



## PLANNING COMMISSION STAFF REPORT

**TO:** Planning Commission

**FROM:** Brian Foote, AICP, Associate Planner

**DATE:** April 19, 2012

**SUBJECT:** Planning & Zoning Permit No. 11-510-12 (Special Use Permit)  
Genmai Sushi Restaurant Located at 3623 West Fifth Street

- 1) **Recommendation:** That the Planning Commission approve Planning & Zoning Permit No. 11-510-12 for a special use permit, subject to certain findings and conditions.
  
- 2) **Project Description and Applicant:** A request to approve a Type 47 (On-Sale General – Eating Place) Alcoholic Beverage Control license to permit consumption of beer, wine, and distilled spirits with food at Genmai Sushi Restaurant, located at 3623 West Fifth Street. Filed by Alberto Vazquez, designated agent for Genmai Sushi Restaurant, 3623 West Fifth Street, Oxnard, CA 93030.
  
- 3) **Existing & Surrounding Land Uses:** The restaurant is located within the Airport Marina retail center. Surrounding land uses are listed in the following table. The site is generally bordered on the north by the Oxnard Airport runway, on the south by Fifth Street, on the east by commercial businesses, and the west by Victoria Avenue and farmland. The nearest residences are approximately 300 feet to the south across Fifth Street in the Sea View neighborhood.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	General Commercial (C-2-PD)	Airport Compatible (AC)	Airport Marina Center (multi-tenant retail center)
North	Manufacturing Limited (M-L-PD)	Airport Compatible (AC)	Airport Self-Storage
South	General Commercial (C-2-PD)	Commercial General (CG)	El Pollo Loco restaurant & vacant commercial properties
East	Light Manufacturing (M-1-PD)	Airport Compatible (AC)	York Business Records Storage
West	General Commercial (C-2-PD)	Airport Compatible (AC)	Gas station

**4) Background Information:** Genmai Sushi was established in 2007 in an existing 2,282-sq.ft. suite that was previously a restaurant. On January 5, 2006, the Planning Commission adopted Resolution No. 2006-02 approving a special use permit (PZ No. 05-510-09) for a Type 41 ABC license (On-Sale Beer & Wine – Eating Place) for the previous tenant, “Noble Roman’s Pizza and Tuscano’s Italian Subs.” The California Department of Alcoholic Beverage Control (ABC) issued a Type 41 license to Genmai Sushi on March 5, 2007, and the license has remained valid and in good standing.

**5) Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving existing structures may be found to be exempt from the requirements of CEQA. The request is for an ABC license in an existing restaurant, without additions or new development, and there is no possibility of environmental impacts. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment, and recommends that Planning Commission adopt the Notice of Exemption (Attachment C).

**6) Analysis:**

**a) General Discussion:** The restaurant’s current hours of operation are 11:00 a.m. – 2:00 a.m. daily, although the restaurant tends to close earlier in the evening during weeknights according to the applicant. The business has a total of seven employees, with up to five per shift. Ancillary activities, secondary to the food and alcohol service, currently include live entertainment and limited dancing during the late evening hours (i.e. between 10:00 p.m. and 1:00 a.m. according to the applicant). The business maintains an annual permit for the public dancing and entertainment. The regular menu is available at all times, and food is able to be prepared and served at all times during business hours. The business does not offer outdoor dining. The business’s primary entrance is on the south side facing the parking lot toward Fifth Street. There are two similar alcohol outlets within 350 feet of the site, with one of those locations also offering entertainment and dancing.

The subject property is located at the northeast corner of the intersection of Fifth Street and Victoria Avenue. The business is positioned near the east end of the commercial center that includes a self-storage facility, bagel/coffee shop, a gym, and two other restaurants. Other nearby uses of particular interest includes the local office for the American Youth Soccer Club (approximately 200 feet east of the site) and Juan Soria Elementary School (approximately 2000 feet to the east along Fifth Street).

**b) General Plan Consistency:** The 2030 General Plan designates the property as Airport Compatible (AC), and a small sit-down restaurant type of use is consistent insofar as it does not subject large numbers of persons to hazards from aircraft.

- c) **Conformance with Zoning Development Standards:** The proposed use is located in the General Commercial (C-2-PD) zone district. In accordance with the City Code §16-136(A)(5), the proposed alcohol license for on-site consumption may be allowed with a special use permit. The proposed sale of alcohol for on-site consumption is intended to be accessory to the primary use as a full-service restaurant, and conforms to the conditionally permitted uses of the C-2-PD zone.
  
- d) **Site Design:** The site plan and floor plan will not be modified from the existing layout. The dining area consists of movable tables and chairs that seat a maximum of 45 people. The tables and chairs may be relocated or removed to create a small dance floor area more conducive to the live entertainment activities (e.g. DJ, karaoke, limited dancing) later in the evening.
  
- e) **Request for Sale of Alcoholic Beverages for on-site consumption:** The site has an existing Type 41 ABC license which allows for the sale of beer and wine with food. The applicant has proposed to upgrade the ABC license to a Type 47 (On-Sale General – Eating Place) that allows for the sale of beer, wine, and distilled spirits with food. The applicant has also indicated that they intend to keep dancing and entertainment as part of the use.

The Oxnard Police Department provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment E). 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. There are two restaurants serving alcohol within 350 feet of the site (Pirates Grub & Grog, and CJ's BBQ), and therefore, triggers a presumption of undue concentration by local standards. The presumption of undue concentration can be rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises may be appropriate. Council Resolution No. 11,896 allows undue concentration to be rebutted by the preponderance of the evidence and if the proposed use is not likely to aggravate police problems.

Crime Statistics- 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. 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. Reference to “police calls for service” may include any type of police response, not just those listed as Part I or II.

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 97 during the same 12-month time

period. This is approximately 17% lower than the average crime rate citywide, and the area is generally not considered to be a policing problem. The number of incidents that listed alcohol as a contributing factor is below citywide averages.

The Police Department responded only three times to this site during the most recent 12-month period, and each of those calls were listed as disturbance related. This number is well below the citywide average for businesses with similar activity and ABC license types. For comparison purposes, the nearest similar business had 13 calls for service during the same time period with six of those being disturbances. Neither business is considered to be a problem establishment.

Additional Police Input - The Beat Coordinator who is responsible for the day-to-day monitoring of activity and deployment of police resources for the surrounding area said the location is not generally considered to be a policing problem. He said the proposed use would not likely aggravate existing problems as long as they continue to operate responsibly and abide by the preventative conditions recommended by the Police Department.

One concern of the Police Department is that the site includes dancing and entertainment as an ancillary use. 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. That is not to say that all of these types of businesses are problematic; just that they pose an increased risk for problems that otherwise does not exist at a traditional restaurant without nightclub activity.

Conclusion - The Police Department is not opposed to the proposal to upgrade the license to permit entertainment and dancing and allow for the sale of beer, wine, and distilled spirits.

The presumption of undue concentration can be rebutted by a preponderance of evidence, pursuant to Council Resolution No. 11,896, which shows that the establishment is in a retail center appropriate for multiple restaurant establishments selling alcoholic beverages for consumption on the premises with food service.

The Police Department's experience is that the proposed license (Type 47 - Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly. The standard and special conditions included in the Planning Commission resolution (Attachment D) should adequately mitigate the concerns mentioned in the Police report and will provide the Police Department with multiple enforcement options if problems do arise. The three Police special conditions pertain to the primary use as a restaurant even during times of accessory use for dance or entertainment.

A condition of approval is included that allows the Police Department to initiate Planning Commission review of the special use permit (SUP) and apply or remove conditions as

appropriate to mitigate existing or potential problems upon any individual transfer (person-to-person) of the subject ABC license, or if the business is ever deemed a nuisance pursuant to the Oxnard City Code.

- 7) **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 fee before the end of the appeal period.

**Attachments:**

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

Prepared by: _____ BF
Approved by: _____ SM

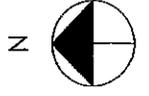
# Genmai Sushi

GENMAI SUSHI RESTAURANT  
3623 5th Street  
Oxnard CA 93030

TENANT SPACE  
3623 W. 5TH STREET  
OXNARD CA 93030

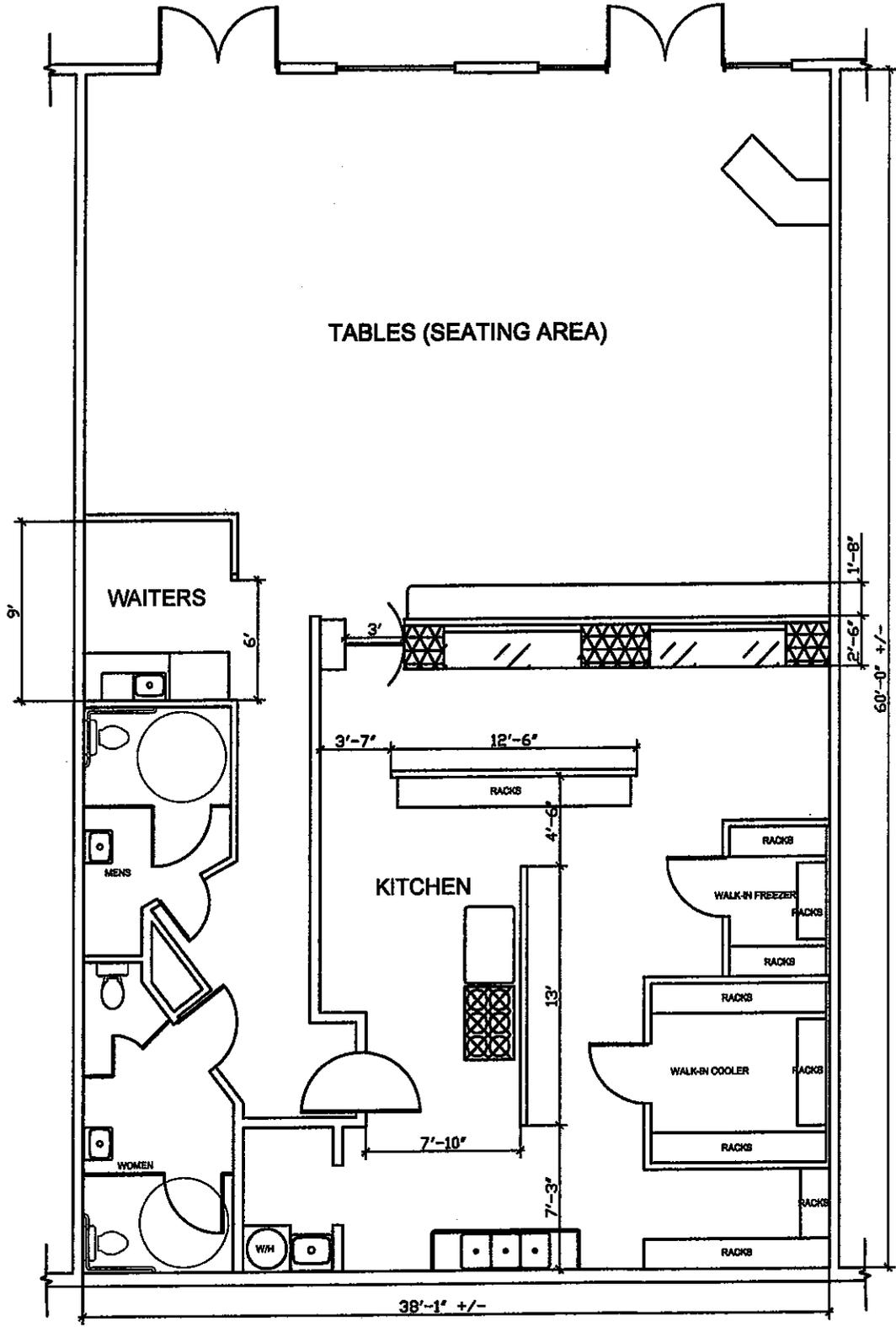
PRUDENTIAL REALTY

SITE PLAN



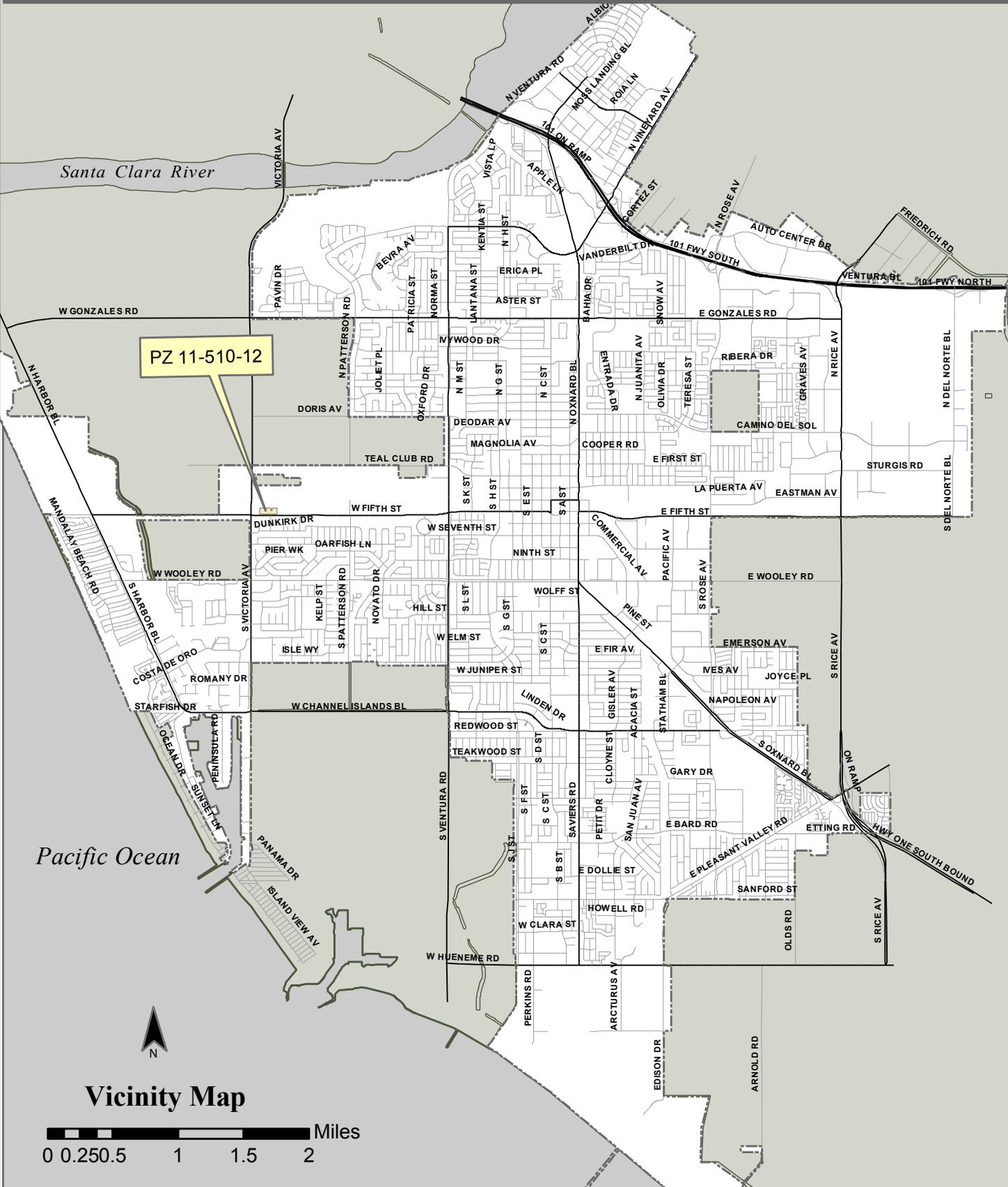
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# Genmai Sushi



FLOOR PLAN





**Vicinity Map**  
 0 0.250.5 1 1.5 2 Miles

PZ 11-510-12  
 Location: 3623 W Fifth St  
 APN: 185019005  
 Genmai Sushi



Oxnard Planning  
March 22, 2012

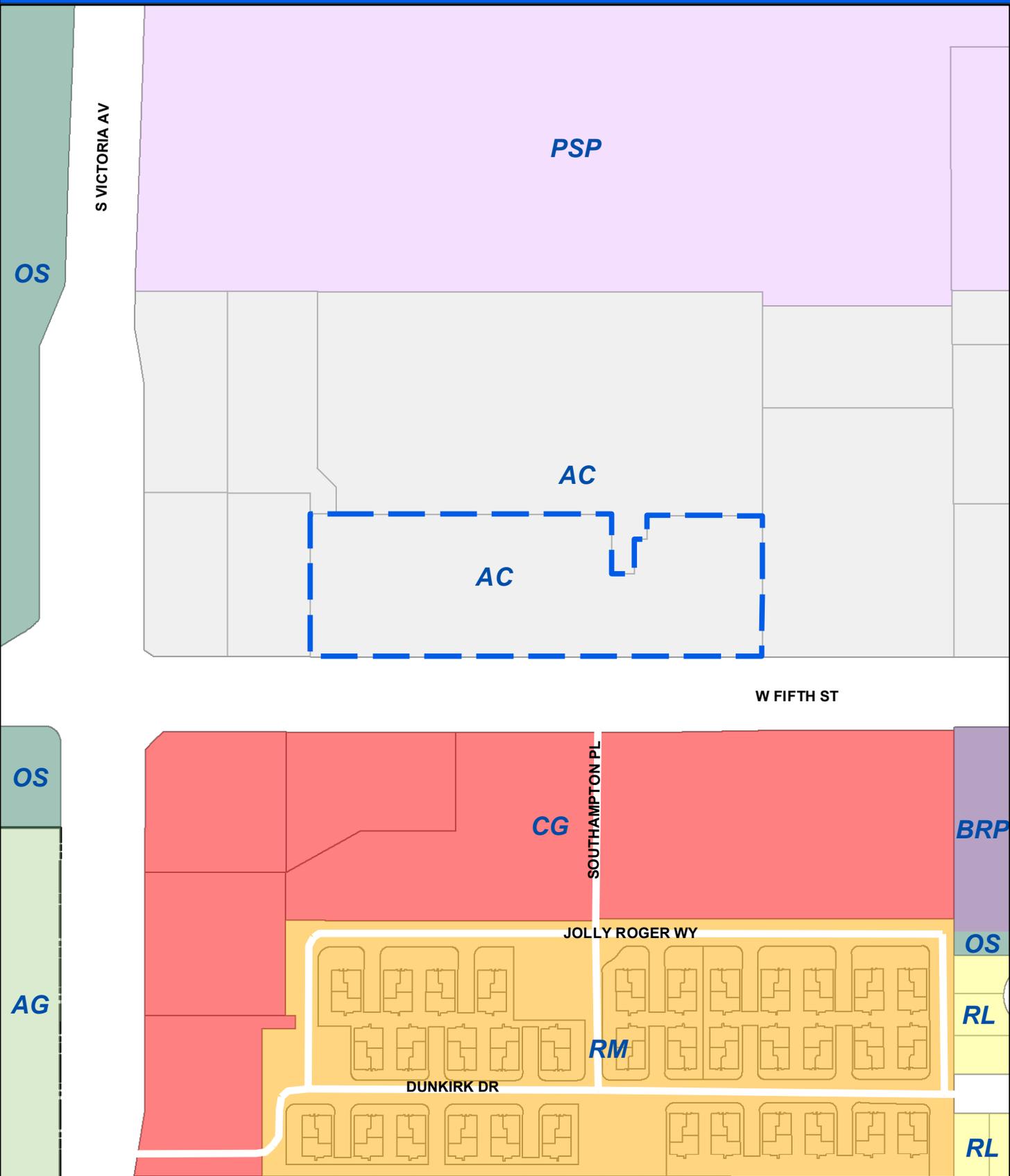
PZ 11-510-12  
Location: 3623 W Fifth St  
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Genmai Sushi



Aerial Map

2007 Aerial

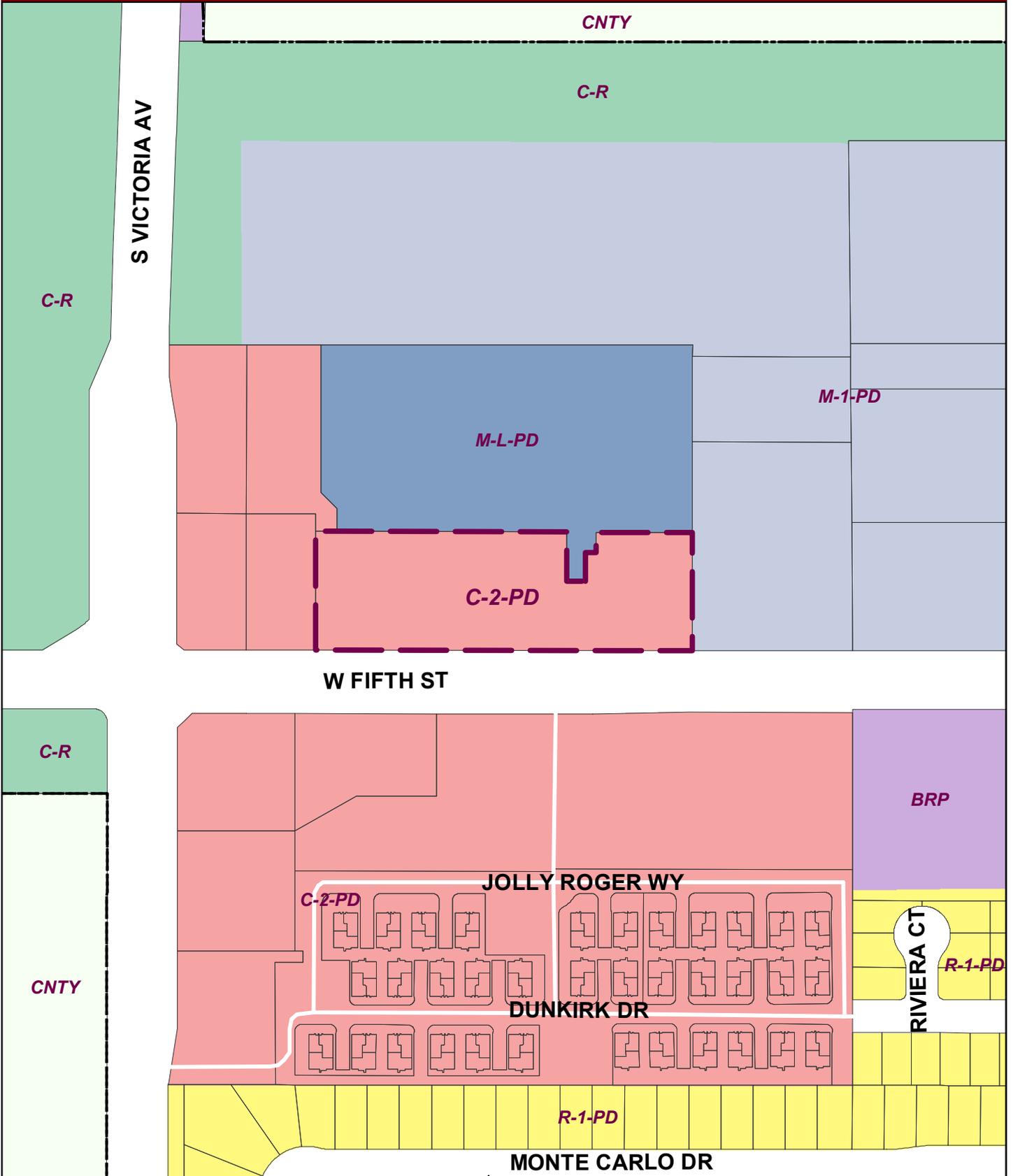




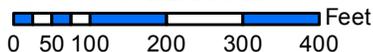
PZ 11-510-12  
Location: 3623 W Fifth St  
APN: 185019005  
Genmai Sushi



# Zone Map



PZ 11-510-12  
Location: 3623 W Fifth St  
APN: 185019005  
Genmai Sushi



## Zone Map



1:3,000



## NOTICE OF EXEMPTION

### *Project Description:*

Planning & Zoning Permit No. 11-510-12 (Special Use Permit – Alcohol) – A request to approve a Type 47 (On-Sale General – Eating Place) Alcoholic Beverage Control license to permit on-site consumption of beer, wine, and distilled spirits with food at Genmai Sushi Restaurant, located at 3623 West Fifth Street. The project is exempt from environmental review pursuant to Sections 15301 of the California Environmental Quality Act (CEQA) Guidelines. Filed by Alberto Vazquez, designated agent for Genmai Sushi Restaurant, 3623 West Fifth Street, Oxnard, 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 no changes 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



## Police Department

Jeri Williams, Police Chief

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Date: March 5, 2012

To: Brian Foote, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 3623 W. Fifth Street (Genmai Sushi) **PZ 11-510-012**

### **Site Information:**

The proposed site is an existing restaurant doing business as Genmai Sushi and is located at 3623 W. Fifth Street in the Airport Marina commercial center. The lot is on the northeast corner of the intersection of Fifth Street and Victoria Avenue. The business is positioned near the east end of the commercial center that includes a self-storage facility, bagel/coffee shop, a gym and two other restaurants. Other nearby uses of particular interest includes the local office for the American Youth Soccer Club which is approximately 200 feet east of the site and Juan Soria Elementary School approximately 2000 feet to the east along Fifth Street.

The building has one access door on the south side facing the parking lot toward Fifth Street. The site is generally bordered on the north by the Oxnard Airport runway, on the south by Fifth Street, on the east by commercial businesses and the west by Victoria Avenue and farmland. The nearest residences are approximately 300 feet to the south across Fifth Street in the Sea View neighborhood. There are two similar alcohol outlets within 350 feet of the site with one of those locations also offering entertainment and dancing.

The site has an existing Type 41 ABC License which allows for the sale of beer and wine with food. The Applicant has proposed to upgrade the ABC license to a Type-47 which is an On-Sale general (eating place) that allows for the sale of beer, wine and distilled spirits with food. The Applicant has also indicated that they intend to keep dancing and entertainment as part of the use.

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

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESCRIPTION	ALCOHOL ALLOWED
1. Pirates Grub and Grog	450 S. Victoria Ave.	Type 47	On-Sale General	Restaurant / Bar	Beer, Wine and Distilled Spirits
2. CJ's BBQ	480 S. Victoria	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Mobil Gas	490 S. Victoria	Type 20	Off-Sale Beer and Wine	Mini-Mart / Gas Station	Beer and Wine

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

1. Circle K	500 S. Victoria	Type 20	Off-Sale Beer and Wine	Mini-Mart / Gas Station	Beer and Wine
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**Crime Statistics Review:**

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

The average number of Part I and II crimes in the *applicant's* reporting district and all other districts within 1000 feet of the applicant is 97 during the same 12-month time period. This is approximately 17% lower than the average crime rate citywide and the area is generally not considered to be a policing problem. The number of incidents that listed alcohol as a contributing factor is below citywide averages.

The Police Department responded only three times to this site during the most recent 12-month period and each of those calls were listed as disturbance related. This number is well below the citywide average for businesses with similar activity and ABC licenses types. For comparison purposes, the nearest similar business had 13 calls for service during the same time period with six of those being disturbances. Neither business is considered to be a problem establishment.

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. Reference to "police calls for service" may include any type of police response, not just those listed as Part I or II.

**Police Department Input:**

The Beat Coordinator who is responsible for the day-to-day monitoring of activity and deployment of police resources for the surrounding area said the location is not generally considered to be a policing problem. He said the proposed use would not likely aggravate existing problems as long as they continue to operate responsibly and abide by the preventative conditions recommended by the Police Department.

One concern of the Police Department is that the site will include dancing and entertainment as an ancillary use. 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. That is not to say that all of these types of businesses are problematic; just that they pose an increased risk for problems that otherwise does not exist at a traditional restaurant without nightclub activity.

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. The Police Department continues to recommend 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 as much as possible 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 17% lower than the city-wide average and the area is not generally considered to be a policing problem. There are two similar businesses within 350 feet of the site so that triggers a presumption of undue concentration by local standards. The presumption of undue concentration can be rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises may be appropriate.

The Police Department is not opposed to the proposal to upgrade the license to permit entertainment and dancing and allow for the sale of beer, wine and distilled spirits. 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.

The Police Department's experience is that the proposed license (Type 47 - Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and

operates responsibly. Listed below are the Police Department's recommended operating conditions for the Planning Commission Resolution.

## **Police Standard Operating Conditions**

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

- 7) The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
- 8) Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
- 9) The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
- 10) The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
- 11) The activity at the site and the use of any amplifying system or device shall not be disruptive to neighboring uses. (PD)
- 12) There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
- 13) The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
- 14) Sales of alcohol may only occur between the hours of 7:00 am and 1:00 am. (PL/PD)
- 15) Alcoholic beverages shall not be offered at significantly reduced prices (typically more than a 25% reduction from regular prices) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. *Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged.* (PD)
- 16) Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher or similar high capacity amounts exceeding 36oz total. (PD)
- 17) In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the

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

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

- 28) Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
- 29) Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
- 30) Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
- 31) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 32) Permittee shall bolt down 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)
- 33) A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

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## **Police Special Conditions**

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- 1) 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 general public or as otherwise approved by the Chief of Police or designee. (PD)
- 2) During ancillary use, the service of alcoholic or any other beverages in bottles is strictly prohibited. (PD)
- 3) Permittee shall offer an assortment of food items to customers at all times that alcohol is being served. Permittee may, at Permittee'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)

RESOLUTION NO. 2012 –

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A SPECIAL USE PERMIT (PLANNING & ZONING PERMIT NO. 11-510-12) TO ALLOW A TYPE 47 (ON-SALE GENERAL – EATING PLACE) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR THE GENMAI SUSHI RESTAURANT. THE SUBJECT PROPERTY IS LOCATED AT 3623 WEST FIFTH STREET (APN: 185-0-190-050). FILED BY GENMAI SUSHI RESTUARANT, 3623 WEST FIFTH STREET, OXNARD CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning & Zoning Permit No. 11-510-12 (Special Use Permit – Alcohol) filed by Alberto Vazquez on behalf of Genmai Sushi Restaurant Inc., in accordance with Sections 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; 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 use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The proposed use will not result in or add to an undue concentration of establishments selling alcoholic beverages for off-site consumption within 1000 feet of the subject location. There are two establishments within 350 feet of the subject property that serve alcohol for on-site consumption with

food, and therefore, there is a presumption that an undue concentration will result or be added to. The Planning Commission finds that the presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center when restaurant establishments selling alcoholic beverages for consumption on the premises are appropriate.

7. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied. The Planning Commission finds that the preponderance of the evidence indicates that the area's crime rate is 17% lower than the citywide average crime rate, and the proposed Type 47 ABC license if approved is not likely to exacerbate the crime rate.

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

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

### STANDARD CONDITIONS OF APPROVAL FOR LAND USE PERMITS

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

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker

DEPARTMENTS AND DIVISIONS			
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 October 31, 2011 (“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 24 months from the date of its issuance, unless the Applicant obtains a zone clearance and business license for the proposed use. (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 not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or

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used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)

8. 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)

#### **PLANNING DIVISION STANDARD CONDITIONS**

9. 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**

10. All conditions adopted with Planning Commission Resolution No. 2006-02 shall remain applicable to the subject property, except as modified with this approval. (PL)
11. During the accessory live entertainment activities, the Applicant shall be responsible for providing the number of tables and chairs within the dining area to adequately accommodate dining customers. (PL)
12. 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. (PL)

#### **POLICE DEPARTMENT STANDARD CONDITIONS**

13. 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)
14. 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)

15. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
16. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations. (PD)
17. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
18. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area. (PD)
19. 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)
20. 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)

21. 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)
22. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
23. The activity at the site and the use of any amplifying system or device shall not be disruptive to neighboring uses. (PD)
24. 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)
25. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
26. Sales of alcohol may only occur between the hours of 7:00 am and 1:00 am. (PL/PD)
27. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than a 25% reduction from regular prices) that are meant to encourage greater consumption of alcohol such as during “happy hour” type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. *Promoting a “happy hour” or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged.* (PD)
28. 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)
29. 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)
30. 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)

31. 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)
32. 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 15, above, shall be adhered to regardless of where customers are seated. (PD)
33. 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)
34. 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)
35. 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)
36. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
37. 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)
38. 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)
39. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)

40. 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)
41. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
42. Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
43. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
44. 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)
45. 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**

46. Dancing and amplified music are considered accessory uses that are incidental to the primary use of the business which is a restaurant. Such accessory uses shall require a permit issued pursuant to Chapter 11 of the City Code. 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 general public or as otherwise approved by the Chief of Police or designee. (PD)
47. During accessory use, the service of alcoholic or any other beverages in bottles is strictly prohibited. (PD)
48. Permittee shall offer an assortment of food items to customers at all times that alcohol is being served. Permittee may, at Permittee's discretion, modify the standard menu or reduce the number of menu items offered to the customers during accessory use but shall continue to make available a reasonable assortment of food items. (PD)

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PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 19<sup>th</sup> day  
of April, 2012, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

\_\_\_\_\_  
Anthony R. Murguia, Chair

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