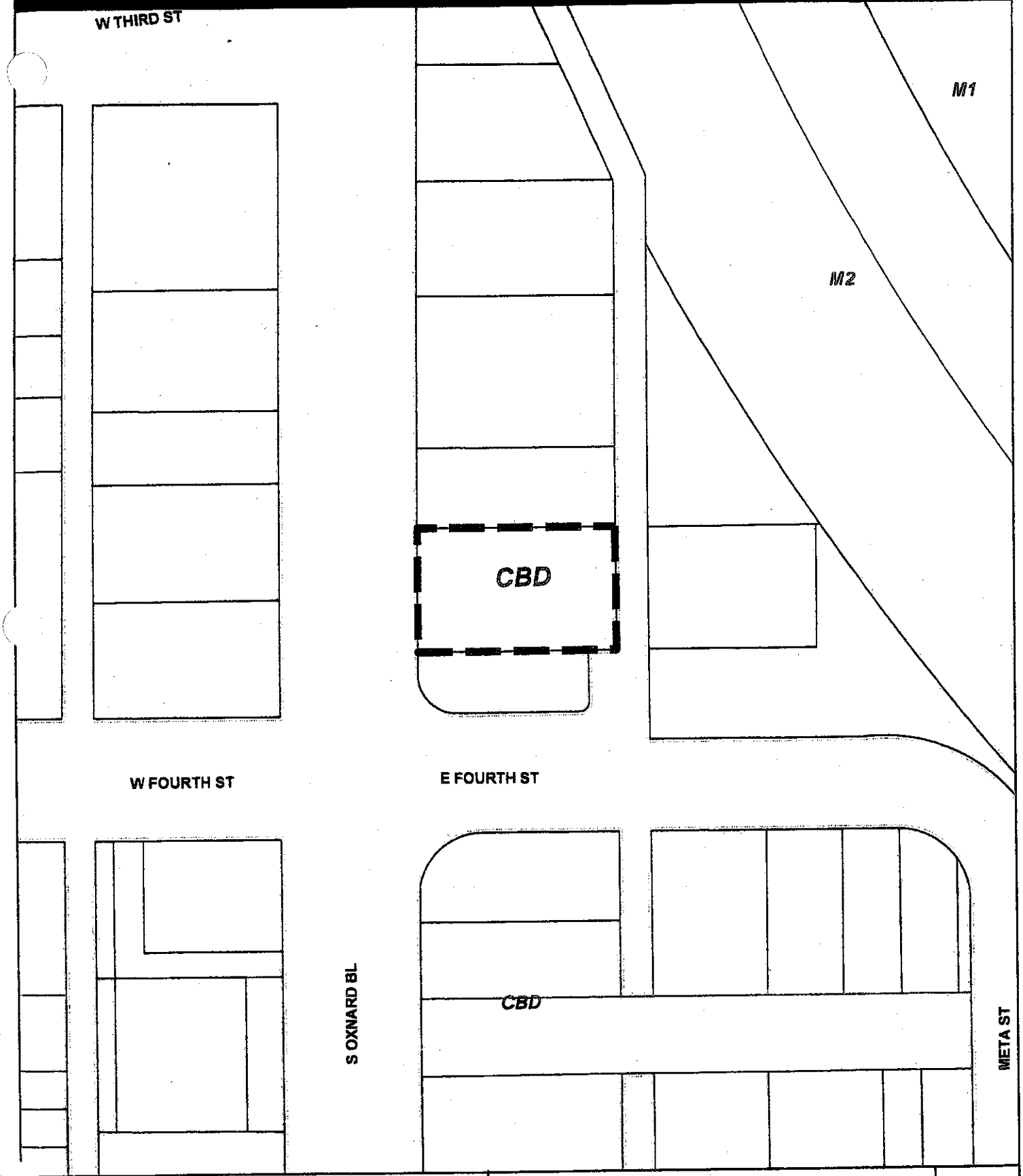
0 12.5 25 50 75 100 Feet

General Plan Map

ATTACHMENT 3
PAGE 10 OF 59

1:1,031

Zone Map



Oxnard Planning
March 9, 2011

PZ 11-550-01
Location: 348 S Oxnard Bl
APN: 201016026
Mike Sanchez

Feet
0 12.525 50 75 100

Zone Map

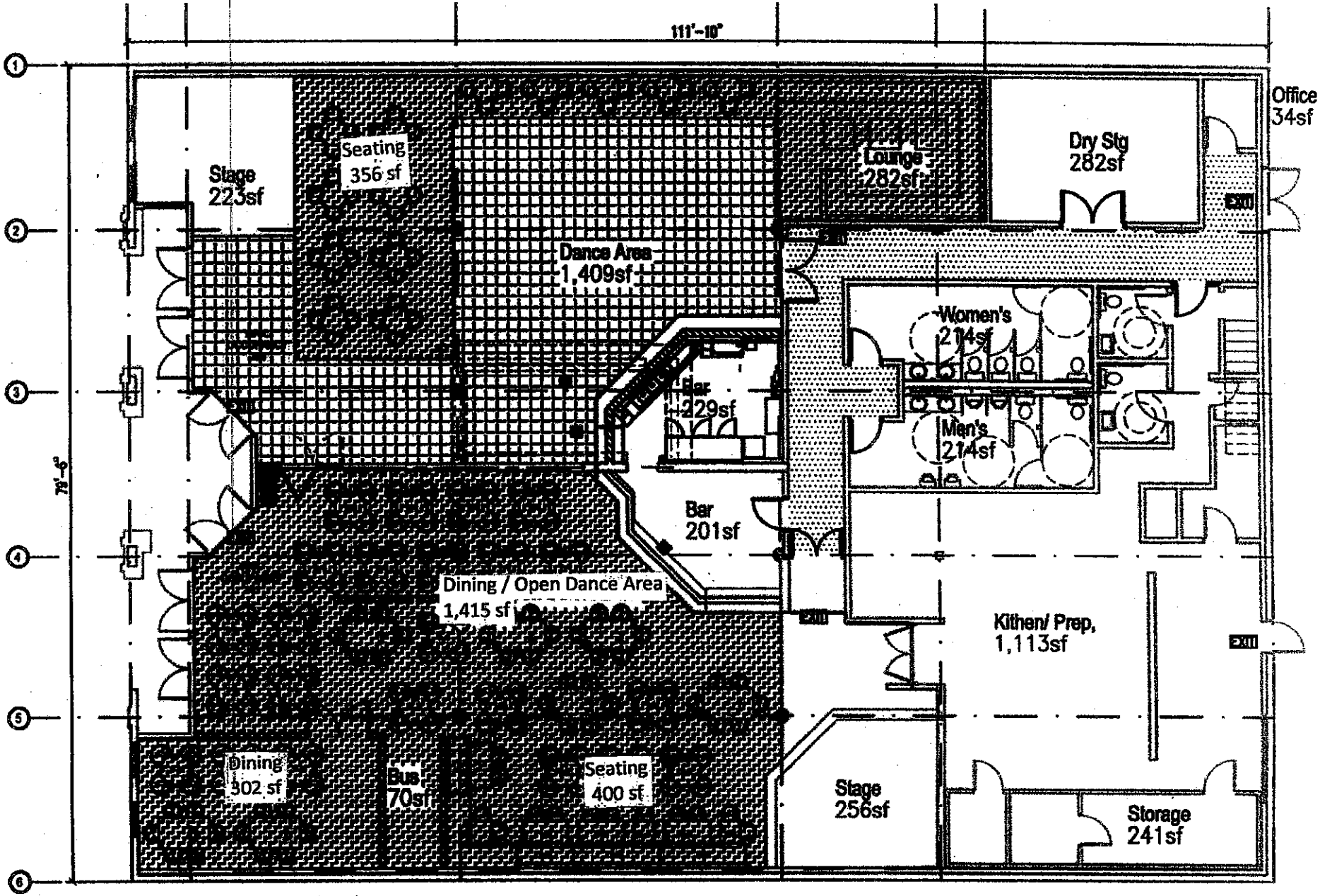
ATTACHMENT 3
PAGE 11 OF 59

1:1,037

ATTACHMENT B
Project Plans

[Please see attached full-size plans.]

PZ No. 11-550-1
(Major Modification)
Ruby's Café

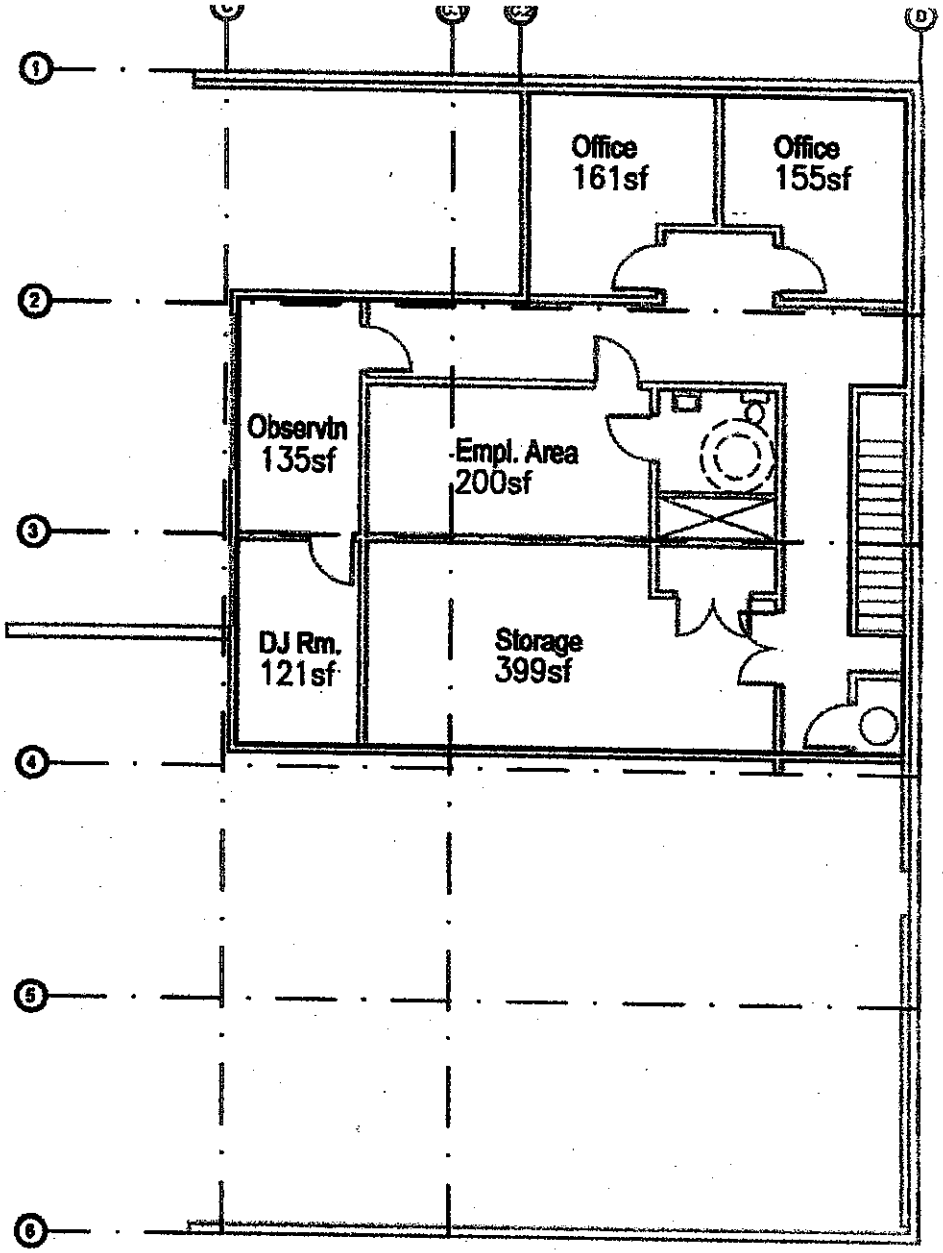


FIRST FLOOR — DINING
1/16"=1'-0"

ATTACHMENT 3
PAGE 13 OF 59

OCCUPANCY WITH FURNITURE:
RESTAURANT AREA 4,732 sf

USES	AREA	LOAD		Occupancy
First Floor				
NIGHTCLUB SEATING	356	1/15 sf		24
LOUNGE	282	1/15 sf		19
DANCE AREA	1,409	1/7 sf		201
STAGE	223	1/15 sf		20
BACK BAR	229	1/200 sf		1
TOTAL			265	
GENERAL DINING	1,415	1/15 sf		94
PRIVATE DINING	302	1/15 sf		20
STAGE	256	1/15 sf		17
BACK BAR	201	1/200 sf		1
TOTAL			132	
SECOND FLOOR				
OBERSV RM	135	1/100 sf		1
DJ ROOM	121	1/100 sf		1
OFFICE	316	1/100 sf		3
EMPL AREA	200	1/100 sf		2
STORAGE	399	1/300 sf		1
TOATL			8	
TOTAL OCCUPANCY			405	



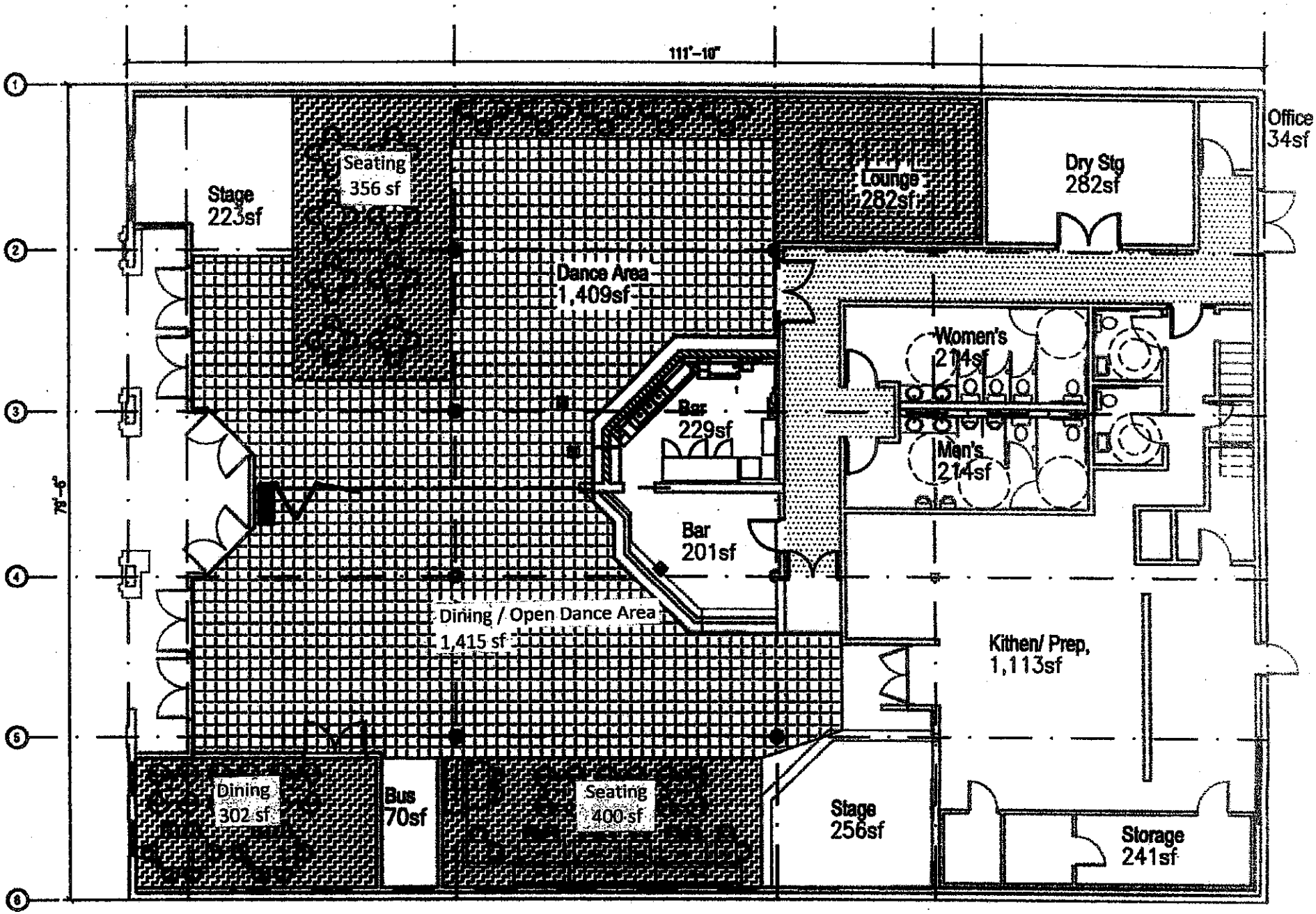
SECOND FLOOR
1/16"=1'-0"

COASTAL ARCHITECTS

N

Ruby's Cafe
348, 350 S. Oxnard Blvd.

ATTACHMENT 3
PAGE 14 OF 59



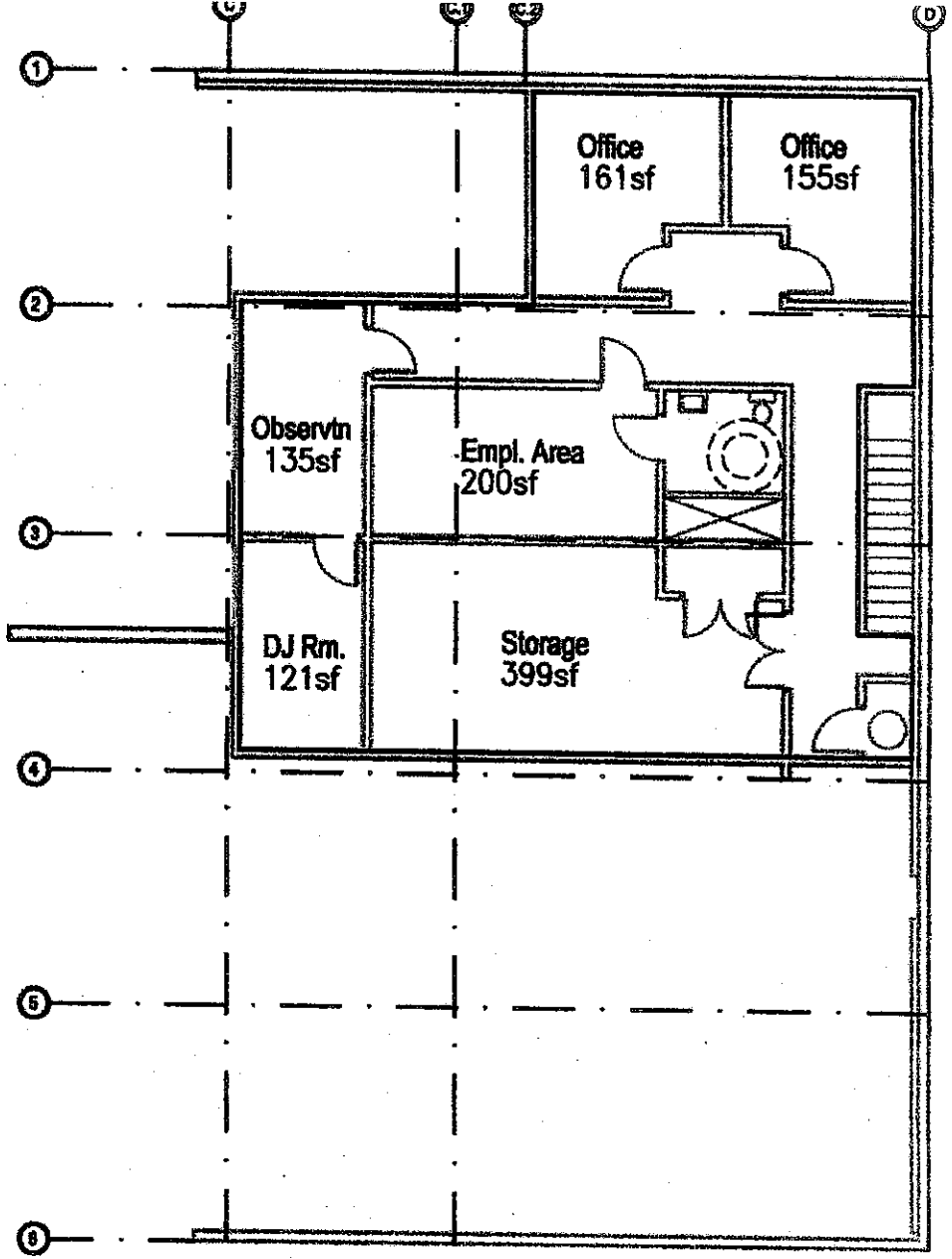
FIRST FLOOR — DINING + DANCING

1/16"=1'-0"

ATTACHMENT 3
PAGE 15 OF 59

OCCUPANCY WITHOUT FURNITURE:
RESTAURANT AREA 4,732 sf

USES	AREA	LOAD		Occupancy
First Floor				
NIGHTCLUB SEATING	356	1/15 sf		24
LOUNGE	282	1/15 sf		19
DANCE AREA	2,824	1/7 sf		403
STAGE	223	1/15 sf		20
BACK BAR	229	1/200 sf		1
TOTAL			467	
GENERAL DINING	400	1/15 sf		27
PRIVATE DINING	302	1/15 sf		20
STAGE	256	1/15 sf		17
BACK BAR	201	1/200 sf		1
TOTAL			65	
SECOND FLOOR				
OBERSV RM	135	1/100 sf		1
DJ ROOM	121	1/100 sf		1
OFFICE	316	1/100 sf		3
EMPL AREA	200	1/100 sf		2
STORAGE	399	1/300 sf		1
TOATL			8	
TOTAL OCCUPANCY			540	



SECOND FLOOR
1/16"=1'-0"

COASTAL ARCHITECTS

N

Ruby's Cafe
348, 350 S. Oxnard Blvd.

ATTACHMENT 3
PAGE 16 OF 59

ATTACHMENT C

Notice of Exemption

NOTICE OF EXEMPTION

Project Description:

Planning & Zoning Permit No. 11-550-01 (Major Modification) – A request for approval of a major modification to Special Use Permit No. 04-500-28, to remove one interior wall between dining rooms and relocate one existing bar in Ruby's Café. The project site is located at 348 and 350 South Oxnard Boulevard. Filed by Coastal Architects, on behalf of property owner Guadalupe Martinez, 505 South A Street, Suite #200, CA 93030.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- ☐ Ministerial Project
- ☒ Categorical Exemption, §15301 – Existing Facilities
- ☐ Statutory Exemption
- ☐ Emergency Project
- ☐ Quick Disapproval [CEQA Guidelines §15270]
- ☐ No Possibility of Significant Effect [CEQA Guidelines §15061(b)(3)]

Supporting Reasons: In accordance with Section 15301 of CEQA, projects involving existing facilities may be found to be exempt from the requirements of CEQA. The project proposes interior alterations to an existing structure with no expansion of the existing use. There is no substantial evidence that the project may have a potentially significant effect on the environment. Therefore, staff has determined that the project qualifies for exemption.

(Date)

Susan L. Martin, AICP
Planning Division Manager

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

ATTACHMENT D

Resolution

RESOLUTION NO. 2012 –

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A MAJOR MODIFICATION TO A SPECIAL USE PERMIT (PLANNING & ZONING PERMIT NO. 04-500-28) TO ALLOW REMOVAL OF ONE INTERIOR WALL DIVIDING SUITES 348 AND 350, RELOCATION OF ONE BAR IN SUITE 350, AND OTHER INTERIOR IMPROVEMENTS AS MAY BE NECESSARY TO COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THE CALIFORNIA BUILDING CODE. THE SUBJECT PROPERTY IS RUBY'S CAFÉ LOCATED AT 348 & 350 SOUTH OXNARD BOULEVARD (APN: 201-0-160-160). FILED BY COASTAL ARCHITECTS, 505 SOUTH A STREET, OXNARD CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for PZ No. 11-550-01 (Major Modification) filed by Mike Sanchez of Coastal Architects on behalf of property owner Guadalupe Martinez, in accordance with Section 16-561 of the Oxnard City Code; and

WHEREAS, CEQA provides a statutory exemption from the Environmental Quality Act (CEQA) pursuant to CEQA section 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing that the following circumstances exist:

1. The proposed major modification is in conformance with the Findings of Fact previously adopted by Planning Commission Resolution No. 2004–84.

2. The proposed major modification is permitted by Section 16-561 of the Oxnard City Code.

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 Planning & Zoning Permit No. 11-550-01 (Major Modification) subject to the following conditions. Except as modified by this Resolution, the conditions of approval imposed on Planning & Zoning Permit No. 04-500-28 (Special Use Permit) shall remain in full force and effect. 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 22, 2012 ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager ("Planning Manager") or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)

3. This permit shall automatically become null and void 36 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a grading, foundation, or building permit and the construction of substantial improvements. (PL, *G-3*)

4. 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*)

5. 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*)

6. 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*)

7. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, *G-11*)

8. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, *G-13*)

9. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, *G-14*)

10. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, *G-15*).

PLANNING DIVISION STANDARD CONDITIONS

11. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, *PL-2*)

PLANNING DIVISION SPECIAL CONDITIONS

12. All conditions adopted with Planning Commission Resolution No. 2004-84 shall remain applicable to the project, except as modified with this approval. (PL)

13. When the nightclub is in operation, the Applicant shall be responsible for providing the number of tables and chairs (per the approved floor plan) to adequately accommodate dining customers. (PL)

14. The applicant shall comply with all applicable requirements of the California Building Code for the approved use. The number of patrons shall not exceed the occupancy limit established by the Certificate of Occupancy. During the hours of operation of the nightclub, the operator shall maintain an accurate count of all persons entering and exiting the premises (e.g. hand-held tally counters) in order to ensure compliance with the occupancy limit established by the Certificate of Occupancy. (PL)

15. Applicant shall maintain the private parking lot and adjacent sidewalks to be free of litter and debris. Applicant shall sweep the private parking lot and adjacent sidewalks regularly to prevent the accumulation of litter and debris. When swept or cleaned, debris must be trapped and collected to prevent entry into the storm drain system. Developer may not discharge any cleaning agent into the storm drain system. (PL, *DS-84*)

POLICE DEPARTMENT STANDARD CONDITIONS

16. Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)

17. 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)

18. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or state or federal 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. (PD)

19. 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, after due process that shall include communication with the owner, 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)

20. The premises shall be equipped with an adequate number of seats to accommodate customers. (PD)

21. 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)

22. 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)

23. 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)

24. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)

25. The use of any amplifying system or device shall not be disruptive to neighboring uses. (PD)

26. 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)

27. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)

28. Sales of alcohol shall not occur between the hours of 1:30 a.m. and 6:00 a.m. (PL/PD)

29. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)

30. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, or similar high capacity amounts exceeding 36oz total. (PD)

31. 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)

32. 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)

33. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)

34. 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. (PD)

35. 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)

36. 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 special use permit and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)

37. 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)

38. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)

39. 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)

40. 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)

41. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)

42. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)

43. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)

44. 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. Recordings shall be made readily available to the Police Department upon request when conducting investigations. (PD)

45. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)

46. Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)

47. 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 DEPARTMENT SPECIAL CONDITIONS

48. There shall be only one means of access by patrons to and from the main dining and bar area. All other doors shall not be used as a means of entry or exit except in cases of emergency.

49. Dancing and amplified music are considered incidental to the primary use of the business which is a restaurant. During such times that the Permittee provides alcoholic beverages for sale at the same time that there is public dancing, there shall be no persons under the age of 21 allowed within the premises. The only exception is when the premises is being used exclusively by a private party and is not open to the public. (PD)

50. During ancillary use, the service of alcohol or any other beverages in bottles is strictly prohibited. (PD)

51. Permittee shall offer an assortment of food items to customers at all times that alcohol is being served. Permittee may, at Permitee's discretion, modify the standard menu or reduce the number of menu items offered to the customers but shall continue to make available a reasonable assortment of food items. (PD)

52. During times of ancillary use (entertainment or dancing) that occurs after 10:00 p.m., Permittee shall assign at least two security guards to monitor the exterior parking lots that are primarily used by patrons of their business. This includes but is not limited to the public parking lot to the south and other private lots as reasonable. Permittee shall maintain an accurate log to record when these areas are patrolled and the log be made available to the police upon request. These guards may be considered when calculating the required number of guards per Oxnard City Code section 11-187(C).

53. Events shall not disrupt or disturb neighboring uses by excessive noise, overcrowding, illegal or unauthorized parking, or any other nuisance behavior.

54. Permittee is responsible to adequately monitor the parking areas and ensure that alcohol is not consumed in the areas surrounding the premises (Oxnard City Code sections 11-187 and 7-148).

55. Permittee shall provide the Police Department with live viewing capability to their web-based security system. This shall include, at a minimum, all entrances, exits and areas immediately surrounding the exterior of the business.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 15th day of March, 2012, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

_____
Anthony R. Murguia, Chair

ATTEST: _____
Susan L. Martin, Secretary

ATTACHMENT E

Police Report

Police Department
Jeri Williams, Police Chief

Date: September 1, 2011

To: Brian Foote, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 350 S. Oxnard Boulevard (Ruby's Café) **PZ 11-550-1**

Site Information:
The proposed site is an existing restaurant doing business as Ruby's Café and is located at 350 S. Oxnard Boulevard. It is situated on the northeast corner of Fourth Street and Oxnard Boulevard, immediately west of the bus loading area for the Oxnard Transportation Center. The front access doors face west toward Oxnard Boulevard and parking is primarily along Fourth Street to the south where there is a large public parking lot. The business is generally bordered by commercial and the Third Street Bridge to the north, Fourth Street and La Gloria Market to the south, the Transportation Center to the east and Oxnard Boulevard to the west. The nearest alcohol outlet is across the street to the west at 359 S. Oxnard Boulevard which is the Bahia Del Mar restaurant. The closest residences are approximately 700 feet to the south at Seventh Street and Meta Street. There is one similar alcohol outlet within 350 feet of the proposed site and many more within 1000 feet.

The applicant has a Type-47 ABC License which is a restaurant that allows for the sale of beer, wine and distilled spirits. They have requested to be permitted to complete a major modification to the interior of the restaurant that would involve removing a permanent dividing wall that runs the entire length of the dining/dancing areas. This wall would then be replaced with a retractable divider that can be rolled back or extended at their discretion.

Alcohol outlets located within **350 feet** of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Bahia Del Mar	359 S. Oxnard Blvd.	Type-47	On-Sale General (eating place)	Restaurant	Beer, Wine and Spirits

2. La Gloria Market	430 S. Oxnard Blvd.	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine

Alcohol outlets located within **1000 feet** of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Meson Viejo	124 E. Fifth St.	Type-41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Nuevo Carmelita	113 E. Fifth St.	Type-40	On-Sale Beer	Restaurant	Beer Only
3. Texas Place	204 E. Fifth St.	Type-40	On-Sale Beer	Bar	Beer Only
4. El Parian	155 E. Seventh St.	Type-41	On-Sale Beer and Wine	Restaurant	Beer and Wine
5. Fifth Street Steakhouse	241 E. Fifth St.	Type-47	On-Sale General (eating place)	Restaurant	Beer, Wine and Spirits
6. Sugar Beets	455 S. "A" Street	Type-47	On-Sale General (eating place)	Restaurant	Beer, Wine and Spirits
7. Iron Horse Grill	221 W, Fifth St.	Type-41	On-Sale Beer and Wine	Restaurant	Beer and Wine
8. China Square	455 S. "B" Street	Type-41	On-Sale Beer and Wine	Restaurant	Beer and Wine
9. El Dorado	601 S. Oxnard Blvd.	Type-47	On-Sale General (eating place)	Restaurant	Beer, Wine and Spirits
10. Fresh & Fabulous	401 S. "A" Street	Type-41	On-Sale Beer and Wine	Restaurant	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 136 during the same 12-month time period. This is approximately 16% higher than the average crime rate citywide which is generally not considered to be significant. The numbers and types of crimes were spread evenly throughout the surrounding area with the heaviest concentration along both sides of Oxnard Boulevard from Fourth Street to Eighth Street. The number of incidents that listed alcohol as a contributing factor is slightly above citywide averages.

There were 56 total police calls for service to this location during a recent 12-month period (July 2010 to June 2011). Of those, 26 were disturbance related such as fights and assaults. Of the 26 disturbance calls, 17 were listed specifically as fights. Compared to the previous 12-month period

(July 2009 to June 2010), the overall calls for service have increased 10% and the number of disturbance related calls rose from 20 to 26 (30% increase). For comparative purposes, the Police Department reviewed the annual calls for service for eleven other businesses in Oxnard that are restaurants that also offer dancing and entertainment. For disturbance calls, Ruby's was at the top of the list and totaled nearly 30% higher than the number two location.

For reference, the category of Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct. Any reference above to "police calls for service" may include all types of police responses to the area, not just the Part I and II crimes reported to the federal Uniform Crime Report system (UCR). Such calls may include fights, loud noise, domestics and other disturbances not otherwise classified as Part I or II.

Police Department Input:

The Beat Coordinator for the downtown area was contacted and said the surrounding area is generally not considered to be a policing problem. However, he said that the business can sometimes be a burden on downtown police resources. On busy nights, it is not uncommon to deploy multiple police units to the area surrounding the nightclub to keep the peace as customers disperse. Fights and disturbances have occurred in the parking lots even as there is a strong police and security presence. The security and staff for the business have been cooperative with the police and seem to genuinely desire to keep problems to a minimum. However, the crowds can sometimes become unmanageable, especially as alcohol consumption increases and the activity inside gets livelier. During one recent evening, security was ejecting a disruptive customer and, when the person reached the front doors, he launched a bottle of beer at a passing police car. Security assisted in arresting the customer but the incident demonstrates that even when security is actively involved in trying to be proactive with unruly customers, the outcome can be unpredictable and undesirable.

This business was originally proposed to be predominantly a restaurant with only limited dancing and entertainment. When the Police Department conducted the original review, the applicant had proposed a dividing wall down the center of the building that was to allow the ability to host separate events or activities. Each room was to have restaurant seating throughout most of the room with a small area designated for dancing. The rooms had individual occupancy limits of less than 300 persons and the dance areas were listed as having room for between 30 and 50 customers. As proposed, with only limited dancing and a focus on the restaurant, the Police Department was comfortable that the site would not significantly aggravate policing problems and, while concerned about the number of alcohol outlets in the downtown, did not oppose the use.

The applicant has now proposed to eliminate the dividing wall to allow more flexibility when hosting larger events or renting the facility to large, private parties. This change will likely increase the building's capacity and effectively allow the entire venue to be joined and act as one massive area more conducive to nightclub activity. Such a use is a drastic departure from the original proposal and significantly alters the use and environment initially envisioned by the Police Department. Among all types of businesses that sell alcohol, perhaps the ones that pose

the greatest risk and potential for problems are those that rely heavily upon lively nightclub activity with alcohol and less so on food service. The proposed changes to this venue will undeniably alter the existing environment to be one that is more typical of a large urban nightclub and less like a family "café" as the business name implies.

More than a decade ago, the City of Oxnard, the community and the Police Department set out on a collaborative goal to reduce the negative impacts to the community that are often associated with alcohol establishments. There have been many preventative strategies that have been implemented since that commitment was made, but the core principal has remained to focus on the environment that is likely to contribute to problem behavior (in this case a lively nightclub) and strive to set it up in such a way that the potential for problems is lessened. Restaurants, by their very nature, tend to be inviting places with semi-permanent seating arrangements that are conducive to making the guest feel welcome and safe. These businesses are typically not at a high risk for experiencing problems which is why the state and ABC more freely grant such alcohol licenses with fewer regulations. As businesses modify this relatively safe environment by evolving to focus more on alcohol sales and nightclub activity rather than food service, the risk factor skyrockets and managing the venue becomes significantly more challenging. It is comparable to a retail business that places their most expensive items on display near the front doors where they can be easily stolen. That would clearly be a poorly designed environment that contributes to the problem behavior. Simply rearranging the display to be more central to the store or near the staffed workstations would likely reduce or eliminate the potential for theft. We use that same concept when considering new and existing alcohol outlets. We determine if the proposal and design is one that is set up in such a way as to promote a positive, safe environment or one that would more likely be prone to problem behavior.

The Police Department believes that by eliminating the dividing wall as proposed by the applicant, the environment changes dramatically and there is no longer a question as to the kind of activity this business wants to pursue. The dancing and entertainment becomes front-and-center to the entire venue and the service of food looks like an afterthought. This site already leans heavily on the nightclub type use and this change will further emphasize that reality. One needs to look no further than the "stripper pole" currently installed in a permanent, u-shaped seating area inside this business to be convinced of the type of activity that we can expect. The Police Department makes this point not to condemn the vision of the applicant or to oppose the requested modification. We simply desire to make it clear that such a change is more significant than it may appear as it effectively renders the original proposal from 2004 irrelevant and will continue their evolution into a full-fledged nightclub. If this type of use is the vision and desire of the community and its leaders, the Police Department is confident we can help to minimize the potential for problems by continuing to work collaboratively with the owners and applying preventative conditions of operation to the Special Use Permit. Without the recommended police conditions, we would be opposed to the requested major modification.

Also, the Police Department continues to be cautious about the overall density of alcohol outlets concentrated in the downtown area and the ever-increasing number of those that include dancing or entertainment as part of their routine operations. The Central Business District (CBD) currently has nearly 35 active ABC-licensed establishments and maintains the highest concentration of alcohol outlets as does anywhere else in the City. As the downtown continues to be redeveloped and revitalized, even more outlets are likely to be added or modified, resulting in

higher density and increased risks. The downtown area once had a crime rate that was more than three times higher than the citywide average. Perhaps the single most influential factor that had negatively impacted the quality of life downtown was the high concentration of problematic bars and nightclubs. Most were woefully under regulated leaving the City with very few tools to influence responsible practices and modify undesirable activity.

There has been a recent trend for businesses that were once exclusively restaurants to now include music, entertainment and dancing along with the service of food. There are currently 22 On-Sale alcohol outlets within 1000 feet of the proposed site. Of those, at least 12 have dancing or entertainment on a consistent basis and a few others offer such activity on an occasional basis. While this type of activity can often be an effective method of drawing in more customers and improving overall sales, it can also bring with it an increased risk of experiencing problems. Businesses that include lively, nightclub-type activity are among some of the most high risk and problematic of all alcohol outlet types. Having a high concentration of businesses of this kind in close proximity to each other may be typical of "entertainment districts" but can also be very high maintenance and require a significant amount of resources to effectively preserve an inviting, safe environment.

That being said, the thorough conditions of operation that have been standard for all new alcohol outlets during the past several years has been very effective at reducing community problems and the risks related to the availability of alcohol as is demonstrated by the plummeting crime rate in the downtown area. The downtown policing team spends a significant amount of time monitoring the existing alcohol outlets and making sure they remain in compliance with local standards and operating responsibly. However, without that persistent oversight, we run the risk of losing ground on the progress we have made. Adding too many high-risk businesses may ultimately stress the ability of the Police Department to effectively maintain a safe environment.

While it is not the position of the Police Department to oppose the granting of this permit, it is important to understand the existing conditions in the area. This proposal, perhaps innocuous by itself, will add one more layer of risk to the downtown and should not be taken lightly. The Police Department has recommended several operating conditions to ensure that the success of this business does not come at the expense of the community.

Community Input:

At the time this report was submitted, the Responsible Alcohol Policy Action Coalition (RAPAC), who routinely comments on new applications, had not yet had the opportunity to discuss this particular proposal at their monthly meetings. The Police Department will seek out the group's leadership and provide them with details of this proposal so they may have the opportunity to voice their opinions at any future hearings. No other community input was solicited or received by the Police Department.

Conclusion:

The statistical analysis shows the area to have a crime rate that is 16% greater than the city-wide average which reflects a sharp decrease from earlier reports that were more than 150% higher

than average. The area has the highest concentration of alcohol outlets than does anywhere else in the city and some of those licenses were issued more than 20 years ago and have no preventative conditions of operation attached to them since SUP's were not required at the time they obtained their ABC license. The Central Business District as outlined by the City of Oxnard currently has at least 35 active ABC licenses within its boundaries and there is one similar business within 350 feet of the site.

While cautious, the Police Department is not opposed to the proposal to modify the interior of the business. Many concerns were identified regarding the risks associated with this type of business and the reality of the current evolution of the Central Business District to include many entertainment venues. If it is the desire of the City to continue to evolve this type of use, the Police Department is confident we can work with the business to minimize problems. We believe the standard and special conditions recommended below should adequately mitigate the concerns mentioned in this report and will provide the Police Department with multiple enforcement options if problems do arise.

Police Standard Operating Conditions

1) Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)

2) Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)

3) When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or state or federal 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. (PD)

4) 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, after due process that shall include communication with the owner,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)

5) The premises shall be equipped with an adequate number of seats to accommodate customers. (PD)

6) 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)

7) 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)

8) 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)

9) The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)

10) The use of any amplifying system or device shall not be disruptive to neighboring uses. (PD)

11) 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)

12) The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)

13) Sales of alcohol shall not occur between the hours of 1:30 a.m. and 6:00 a.m. (PL/PD)

14) Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. *Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged.* (PD)

15) Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, or similar high capacity amounts exceeding 36oz total. (PD)

16) 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)

17) 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)

18) Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)

19) 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)

20) 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)

21) 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)

22) 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)

23) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)

24) 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)

25) 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)

26) Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)

27) Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)

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. Recordings shall be made readily available to the Police Department upon request when conducting investigations. (PD)

30) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)

31) Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)

32) 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) There shall be only one means of access by patrons to and from the main dining and bar area. All other doors shall not be used as a means of entry or exit except in cases of emergency.

2) Dancing and amplified music are considered incidental to the primary use of the business which is a restaurant. During such times that the Permittee provides alcoholic beverages for sale at the same time that there is public dancing, there shall be no persons under the age of 21 allowed within the premises. The only exception is when the premises is being used exclusively by a private party and is not open to the public. (PD)

3) During ancillary use, the service of alcohol or any other beverages in bottles is strictly prohibited. (PD)

4) Permittee shall offer an assortment of food items to customers at all times that alcohol is being served. Permittee may, at Permitee's discretion, modify the standard menu or reduce the number of menu items offered to the customers but shall continue to make available a reasonable assortment of food items. (PD)

5) During times of ancillary use (entertainment or dancing) that occurs after 10:00 p.m., Permittee shall assign at least two security guards to monitor the exterior parking lots that are primarily used by patrons of their business. This includes but is not limited to the public parking lot to the south and other private lots as reasonable. Permittee shall maintain an accurate log to record when these areas are patrolled and the log be made available to the police upon request. These guards may be considered when calculating the required number of guards per Oxnard City Code section 11-187(c).

6) Events shall not disrupt or disturb neighboring uses by excessive noise, overcrowding, illegal or unauthorized parking, or any other nuisance behavior.

7) Permittee is responsible to adequately monitor the parking areas and ensure that alcohol is not consumed in the areas surrounding the premises (11-187 & 7-148 Oxnard City Code).

8) Permittee shall provide the Police Department with live viewing capability to their web-based security system. This shall include, at a minimum, all entrances, exits and areas immediately surrounding the exterior of the business.

ATTACHMENT F

Parking Study Update

RECEIVED

OCT 07 2011

PLANNING DIVISION
CITY OF OXNARD

Penfield & Smith

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Santa Barbara, CA 93101

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Santa Barbara
Camarillo
Santa Maria
Lancaster

Civil Engineering

Land Surveying

Land Use Planning

Construction Management & Inspection

Traffic & Transportation Engineering

Transportation Planning

Structural Engineering

Water Resources Engineering

GIS

W.O. 16231.02

October 6, 2011

Mr. Michael Sanchez
Coastal Architects
505 So. A Street, Suite 200
Oxnard, CA 93030

Subject: Updated Parking Study for the Ruby's Cafe, City of Oxnard, California

Dear Mr. Sanchez,

Penfield & Smith (P&S) is pleased to submit the following updated parking study for the Ruby's restaurant located at 348 and 350 Oxnard Boulevard in Downtown Oxnard. The updated study includes a revised project description, an updated inventory of off-street parking supply and demand in the vicinity of the site, and determines if sufficient on-street parking is available to accommodate future parking demands. The following letter summarizes our analysis and findings.

The current application includes a remodel of the existing 10,233 SF restaurant building and use of the restaurant as night club. The floor plan for night club use is attached for reference. The restaurant proposes to have a maximum allowable occupancy of 540 people. The existing site contains seven (7) on-site parking spaces. Per the City's parking code, one space is required to be converted to a handicap accessible space, thus reducing the total to six (6) on-site spaces. Due to on-site space constraints, no new on-site parking is proposed.

The applicant has indicated that a total of 3,859 SF of the restaurant may be used as dance floor area during night club use. Based on the City's parking requirements, a restaurant within the Central Business District is required to provide on space per 75 SF up to 6,000 SF. Thereafter, one space per 180 SF is required. In addition, restaurant facilities which contain dance floor area shall provide additional parking spaces at one space per 35 square feet of dance floor area. The parking requirements for the proposed night club use are summarized in Table 1:

Table 1
City Parking Requirements for Ruby's – Night Club Use

Proposed Use	Proposed Square Footage	Parking Requirements	Parking Required
Restaurant	6,000 SF 374 SF 6,374 SF	1 space/75 SF, up to 6,000 SF Over 6,000 SF, 1 space/180 SF	80 spaces 2 spaces 82 spaces
Dance floor	3,859 SF	1 space /35 SF of dance floor area	110 spaces
Total	**10,233 SF**		**192 Spaces**

Table 1 indicates that a total of 192 off-street parking spaces would be required. Therefore, the project is requesting a variance from the City's on-site parking requirements.

ON-STREET PARKING INVENTORY

P&S conducted an inventory of public parking lots available within the Zoning Code limits from the site (public lots within 700 feet, public structures within 1,000 feet, and on-street parking immediately adjacent and contiguous to the subject property (see Section 16-152(G) of Zoning Code). The following locations were identified to meet the requirements:

- Public lot between Bahia Restaurant and Firestone (Across the street from site);
- Public lot on the northwest corner of Oxnard Blvd. and 4th St;
- Public lot on the southwest corner of Oxnard Blvd. and 4th St; and
- Parking structure at 3rd St. and B St.

The public surface lots contain a total of 106 spaces, and 459 spaces provided in the parking structure, for a total of 565 off-street parking spaces. Parking is prohibited from 2 AM to 6 AM, every day, in the public parking lots. No other parking restrictions were noted. The existing parking supply is summarized in Table 2.

Table 2
Project Study Area-Parking Spaces

Location	Off-site Spaces	Parking Restrictions
Public lot (Between Firestone and Bahia Restaurant	35 spaces	No parking 2AM-6AM, everyday
Public lot (Northwest corner of Oxnard Blvd. & 4th St.)	21 spaces	No parking 2AM-6AM, everyday
Public lot (Southwest corner of Oxnard Blvd. & 4th St.)	50 spaces	No parking 2AM-6AM, everyday
Parking structure (NW corner of B St. & 4th St.)	459 spaces	-
On Site Parking	6	5 Standard, 1 Accessible
Total Parking Spaces	**571 spaces**	

EXISTING PARKING DEMANDS

P&S conducted parking demand surveys on Wednesday, October 6, 2004 and on Friday, October 8, 2004. In addition, hourly counts were conducted at the new parking structure on Wednesday, September 21, 2011, and on Friday, September 16, 2011. The objective of the parking survey was to evaluate whether adequate parking supply is available to accommodate both the existing uses and parking demands associated with the proposed restaurant night club use. The restaurant is surrounded by commercial and office uses, which are typically open from 8:00 AM until 5:00 PM. To capture the peak parking demand of the existing uses and the anticipated demand of the proposed restaurant, the parking counts were collected every half-hour from 8:00 AM until 11:00 PM. The hourly parking survey data is attached for reference.

Table 3
Existing Peak Parking Demand by Day

Day	Time	Total Available Spaces	Spaces Occupied	Vacant Spaces	Percent Occupied
Wednesday, October 6, 2004 Wednesday, September 21, 2011	11:00 AM- 12:00 PM	565 spaces	267 spaces	298 spaces	47%
Friday, October 8, 2004 Friday, September 16, 2011	11:00 AM- 12:00 AM	565 spaces	242 spaces	323 spaces	43%

The parking survey indicates that the peak parking demand occurred on Wednesday from 11:00 AM to 12:00 PM, when 267 of the 565 spaces were occupied, and on Friday between 11:00 AM and 12:00 PM, when 242 spaces were occupied.

EXISTING PLUS PROJECT PARKING DEMANDS

Parking demands were recalculated assuming the parking requirements for the proposed night club use, which would generate the peak parking demand for the site. Table 4 shows the existing plus project parking demands and determines the parking space reserve. It is noted that the existing plus project calculations assume that night club use would occur during the peak parking demand period observed at the public parking lots. Because the observed (existing) peak demand period is at noon and the night club use parking demand would be in the evening, the analysis is considered worst case.

Table 4
Existing plus Project Peak Parking Demand by Day

Day	Total Available Parking Spaces	Existing Peak Demand	Night Club Peak Parking Demand	Ex.+Night Club Parking Demand	Ex.+Night Club Peak % Occupied
Wednesday	571 spaces	267 spaces	192 spaces	459 spaces	80%
Friday	571 spaces	242 spaces	192 spaces	434 spaces	76%

The parking demand data in Table 4 indicates that the off-street parking supply available within the maximum allowed distance from the restaurant is sufficient to accommodate the expected parking demands under existing plus project conditions. As stated previously, the analysis assumes a worst case scenario in which the peak parking demand for the project and for the surrounding area occur at the same time. As shown in the attached parking survey data, the parking demand for the surrounding area drops off significantly in the evening, resulting in significantly more available parking than calculated.

SUMMARY

Based on the City's parking requirements, the proposed restaurant with night club use would be required to provide 192 spaces, 110 of which are required for the dance floor area. Due to space constraints on the property, the project is only able to provide the existing six on-site parking spaces. Thus the parking demand must be met on the public parking lots within the surrounding blocks.

Public parking lot surveys indicate that sufficient parking supply is available to accommodate the peak parking requirements for the project. The analysis indicated that a minimum of a 20% parking space reserve would be available under existing plus project conditions. It was noted the analysis assumes a worst case scenario in which the peak parking demand for the project and for the surrounding area occur at the same time. As shown in the attached parking survey data, the parking demand for the surrounding area drops off significantly in the evening, resulting in significantly more available parking than calculated.

For comparison, the peak parking demand rate (85th percentile) contained ITE's *Parking Generation, 4th Edition* for *Sit-Down Restaurant (with Bar or Lounge)* is 20.40 vehicles/1,000 SF GFA. Base on ITE rates, the peak parking demand for the project would be 209 spaces (20.40 spaces x 10,233 SF). Assuming these peak demands, a 16% parking space reserve, or 89 spaces would be available. The parking supply in the public lots included in the analysis would thus accommodate the existing plus project parking demands.

This concludes our parking study for the restaurant modification. Should you require any

additional information or with to discuss this study further, please contact me at (805) 963-9532 or via e-mail at dbr@penfieldsmith.com

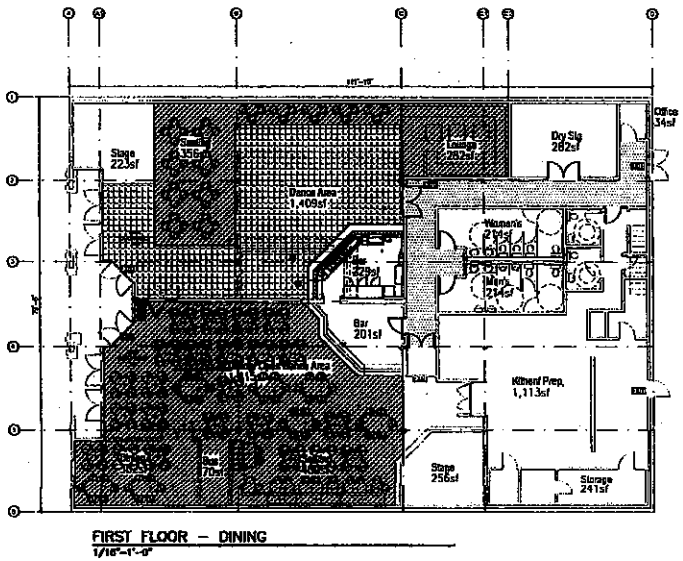
Sincerely,

PENFIELD & SMITH

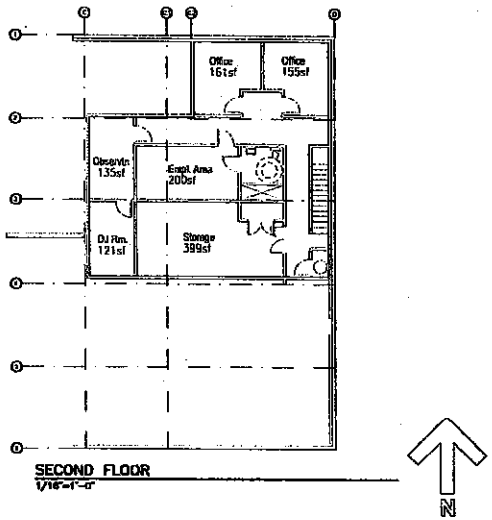
Derek B. Rapp, T.E.
Principal Engineer/Transportation Department Manager

Attachments

EXHIBIT 1



FIRST FLOOR – DINING
1/16"=1'-0"



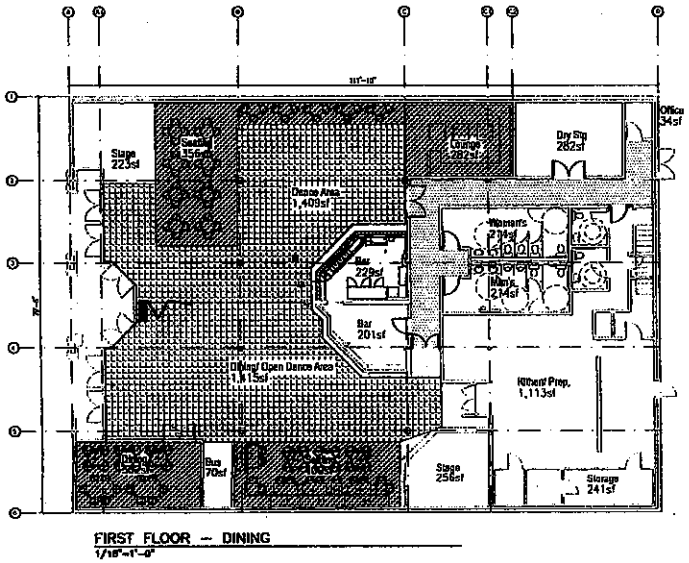
SECOND FLOOR
1/16"=1'-0"

OCCUPANCY WITH FURNITURE:
RESTAURANT AREA 4,732 sf

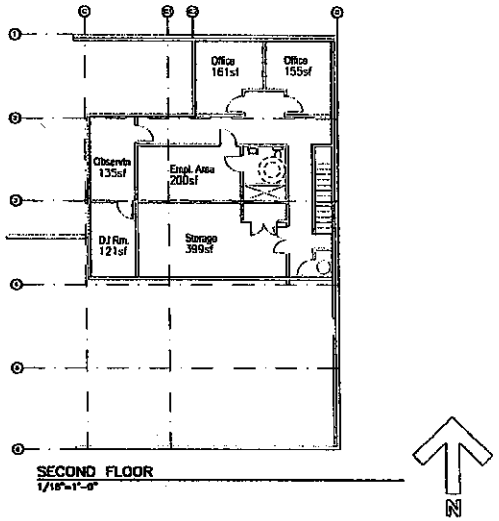
USES	AREA	LOAD	Occupancy
First Floor			
NIGHTCLUB SEATING	356	1/15 sf	24
LOUNGE	282	1/15 sf	19
DANCE AREA	1,409	1/7 sf	201
STAGE	223	1/15 sf	20
BACK BAR	229	1/200 sf	1
TOTAL		265	
GENERAL DINING	1,415	1/15 sf	94
PRIVATE DINING	302	1/15 sf	20
STAGE	256	1/15 sf	17
BACK BAR	201	1/200 sf	1
TOTAL		132	
SECOND FLOOR			
OBERSV RM	135	1/100 sf	1
DJ ROOM	121	1/100 sf	1
OFFICE	316	1/100 sf	3
EMPL AREA	200	1/100 sf	2
STORAGE	399	1/300 sf	1
TOATL		8	
TOTAL OCCUPANCY			405

ATTACHMENT 3
PAGE 42 OF 59

EXHIBIT 1



FIRST FLOOR – DINING
1/16"=1'-0"



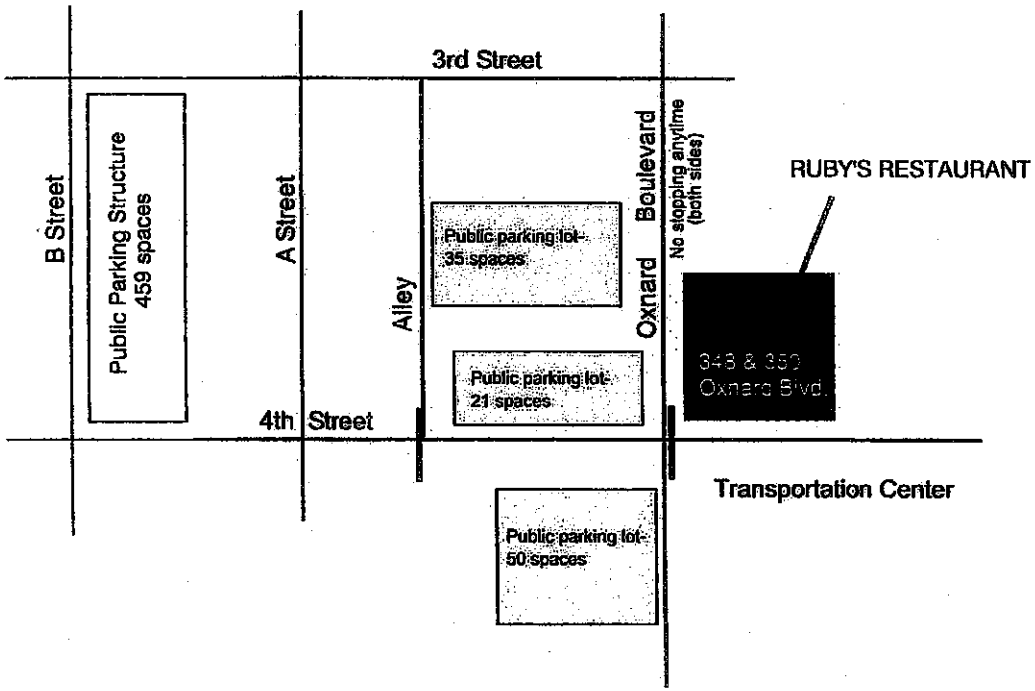
SECOND FLOOR
1/16"=1'-0"

OCCUPANCY WITHOUT FURNITURE:
RESTAURANT AREA 4,732 sf

USES	AREA	LOAD	Occupancy
First Floor			
NIGHTCLUB SEATING	356	1/15 sf	24
LOUNGE	282	1/15 sf	19
DANCE AREA	2,824	1/7 sf	403
STAGE	223	1/15 sf	20
BACK BAR	229	1/200 sf	1
TOTAL		467	
GENERAL DINING	400	1/15 sf	27
PRIVATE DINING	302	1/15 sf	20
STAGE	256	1/15 sf	17
BACK BAR	201	1/200 sf	1
TOTAL		65	
SECOND FLOOR			
OBERSV RM	135	1/100 sf	1
DJ ROOM	121	1/100 sf	1
OFFICE	316	1/100 sf	3
EMPL AREA	200	1/100 sf	2
STORAGE	399	1/300 sf	1
TOATL		8	
TOTAL OCCUPANCY			540

ATTACHMENT 3
PAGE 47 OF 59

Parking Survey Area



Parking Survey Area

	459 spaces
Public lot- across street	35 spaces
Public lot on NW corner	21 spaces
Public lot on SW corner	50 spaces
Total	565 spaces

2

RUBY'S RESTAURANT

348/350 Oxnard Blvd., Oxnard, CA

Parking Demand Study

Penfield & Smith
ENGINEERS • SURVEYORS • PLANNERS
W.O. 16231.01 10/15/04 Not to scale

ATTACHMENT 3
PAGE 48 OF 54

Parking Demand Study
Old Mexico Restaurant, Oxnard, CA

All Locations
106 spaces

Wednesday, October 6, 2004

Time	Bahia Lot	NW Lot	SW Lot		Total	Vacant	
8:00 AM	20	10	40		71	41	
8:30 AM	21	13	45		80	32	80
9:00 AM	22	16	49		88	24	88
9:30 AM	22	17	46		87	25	87
10:00 AM	23	18	47		88	24	88
10:30 AM	22	16	47		87	25	87
11:00 AM	22	16	46		85	27	85
11:30 AM	21	17	49		87	19	90
12:00 PM	21	16	50		87	19	89
12:30 PM	20	13	46		82	30	82
1:00 PM	19	12	48		81	31	81
1:30 PM	17	12	42		72	40	857
2:00 PM	19	12	35		67	45	
2:30 PM	17	7	17		42	70	86
3:00 PM	17	4	17		38	74	77%
3:30 PM	21	4	16		41	71	
4:00 PM	22	2	15		40	72	
4:30 PM	22						
5:00 PM	20						
5:30 PM							
6:00 PM							
6:30 PM							
7:00 PM							
7:30 PM							
8:00 PM							
8:30 PM							
9:00 PM							
9:30 PM							
10:00 PM							
10:30 PM							
11:00 PM							

Prepared by National Data & Surveying Services

Oxnard Parking Study

Location: Parking Structure @ 3rd St & B St
City: Oxnard

Day: Wednesday
Date: 9/21/2011

	81	0	0	59	0	40	0	0	0	180
	55	0	0	68	0	34	0	0	0	157
	62	0	0	62	0	38	0	0	0	162
	63	0	0	60	0	38	0	0	0	161
	67	0	0	64	0	37	0	0	0	168
	60	0	0	52	0	38	0	0	0	150
	63	0	0	43	0	39	0	0	0	145
6:00 PM	46	0	0	37	0	39	0	0	0	122
7:00 PM	35	0	0	17	0	39	0	0	0	91
8:00 PM	25	0	0	14	0	39	0	0	0	78
9:00 PM	25	0	0	14	0	39	0	0	0	78
10:00 PM	18	0	0	12	0	39	0	0	0	69
11:00 PM	16	0	0	12	0	39	0	0	0	67

Parking Demand Study
Old Mexico Restaurant, Oxnard, CA

Friday, October 8, 2004

total = 106 spaces

Time	Bahia Lot	NW Lot	SW Lot		Total	Vacant
8:00 AM	15	8	36	0	59	53
8:30 AM	16	14	47	0	77	35
9:00 AM	16	16	49	0	81	31
9:30 AM	15	20	47		83	29
10:00 AM	**18**	**20**	**49**		87	19
10:30 AM	**18**	**20**	**49**		87	19
11:00 AM	**21**	**20**	**46**		87	19
11:30 AM	19	16	46		82	30
12:00 PM	21	18	44		86	26
12:30 PM	22	17	42		84	28
1:00 PM	20	10	37		68	44
1:30 PM	20	13	29		65	47
2:00 PM	16	7	24		49	63
2:30 PM	20	7	20		48	64
3:00 PM	18	5	17		41	71
3:30 PM	16	7	15		39	73
4:00 PM	14	4	17	0	35	77
4:30 PM	20	5	18	0	43	69
5:00 PM	19	1	19	0	39	73
5:30 PM	19	1	12	0	32	80
6:00 PM	10	1	11	0	22	90
6:30 PM	8	1	9	0	18	94
7:00 PM	5	1	8	0	14	98
7:30 PM	4	0	6	0	10	102
8:00 PM	5	0	6	0	11	101
8:30 PM	5	0	7	0	12	100
9:00 PM	5	1	4	0	10	102
9:30 PM	5	1	4	0	10	102
10:00 PM	5	1	4	0	10	102
10:30 PM	5	1	4	0	10	102
11:00 PM	5	1	4	0	10	102

Prepared by National Data & Surveying Services

Oxnard Parking Study

Location: Parking Structure @ 3rd St & B St
City: Oxnard

Day: Friday
Date: 9/16/2011

	60	0	0	45	0	40	0	0	0	145
	67	1	0	46	0	41	0	0	0	155
	58	1	0	47	0	38	0	0	0	144
	56	1	0	37	0	36	0	1	0	131
	57	1	0	34	0	36	0	2	0	130
	44	1	0	28	0	37	0	0	0	110
	45	0	0	28	0	40	0	0	0	113
	50	0	0	26	0	41	0	0	0	117
	49	0	0	23	0	43	0	0	0	115
	66	0	0	25	0	45	0	0	0	136
	72	0	0	27	0	45	0	0	0	144
	51	0	0	24	0	45	0	0	0	120
	53	0	0	22	0	46	0	0	0	121

ATTACHMENT G

Planning Commission Staff Report
(December 2, 2004)

PLANNING COMMISSION
STAFF REPORT

TO: Planning Commission

FROM: Ashley Jackson, Associate Planner

DATE: December 2, 2004

SUBJECT: PZ 03-500-28, Special Use Permit for a restaurant/nightclub with on-site sale of alcoholic beverages and for approval of on-street and shared parking to meet the project's required parking, located at 348 & 350 Oxnard Boulevard.

1. **Recommendation:**
Adopt a resolution approving a Special Use Permit (PZ 04-500-28), including a restaurant with banquet facilities with on-site sale of alcoholic beverages, administrative relief from the parking requirements in the form of shared parking and the use of 113 on-street parking spaces, and permitting a nightclub to operate four nights a week in the south portion of the building (Thursday through Sunday), subject to certain findings and conditions.

2. **Project Description & Applicant**: The project site is located on the east side of Oxnard Boulevard, just north of Fourth Street. (APN 201-0-160-15 &-16). The project involves interior and exterior remodeling of an existing vacant 8,600 square foot building that has been used as a discount center and beauty college in the past (known as the "Brown Building"). The application includes a Special Use Permit for sale of alcoholic beverages for on-site consumption (ABC License Type 47, General - Eating Place), for a restaurant, banquet facility, a nightclub and the use of 113 on-street parking spaces to meet the project's parking requirement. The site is 10,380 square feet in size and provides no onsite parking area, however a parking lot under the owners control to the south of this parcel, owned by the applicant, can accommodate six stalls (one handicap and five standard stalls). An upgrade to the outside of the building including new signage, lighting, awnings, windows and doors, and ceramic potted plants is proposed. The Downtown Design Review Committee has reviewed the proposed exterior changes. Filed by Sherry and Associates Architects, 629 State Street, No. 216, Santa Barbara, CA 93101. The property owner and proposed business operator is Lupe Martinez.

3. **Existing Land Use**: The sites are currently unused. A vacant 8,600 square foot building exists on the northerly site and it covers the majority of the parcel except for a small space at the east end of the parcel, adjacent to the alley. The southerly parcel is an existing parking lot. Both lots will be under the ownership of Lupe Martinez. The Oxnard Boulevard frontage is improved with curb, gutter and sidewalk.

4. **General Plan Policies and Land Use Designation Conformance:** The land use map of the General Plan designates the subject parcel as ***Central Business District.*** This designation allows commercial, cultural and institutional land uses.

5. **Environmental Determination**: The remodeling of an existing building qualifies for CEQA Guidelines Categorical Exemption section 15302.

6. **Surrounding Zoning and Land Uses:** The project site is zoned "Central Business District" (CBD). A nightclub and on-site consumption of alcoholic beverages in association with a restaurant are conditionally permitted uses in this zone. The zoning code for the CBD allows the Planning Commission to consider the use of on-street parking to meet some or all of a project's required parking, after review of a parking study.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
North	CBD	CBD	EZ Mart, Family Apparel
South	CBD	CBD	Parking Lot
East	CBD	CBD	Oxnard Transportation Center
West	CBD	CBD	Bahia Del Mar Restaurant & Parking Lot

7. **Analysis:**

a.) Relevant Project and Property History, Related Permits: Ruby's Café was approved last year for the same uses, same owner, and same business proposal at 852 South A Street. On June 5, 2004 the Planning Commission denied Ruby's Café at 852 South A Street on a 6-1 vote due to concerns with parking and an over concentration of alcohol outlets in the downtown area. An appeal was filed and on July 22, 2004 the City Council approved a special use permit for a nightclub, restaurant, and alcohol permit at 852 South A Street.

On August 3, 2004, the Oxnard City Council and the Community Development Commission (CDC) approved a sale of real property located at 348 & 350 S. Oxnard Boulevard to Lupe Martinez and agreed to loan Lupe Martinez the sum of $700,000 to rehabilitate 348 & 350 S. Oxnard Boulevard for a use as a first class restaurant and dance club. On November 23, 2004 the City Council approved a special budget to appropriate funds from the General Fund Operating Reserve for a loan to the CDC for $700,000, which will then appropriate the loan to Lupe Martinez for the rehabilitation of 348 & 350 S Oxnard Boulevard. The loan will be evidenced by a Promissory Note and secured by a First Deed to Trust on the site. The Promissory Note will bear interest.

b.) Request for On-Site Sale of Alcoholic Beverage–The existing building, currently under City of Oxnard ownership, is vacant. The buyer, Lupe Martinez, wishes to establish a restaurant with a nightclub and bar use, in a new business called "Ruby's Café of Oxnard." An ABC License Type 47, General- Eating Place will be requested from the State Department of Alcoholic Beverage Control. According to the CBD ordinance, a conditionally permitted use is the "sale of alcoholic beverages for consumption on a site having a restaurant." Bars which are not accessory to a restaurant are prohibited in the CBD.

The owner intends to serve breakfast, lunch and dinner, Monday through Sunday, in the southern portion of the building (1682 square feet) and use the northern portion of the building (2170 square feet) as a banquet hall. There would be a full kitchen and full menu for all three meals. The restaurant would serve food and alcohol Monday through Sunday beginning at 8:00 a.m. The owner wishes to end food service at 9:30 p.m., Thursday through Sunday to allow the southern portion of the building to become a nightclub, while continuing to serve alcohol until closing; however, a condition of approval from the Police Department requires that the business keep the kitchen open until closing, even if the menu is more restrictive. The northerly portion of the building could be used for private parties at the same time as the southerly portion of the building is operating as a nightclub. The owner has experience with this type of restaurant/nightclub. He currently operates Ruby's Café on State Street in Santa Barbara, however the Santa Barbara facility does not have a banquet room.

c.) Request for Nightclub Use – The CBD ordinance provides that a nightclub is a conditionally permitted use and allows sale of alcoholic beverages in association with an on-site restaurant. The owner wishes to transform the southern portion of the restaurant to a nightclub use Thursday through Sunday from 9:30 p.m. to 1:30 a.m. The attached resolution (condition #47) requires that the applicant offer food service to patrons at all times while the establishment is open for services. The floor plan shows that there is seating for approximately 132 people for dinner, and room for 89 people for dancing once the furniture is removed and stored for the nightclub use.

The northern portion of the building is not for nightclub use. The northern portion of the building may be used for private parties, a banquet room, or an overflow dining area, but shall not be used for additional dance space unless associated with a private party and not related to the dancing happening in the southern portion of the building. The police department has added conditions of approval that address the separation of use. The northern portion of the building allows 145 people for a seated meal, and 44 people for a seated meal when the dance floor is in use. The dance floor can accommodate 29 people.

Although the applicant will be required to have food service until closing, the applicant proposes to move the tables in the southerly side of the restaurant to allow for a dance floor area. The nightclub would provide both live bands and disc jockey music for dancing. The style of dancing that the owner proposes is "salsa." This Latin dance is a fast-paced partner-style of dancing. There may be other types of musical entertainment and dancing from time to time. The owner's "Ruby's Café" in Santa Barbara is a well-known salsa dancing spot. The owner also plans to have licensed and bonded security guards at the premises during the nightclub operation, Thursday through Sunday from 9:30 p.m. to 1:30 a.m. The attached resolution includes police department conditions in regards to required security guards. The owner has submitted a letter outlining the current operation and success of Ruby's Café in Santa Barbara and the owner's plans for the Oxnard Ruby's Café. (Attachment D)

The Oxnard Police Department has provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages. (Attachment C) This report provides information regarding the number of incidents of police response, whether there is a presumption of undue concentration of establishments selling alcoholic beverages and whether approval of the special use permit is likely to significantly aggravate policing problems. The report indicates that that there are two establishments selling alcoholic beverages within 350 feet of the project site, including Bahia Del Mar Restaurant located immediately across the street from the project site and the La Gloria Market. Within 1000 feet from the project site are three additional establishments selling alcoholic beverages. An issue of undue concentration arises since there is already one establishment of the same type within 350 feet (the Bahia Del Mar). In addition there are 33 active ABC licenses in the Central Business District.

The average number of Part I/II crimes in the project's district and all other districts within 1000 feet of the site is 348. This is a 167% increase above the average Part I/II crime rate city-wide (130). This crime rate is indicative of a policing problem. The heaviest concentration of incidents occurred in and around the La Gloria parking lot south of the proposed site. The Police Department's experience is that the type of ABC alcohol license requested by the applicant may impact police and public services. The Police Department has provided conditions of approval to mitigate their concerns. The Police Departments request that if the SUP is to be granted that all the Police conditions included in the attached resolution be adopted.

d.) Request to Use On-Street Parking – The CBD ordinance allows the Planning Commission to approve a special use permit for the use of on-street parking, upon review of a parking study. The applicant submitted a parking study dated November 12, 2004 prepared by Penfield & Smith Engineers. (Attachment E). The parking study indicates that the restaurant use requires 95 parking stalls and the dance floor area requires 24 parking stalls, for a total demand of 119 parking stalls. Penfield & Smith Engineers noted using the Institute of Transportation Engineers (ITE) Parking Generation, 2nd Edition, would generate a need of 78 spaces for the restaurant versus city required parking of 95 stalls, bringing the total needed stalls to 102.

There is an adjacent parking lot on the northeast corner of Oxnard Boulevard and Fourth Street, which will be under the ownership of Lupe Martinez, that can accommodate one van accessible handicapped stall and five standard parking stalls.

The parking study indicates there are 106 on-street parking spaces within a distance that people would normally park and walk. In a public lot across the street (between the Firestone store and Bahia Restaurant) there are 35 spaces. There are 21 spaces in a public lot on the northwest corner of Oxnard Blvd and 4th Street. In a public lot at the southwest corner of Oxnard Boulevard and 4th Street there are 50 spaces. In addition to these 106 parking stalls the owner will provide 6 parking stalls in the lot to the south of the building on 4th Street (between Oxnard Blvd. and the alley), bringing the total evaluated by the parking study to 112 parking stalls.

In addition to these 112 parking stalls, the City Council will be asked to enter into a shared parking agreement with Lupe Martinez. The number of spaces to be shared is not determined at this time, but no less than 7 stalls are needed to be made available on the Oxnard Transportation Center parking lot to enable the proposed restaurant and nightclub to meet the demand of 119 parking stalls for their proposed uses.

During the parking survey, Penfield & Smith reported that on a weekday during peak parking demand, there were a total of 22 vacant parking spaces in adjacent lots. During a Friday peak period, there were a total of 21 vacant parking spaces. During both of these peak periods, additional vacant parking spaces were counted in the Transportation Center.

The City's Traffic Engineer has reviewed the parking study and found it to be adequate for the requested uses. A condition of approval requires that the applicant enter into a shared parking agreement with the City to use a minimum of seven parking stalls on the Oxnard Transportation Center parking lot. In addition there is a condition of approval requiring the Developer to maintain the parking lot on the northeast corner of Fourth Street and Oxnard Boulevard as a parking lot for Ruby's Café

e.) Downtown Design Review – On October 14, 2004 the Downtown Design Review Committee (DDRC) reviewed the applicant's request for exterior changes to the existing building. The architectural changes will need to come back to the DDRC once more to finalize the color of the proposed awnings. A condition of approval is included that the architectural changes must be approved prior to issuance of building permits. The changes included new paint, doors, windows, awnings, new ceramic pots, and lighting. Signage was not reviewed at the October 14, 2004 meeting, but the City Code requires DDRC approval prior to the installation of signs. The committee made the following recommendations:

- *Raise the light fixtures to the awning level and add fixtures to the south side of the building to match the front elevation*
- *Install clear windows, not tinted windows, consistent with the French doors in color of glass and stain*
- *Leave the window in the kitchen area as is*
- *Cleaning the existing awnings is not acceptable, they must be replaced*
- *Add down lights to the entry area*
- *The signs are not part of the approval. When signs are designed they must come back to the committee unless they follow the "Over the Counter Downtown Design Review Permits" approved by City Council Resolution 12,097 on February 26th, 2002.*

8. **Neighborhood Input:** On October 11, 2004 the item went to the Community Workshop meeting. Although some concerns were expressed regarding parking, security, crime, noise, littering and loitering, Ruby's Café operators were able to alleviate some concerns with describing their operations and track record in Santa Barbara and with explaining that Ruby's will provide their own on-site security. In addition to the City sponsored meeting the neighbors have met with the Police Department to discuss their concerns. The Police Department has added conditions of approval which have satisfied a majority of the neighbors' concerns.

Attachments:
A. Vicinity, General Plan, Zoning Map
B. Project Plans
C. Police Report
D. Letter from Owner re: Ruby's Café Operations
E. Parking Study
F. Draft Resolution

Prepared by: AJ

Approved by: MM

ATTACHMENT 3
PAGE 59 OF 59