ITEM NO. 18

STAFF REPORT

CITY OF OCEANSIDE

DATE: July 18, 2007

TO: Chairman and Members of the Community Development Commission

FROM: Economic Development and Redevelopment Department

SUBJECT: **CONSIDERATION OF A RESOLUTION APPROVING CONDITIONAL USE PERMIT (C-201-07) TO ALLOW FULL ALCOHOLIC BEVERAGE SERVICE AT THE EXISTING VIGILUCCI RESTAURANT LOCATED AT 608 MISSION AVENUE – VIGILUCCI RESTAURANT – APPLICANT: ROBERTO VIGILUCCI**

SYNOPSIS

The item under consideration is a Conditional Use Permit for full alcoholic beverage service for the Vigilucci's Restaurant located at 608 Mission Avenue. Staff is recommending that the Commission adopt the attached resolution approving the project.

BACKGROUND

The Vigilucci's Restaurant has been operating at the subject site as a full-service restaurant and bar (serving beer and wine only) since 2006. The restaurant is approximately 2,000 square feet in size and has approximately 150 square feet of outdoor eating area. The previous use of the subject site was the Greek Paradise Restaurant which operated for four years.

Land Use and Zoning: The subject site is located within Subdistrict 2 of the "D" Downtown District. Subdistrict 2 is to provide sites for a financial center, supported by professional offices.

Project Description: The applicant is requesting full alcoholic beverage service as an ancillary use to the restaurant. The purpose of the request is to provide better service for the restaurant's expanding clientele. The applicant does not propose any changes to the building.

Article 12 of the Downtown "D" District Zoning Ordinance requires a Conditional Use Permit for Eating and Drinking Establishments with full alcoholic beverage service. The proposed hours of operation are from 10:00 a.m. to 2:00 a.m. Sunday through Saturday.

The State Department of Alcoholic Beverage Control (ABC) has informed staff that the business is located within Census Tract No. 184, which allows for a maximum of 4 on-sale alcohol licenses. Currently, there are 21 on-sale alcohol licenses within this Census Tract.

There are several areas throughout the City (and throughout the County) that have an overconcentration of alcohol outlets. Alcoholic Beverage Control (ABC) applies a ratio to a census tract based on the average number of outlets per general population. The ratio for on-sale licenses (restaurant) is one outlet for every 2,000 population and for off-sale licenses (retail) not to exceed one outlet per 2,500 populations. Areas adjacent to shopping centers typically exceed the number of alcohol outlets due to the abundance of restaurants that serve alcoholic beverages and retail stores that sell packaged liquor. Typically, the regulatory authorities, i.e., ABC, local police and the Planning Department (if applicable), place additional restrictions on applications for new liquor licenses that are located within an area that has an overconcentration of alcohol outlets. Currently, Vigilucci's Restaurant is licensed for serving beer and wine, therefore, ABC does not consider this a new outlet; rather, it is an upgrade of an existing liquor license.

Environmental Determination: A Certificate of Exemption has been prepared for the project. Under the provisions of the California Environmental Quality Act, the Community Development Commission will consider the exemption during its hearing on the project.

ANALYSIS

Staff's analysis focused on the operation of the restaurant and the compatibility of the full alcoholic beverage service with the surrounding businesses within the Redevelopment Project Area.

In staff's opinion, the full alcoholic beverage service is an ancillary use to the restaurant service. The Police Department has reviewed the proposed license and their recommended conditions are included (Conditions No. 11 through 26). It should be noted that in order to maintain a full alcoholic beverage service, ABC requires that the quarterly sale of alcohol cannot exceed the quarterly sale of food, and this condition is also attached to the permit.

In conclusion, staff believes that the full alcoholic beverage service is an ancillary use to the restaurant service and the permit has been conditioned to minimize any potential impacts to surrounding uses.

COMMISSION OR COMMITTEE REPORT

The Redevelopment Advisory Committee (RAC) will review the project at its June 27, 2007, meeting. Any recommendations or comments on the project will be presented to the Commission during the hearing for the project.

FISCAL IMPACT

Not applicable.

CITY ATTORNEY'S ANALYSIS

Pursuant to Oceanside Zoning Ordinance Article 4102, the Commission is authorized to hold a public hearing on this project's applications. Consideration of the project should be based on the evidence presented at the public hearing. After conducting the public hearing, the Commission shall approve, conditionally approve, or disapprove the project. The resolution has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff recommends that the Commission adopt the resolution approving Conditional Use Permit (C-201-07) for full alcoholic beverage service for Vigilucci's restaurant located at 608 Mission Avenue.

PREPARED BY:

Shan Babick
Associate Planner

SUBMITTED BY:

Mike Blessing for

Peter E. Weiss
Interim Executive Director

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
Kathy Baker, Redevelopment Manager
Mike Blessing, Deputy City Manager
Jane McVey, Economic and Redevelopment Director

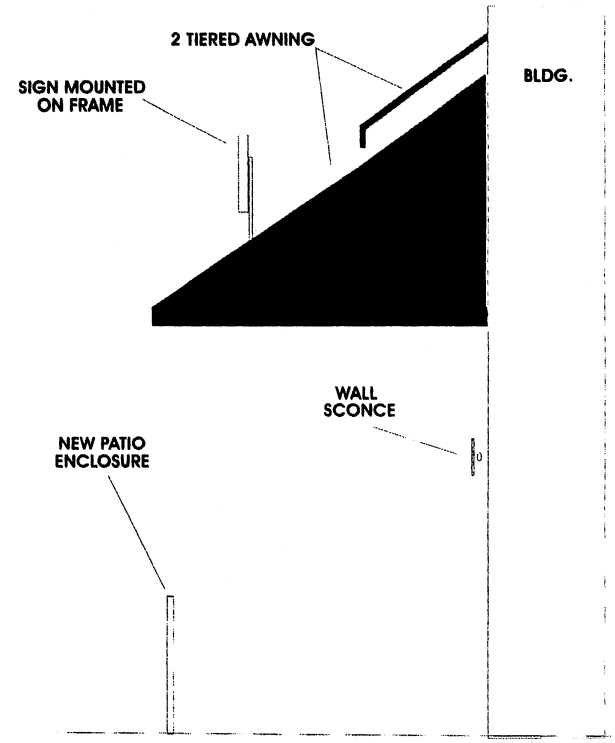
EXHIBITS/ATTACHMENTS

1. Resolution
2. Notice of Exemption
3. Floor Plans

PROPOSED STORE FRONT REVISIONS @ 608 MISSION AVE., OCEANSIDE

ELEVATION

SECTION



PROPOSAL DETAILS

A- NEW DOUBLE TIERED AWNING -BLACK SUNBRELLA FABRIC, W/ APPLIQUED 2 COLOR STRIPES AT ENDS
B- NEW ILLUMINATED SIGNAGE- MOUNTED TO VERTICALLY ORIENTED FRAME. INCLUDES OPEN CHANNEL LETTERS FOR MAIN COPY
C- ELECTRICAL TO EXTERIOR, W/ 2 NEW GAS HEATERS, CEILING MOUNTED
D- REPAINT EXTERIOR -STUCCO , WINDOW MULLIONS, ETC.- TO MATCH FINISH OF WOODWORK
E- NEW FACADE TREATMENT: MAHOGANY SIDING TO CONCEAL EXISTING STONE COLUMNS
F- NEW MAHOGANY FRAMED / GLASS ENTRY DOOR
G- 2 NEW ,CUSTOM WALL SCONCES ON COLUMNS FOR LIGHTING
H- NEW PATIO RAILING ENCLOSURE AS SHOWN

Ford SIGNS INCORPORATED
www.Ford-Signs.com
1310 North Melrose Suite A
Vista, California 92083
Phone (760) 631-1936 Fax (760) 631-4987
C-45 Lic.#717137

PRIMARY ELECTRICAL SERVICE PROVIDED BY OTHERS
■
A DEDICATED CIRCUIT W/ NO SHARED NEUTRALS & A GROUND RETURNING TO THE PANEL IS REQUIRED FOR ALL INSTALLS

Revisions:
1
2
3
4
5
6
7

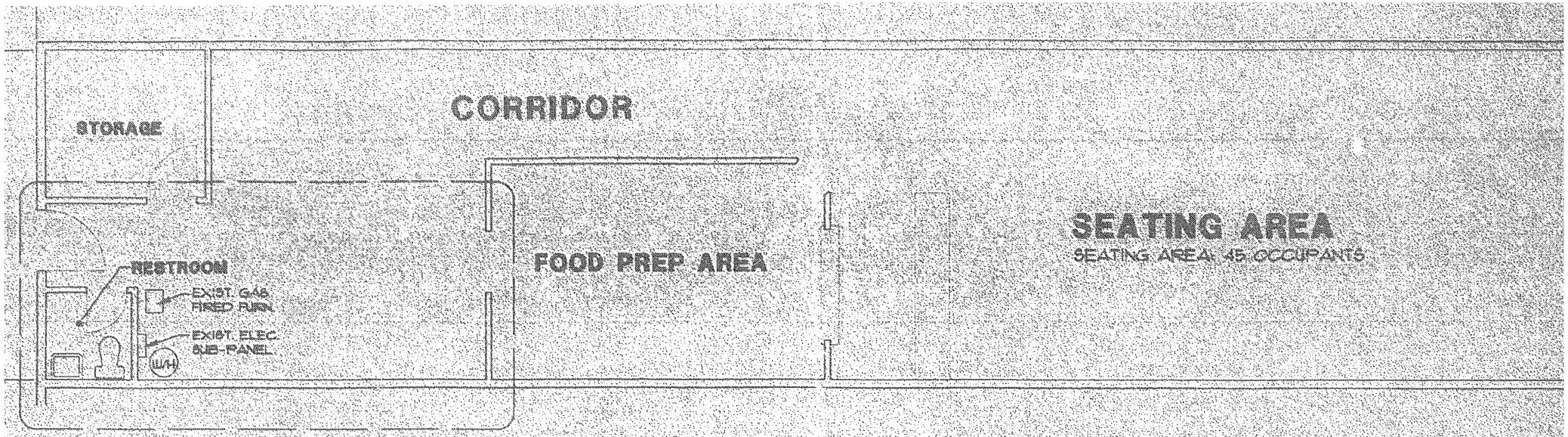
Account Rep: ALAN GELBMAN 619-300-3422
Project Manager: ALAN GELBMAN
Drawn By: AG

Project / Location:

VIGILUCCI OSTERIA
608 MISSION AVE
OCEANSIDE, CA

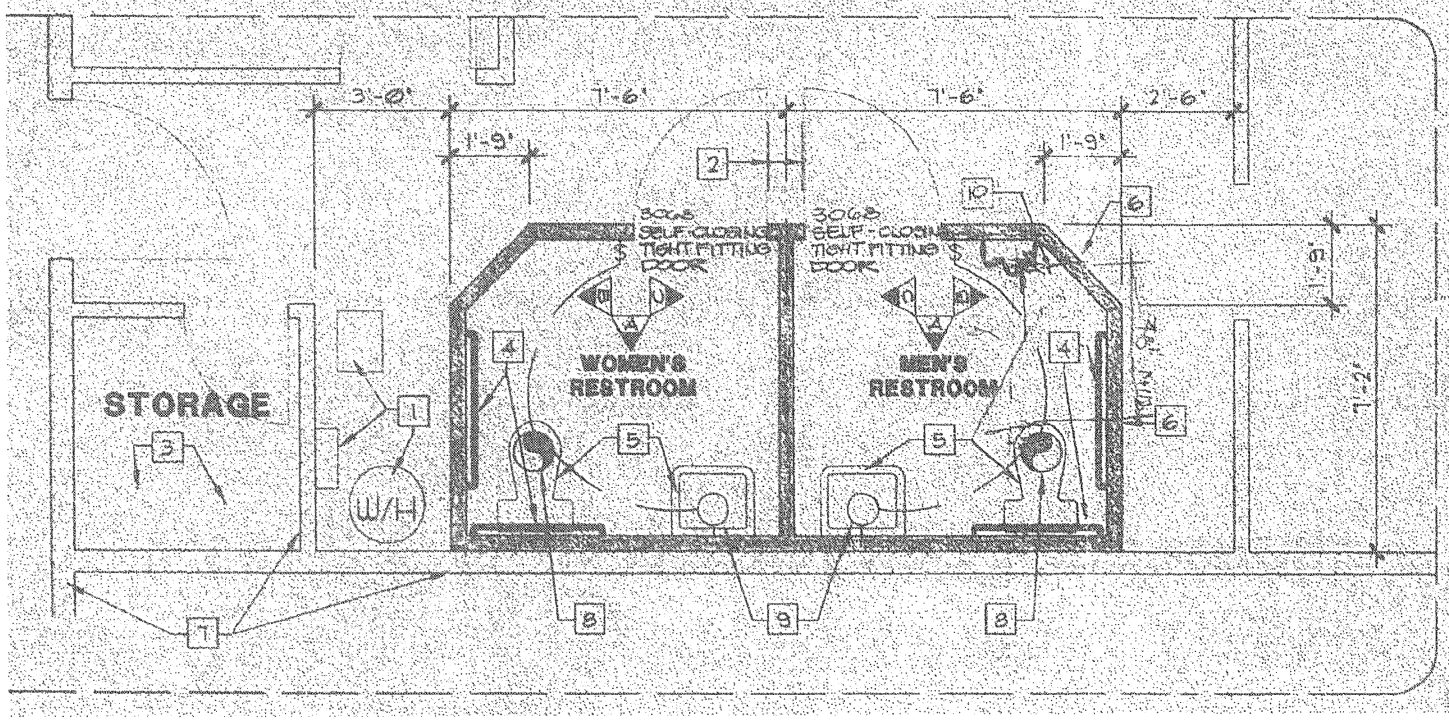
This original drawing is provided as part of a planned project and is not to be exhibited, copied or reproduced without the written permission of Ford Signs Inc or its authorized agent.

Job Number:
File Name: VIGILUCCI OSTERIA
Date: 11/28/06
Sheet Number: Of



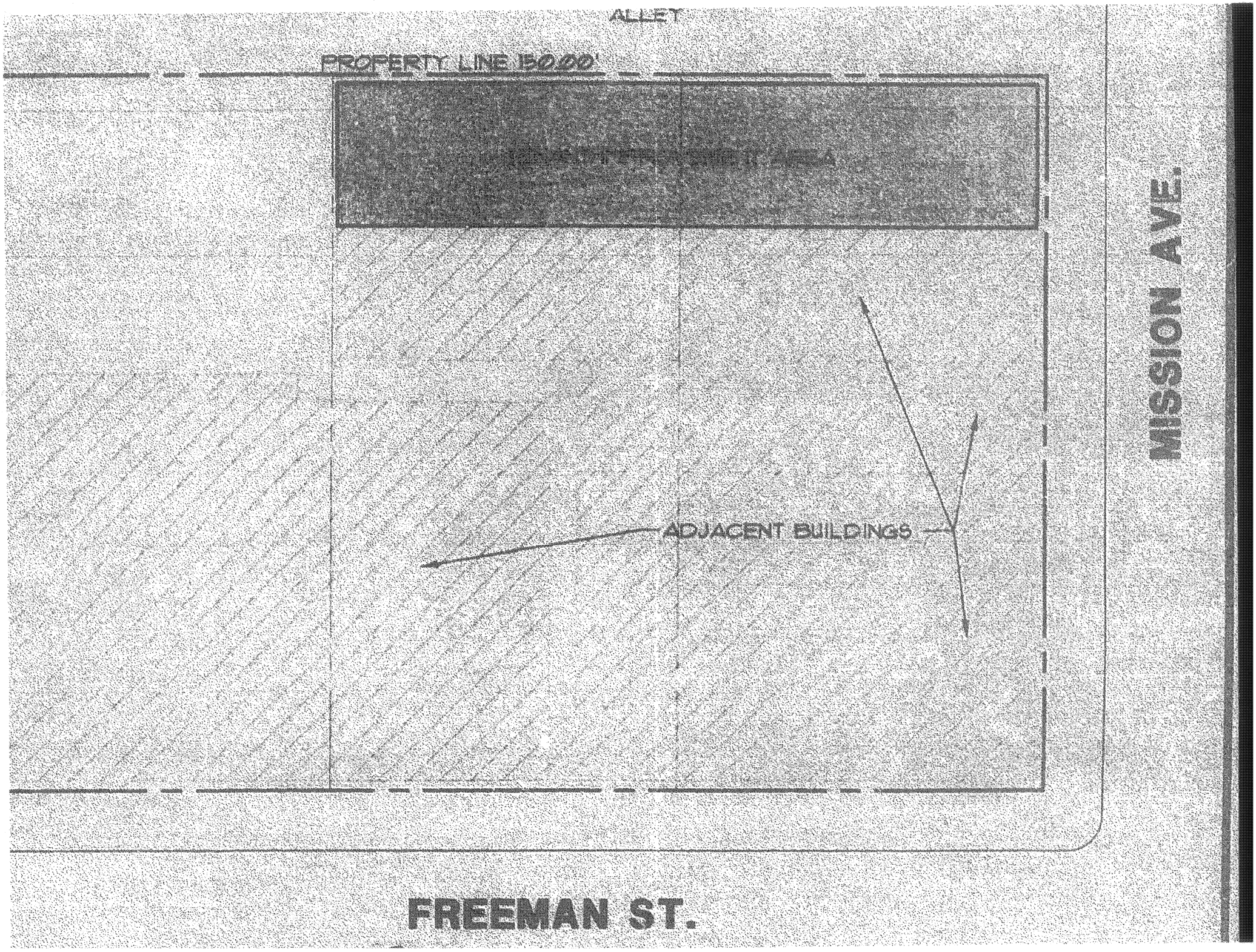
FLOOR PLAN - AS BUILT - TENANT IMPROVEMENT

SCALE: 3/16" = 1'-0"



FLOOR PLAN NOTES

1. EXISTING TO REMAIN.
2. RESTROOM SIGNS PER TITLE24 (SEE DETAIL)
3. DOTTED LINE INDICATES EXISTING TO BE REMOVED.
4. HAND RAILS, SEE INTERIOR ELEVATIONS
5. NEW FIXTURES, CONNECT TO EXISTING UTILITY LINES IN FLOOR FOR SEWER & CEILING FOR WATER
6. NEW 2x4 FRAME WALLS, SEE SECTION DETAIL THIS SHEET.
7. EXISTING WALLS
8. NEW EXHAUST FAN TO PROVIDE 15 AIR CHANGES PER HOUR MINIMUM.
9. NEW WALL MOUNTED FLUOROSCENT LIGH FIXTURE.
10. THE NEW ELONGATED RIM WALL HUNG URINAL RIM IS TO BE WITHIN A MAX. O 17" ABOVE THE FLOOR W/ THE FLUSH DEVICE AT A MAX. OF 44" ABOVE THE FLOOR.


ALLEY
PROPERTY LINE 150.00'
ADJACENT BUILDINGS
MISSION AVE.
FREEMAN ST.

RESOLUTION NO. 06-

A RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE APPROVING A CONDITIONAL USE PERMIT FOR PROVIDING FULL ALCOHOLIC BEVERAGE SERVICE FOR AN EXISTING RESTAURANT VIGILUCCI'S LOCATED AT 608 MISSION AVENUE – APPLICANT: ROBERTO VIGILUCCI

WHEREAS, on July 18, 2007, the Community Development Commission held its duly noticed public hearing for an application for a Conditional Use Permit (C-201-07) for an existing restaurant to begin providing full alcoholic beverage service located at 608 Mission Avenue;

WHEREAS, the Redevelopment Advisory Committee (RAC) of the City of Oceanside did, on June 27, 2007, review and recommend approval of Conditional Use Permit (C-201-07);

WHEREAS, a Categorical Exemption was prepared by the Resource Officer of the City of Oceanside for this application pursuant to the California Environmental Quality Act of 1970 and the State Guidelines implementing the Act. The project is considered an infill development and will not have a detrimental effect on the environment;

WHEREAS, pursuant to Government Code §66020(d)(1), NOTICE IS FURTHER GIVEN that the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020; and

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective upon its adoption.

NOW, THEREFORE, the Community Development Commission of the City of Oceanside does resolve as follows:

FINDINGS:

For the Conditional Use Permit:

1. The existing restaurant operation allowing for full alcoholic beverage service is consistent with the land use objectives of the commercial uses that are allowed within Subdistrict 2 land use district of the Redevelopment Project Area by providing an ancillary use to the main business.

2. The restrictions for the conditional use permit are consistent with the Zoning Ordinance, General Plan and Redevelopment Plan, will not affect neighborhood compatibility. The operation of the proposed business and the conditions under which it will be allowed to operate will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the subject site.

3. The conditional use is subject to and must comply with specific local conditions and additional regulations as deemed necessary by other regulatory or permit authorities including but not limited to Alcohol Beverage Control.

That Conditional Use Permit (C-201-07) is hereby approved subject to the following conditions:

Building:

1. Applicable Building Codes and Ordinances shall be based on the date of submittal for Building Department plan check.

2. The granting of approval under this action shall in no way relieve the applicant/project from compliance with all State and local building codes.

Planning:

3. This Conditional Use Permit (C-201-07) shall expire on July 18, 2009, unless implemented as required by the Zoning Ordinance.

4. This Conditional Use Permit approves only full alcoholic beverage services for an existing restaurant as shown on the plans and exhibits presented to the Community Development Commission for review and approval. No deviation from these approved plans and exhibits shall occur without Economic and Redevelopment Department or CDC approval.

5. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold harmless the City of Oceanside, its agents, officers or employees from any claim, action or proceeding against the City, its agents, officers, or employees to attack, set aside, void or annul an approval of the City, concerning Conditional Use Permit (C-201-07). The City will promptly notify the applicant of any such claim, action or proceeding against the City and will cooperate fully in the defense. If the City fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold harmless the City.

6. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant developer and recorded prior to the issuance of building permits. The covenant shall provide that the property is subject to this resolution, and shall generally list the conditions of approval.

7. Prior to the issuance of building permits, compliance with the applicable provisions of the City's anti-graffiti Ordinance (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed and approved by the Economic and Redevelopment Department. These requirements, including the obligation to remove or cover with matching paint all graffiti within 24 hours, shall be recorded in the form of a covenant affecting the subject property.

8. Prior to the transfer of ownership and/or operation of the site, the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and/or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.

9. Failure to meet any conditions of approval for this development shall constitute a violation of the Conditional Use Permit (C-201-07).

10. This Conditional Use Permit shall be called for review by the Community Development Commission if complaints are filed and verified as valid by the Code Enforcement Office concerning the violation of any of the approved conditions.

11. The hours of operation are limited to 10:00 a.m. to 2:00 a.m. Sunday through Saturday. The hours of operation may be limited by the Community Development Commission when valid issues or complaints pertaining to the hours of operation arise.

12. Any live entertainment shall be limited to the definition in the Zoning Ordinance of "small scale live entertainment" found in Section 450 J.2. There shall be five or fewer performers at any one time and entertainment shall only be provided between 11:00 a.m. and 10:00 p.m. Monday through Sunday.

13. The approval does not relieve the applicant from an obligation to obtain an alcohol license from the State Department of Alcoholic Beverage Control (ABC). Any license and permit conditions imposed by the ABC and the City Police Chief shall be in addition to the conditions of this approval and the most restrictive conditions shall apply.

14. Sales, service and consumption of alcoholic beverages shall be permitted only

between the hours of 10:00 a.m. and 2:00 a.m. Monday through Sunday.

15. Dancing is prohibited.

16. There shall be no coin operated games or video machines maintained upon the premises at any time.

17. There shall be no pool or billiard tables maintained upon the premises.

18. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.

19. Security may be required as the need arises.

20. There shall be no audible music or noise emitting from the premises, which would disturb the quiet and peaceful enjoyment of the property of the tenants and residences of the area.

21. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The permittee shall at all times maintain sales records, which separately account for gross food sales apart from gross alcohol sales.

22. No wine shall be sold with an alcoholic content of greater than 15% by volume, except "Dinner Wines" which have been aged two years or more and maintained in corked bottles.

23. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

24. The rear and side doors of the premises shall be kept closed at all times during the operation of the premises except in the case of emergency and to permit deliveries. Said doors are not to consist solely of a screen or ventilated security door.

25. All patrons shall be required to enter the premises via the primary front entrance facing Mission Avenue.

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26. No pay phones which are capable of receiving incoming calls will be maintained on the interior or exterior of the premises.

PASSED AND ADOPTED by the Oceanside Community Development Commission of the City of Oceanside this ____ day of July, 2007, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
Chairman

ATTEST:

_____
Secretary

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

by _____, Deputy
General Counsel

CITY OF OCEANSIDE
PLANNING DEPARTMENT

NOTICE OF EXEMPTION

TO: X RECORDER/COUNTY CLERK
COUNTY OF SAN DIEGO
P.O. BOX 1750
SAN DIEGO, CA 92112-4147

PROJECT TITLE AND FILE NUMBER:
CONDITIONAL USE PERMIT (C-201-07) for full alcoholic beverage service at the existing Vigilucci's restaurant located at 608 Mission Avenue.

PROJECT LOCATION - SPECIFIC:
608 Mission Avenue

PROJECT LOCATION - GENERAL:
Mission & Coast Highway

CONDITIONAL USE PERMIT (C-201-07)

DESCRIPTION OF NATURE, PURPOSE AND BENEFICIARIES OF PROJECT:
Full alcoholic beverage service for an existing restaurant located at 608 Mission Avenue.

NAME OF PUBLIC AGENCY APPROVING PROJECT:
City of Oceanside
NAME OF PERSON(S) OR AGENCY CARRYING OUT PROJECT:

Roberto Vigilucii
4520 Adathis Street
Carlsbad, CA 92008
(760) 815-0665

Exempt Status per the Guidelines to Implement the California Environmental Quality Act (CEQA)
(Public Resources Code Section 21000 et. al.):

__**NOT SUBJECT TO CEQA PER THE GENERAL RULE, SECTION 15061(B)(3)**

__**STATUTORY EXEMPTION PER ARTICLE 18, SECTION(S)**

X _CATEGORICAL EXEMPTION PER ARTICLE 19, SECTION 15301(b)

REASONS WHY PROJECT IS EXEMPT:
The proposed project consists of an upgraded alcohol license and there is no proposed changes to the existing building.

Contact Person: Shan Babick, Associate Planner

June 16, 2007
SIGNATURE DATE
For: Jerry Hittleman, Interim City Planning