

**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

CASE NUMBER:

FOR HEARING OF: November 15, 2007
Report Prepared on November 7, 2007

I. GENERAL INFORMATION

- A. APPLICANT:** Lylette Fields, Fields, Inc.
- B. PROPERTY OWNER:** Fantasy's Inc.
- C. LOCATION:** 7826 S. 123rd Plaza, Suites E & F.
- D. LEGAL DESCRIPTION:** Lot 2, Southport East Replat 3
- E. REQUESTED ACTION(S):** Approval of a Conditional Use Permit
- F. EXISTING ZONING AND LAND USE:**
C-3, Highway Commercial / Office Park District and Gateway Corridor District. The site has a gas station / convenience store and a coffee kiosk under construction. Additional commercial uses have been proposed.
- G. PURPOSE OF REQUEST:** The proposal is to construct a bar and grill inside of a newly constructed commercial flex building. Also, the sidewalk in front of the bays is proposed as an outside beer garden.
- H. SIZE OF SITE:** Approx. 2,700 square feet of the building is proposed for the bar and grill. The lot is approximately 1.9 acres.

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE:** Fantasy's Food and Fuel with additional commercial flex building under construction.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
 - 1. North:** C-3, PayPal
 - 2. East:** C-3, Vacant
 - 3. South:** C-3, Pinnacle Bank
 - 4. West:** C-3, Embassy Suites
- C. RELEVANT CASE HISTORY:** This lot was re-platted as a part of Southport East Replat 3
- D. APPLICABLE REGULATIONS:**
 1. Section 5.12, Zoning Ordinance, regarding C-3 Zoning District

2. Section 5.17, Zoning Ordinance, regarding Gateway Corridor Dist.
3. Section 6.05, Zoning Ordinance, CUP Standards for Approval
4. Southport Architectural and Site Design Guidelines

III. ANALYSIS

- A. **COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates this property for commercial uses in the gateway corridor.
- B. **OTHER PLANS:** Building plans have been submitted and construction is underway for the restaurant portion of the business. Fantasy's Food and Fuel had a Conditional Use Permit approved and architectural design and landscaping requirements were satisfied for all buildings on Lot 2, Southport East Replat 3.
- C. **TRAFFIC AND ACCESS:**
 1. Ingress / egress will be provided via South 123rd Plaza only.
 2. The applicant did not provide number of proposed parking spaces; however, the City Engineer has calculated that 21 parking spaces would be available for the proposed bar and grill. A request was made to the owners to provide a revised site plan to show how many spaces would be provided and what parking spaces would be reserved for the Island Bar and Grill.
 3. Pedestrian sidewalks and access is not provided to this site. No other modes of transportation exist to this site at this time. The only sidewalks on-site are in front of the buildings' entrances. The bar and grill proposes to use 8' x 27' of their sidewalk as a beer garden.
- D. **UTILITIES:** All utilities are available to the site.

IV. REVIEW COMMENTS:

1. The site plan for Fantasy's Food and Fuel shows 74 parking spaces to be divided among the convenience store (14 required spaces) and retail space (50 required spaces). The convenience store may also count spaces in front of the gas pumps as parking spaces.
2. To accommodate each tenant, seven parking spaces would be available per bay. Ideally, the proposed use should not exceed fourteen parking spaces in order to prevent overflow parking from affecting other businesses.
3. The application states that 10-12 employees will be the maximum number per working shift. The number of employees alone will nearly fill fourteen parking spaces.
4. Both the Fire Chief and the Police Chief have reviewed the proposal and have no concerns at this time.

5. The City Engineer and Planning Staff recommend against having the beer garden, as this adds additional seating capacity which further adds to the problem of limited parking.

V. PLANNING STAFF RECOMMENDATION:

Approval of the Conditional Use Permit to allow a bar and grill in the C-3 zoning district with the following conditions:

1. The applicant shall demonstrate they can provide the necessary number of parking spaces for the bar and grill without negatively impacting the parking required for future tenants on this lot. A revised site plan shall be submitted prior to City Council's review.
 2. No additional restaurants will be allowed in the same building as tenants.
 3. The beer garden shall not be permitted. All seating shall be inside the building.

VI. ATTACHMENTS TO REPORT:

1. Vicinity Map
 2. City Engineer's Report
 3. Draft Conditional Use Permit with Exhibits

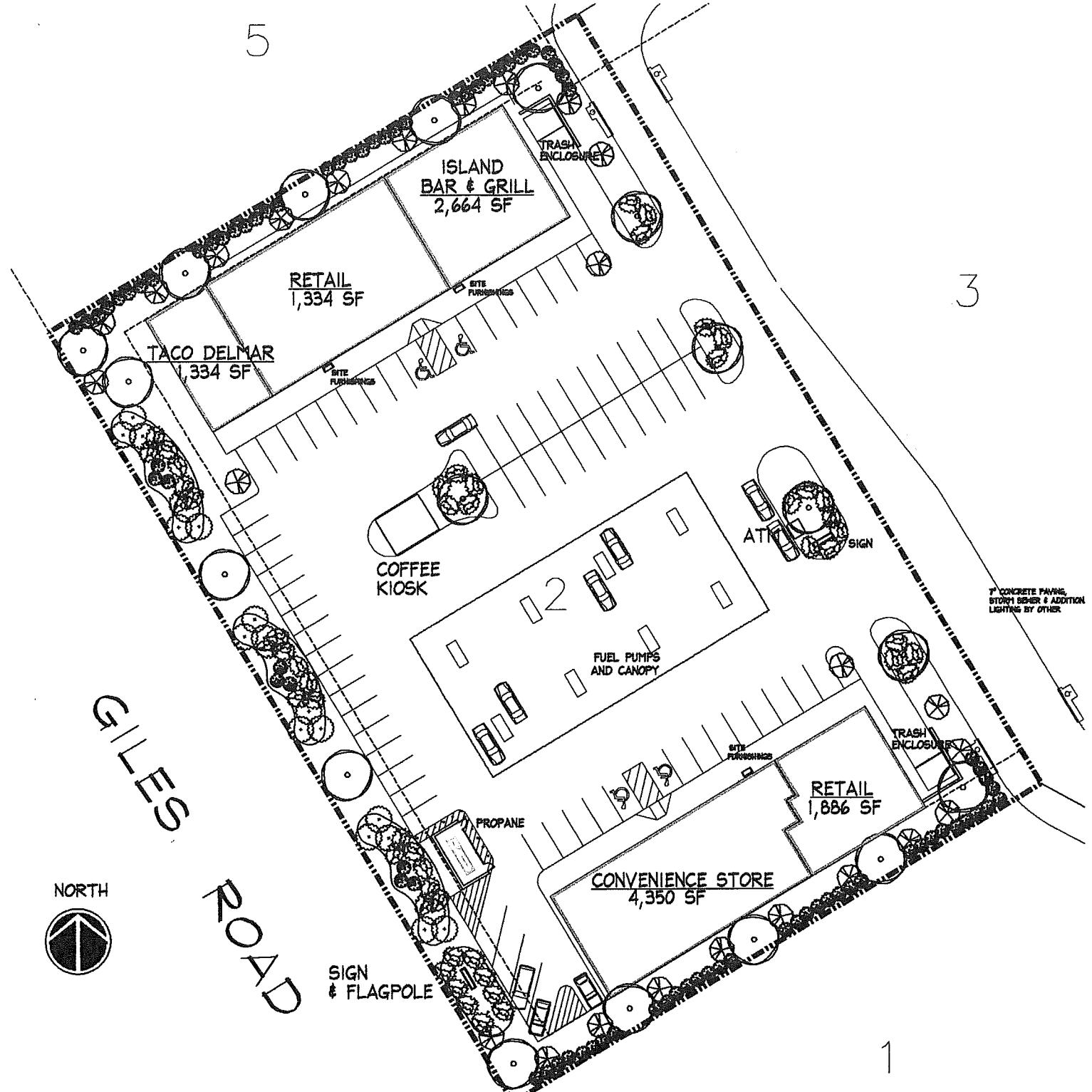
VII. COPIES OF REPORT SENT TO:

1. Lylette Fields, Applicant
2. Public Upon Request

Prepared by:

Community Development Director

Date



C-STORE
RETAIL
RESTAURANT (TACO DEL MAR)
RESTAURANT (Island Bar & Grill)

4,350 SF/300 STALLS
 5,884 SF/200 STALLS
 SEATING 34 x 40% STALLS
 SEATING 52 x 40% STALLS

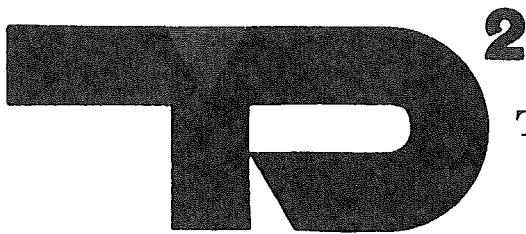
BO STALLS REQUIRED/B9 STALLS PROVIDED
(NOTE: 16 STALLS @ GAS ISLANDS)

SOUTHPORT SQUARE SITE PLAN

LOT 2, REPLAT III
SOUTHPORT EAST SUBDIVISION
LA VISTA, NEBRASKA

SCALE: 1" = 50'-0"

11/8/2007 REV.



THOMPSON, DREESSEN & DORNER, INC.

Consulting Engineers & Land Surveyors

November 5, 2007

Mr. Marcus Baker
City Planner
City of La Vista
8116 Park View Boulevard
La Vista, NE 68128

ROBERT E. DREESSEN, P.E.
NELSON J. HYMANS, P.E.
JAMES D. WARNER, L.S.
CHARLES E. RIGGS, P.E.
KA "KIP" F. SQUIRE III, P.E., S.E.
JOHN M. KOTTMANN, P.E.
ARTHUR D. BECCARD, P.E.
JOSEPH G. KOSINOVSKY, P.E.
DOUGLAS S. DREESSEN, P.E.
DEAN A. JAEGER, P.E.
RICHARD M. BROYLES, L.S.
DAVID H. NEEB, L.S.
RONALD M. KOENIG, L.S.
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TIMOTHY T. PAPSTEIN, P.E.
MICHAEL J. SMITH, L.S.
TROY J. NISSEN, P.E.S.E.
DOUGLAS E. KELLNER, P.E.
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BRIAN L. LODES, P.E.
KURTIS L. ROHN, P.E.
JEFFREY L. THOMPSON, P.E.
DAREN A. KONDA, P.E.
MICHAEL T. CANIGLIA, L.S.
JEREMY T. STEENHOEK, P.E.
JOSHUA J. STORM, P.E.

RE: Rezoning & Conditional Use Permit Reviews 2007
Lot 2, Southport East Replat Three
Proposed Conditional Use Permit for Cocktail Lounge
TD² File No. 171-345.11

Marcus:

I have reviewed the Site Plans that you provided to me on October 17, 2007 for a proposed conditional use permit for a cocktail lounge in conjunction with a restaurant on the above-referenced site. I offer the following comments:

1. Based on parking requirements in the Zoning Regulations, the required parking is 1 stall per 200 square feet for general retail uses, 1 per 300 square feet for the convenience store use, 1 per 150 square feet for the coffee kiosk, 40% of licensed capacity for a restaurant, and 30% of licensed capacity for a cocktail lounge. Since the proposed use is a mix of restaurant and cocktail lounge, the more stringent requirement 40% of licensed capacity should apply. Removing the two bays proposed for this use from the calculations indicates that 51 stalls are needed for the retail, convenience store, and coffee kiosk uses. The site plan shows a total of 72 stalls. This leaves 21 stalls available for the proposed use. The application indicates maximum number of employees to be 10 to 12. This leaves only about 10 stalls for customers. The licensed capacity of the facility has not been indicated. From the foregoing calculations it would appear that there is not adequate parking for this proposed use in conjunction with the other uses on the site.
2. The application also identifies an outdoor beer garden that will essentially use all the sidewalk area in front of half of the proposed facility. This will block the use of the sidewalk to serve the parking stalls and further increases the number of potential customers. I recommend against the beer garden element of the plan on the basis that there is not adequate space for this activity.

The capacity of the facility and the ability to provide adequate parking for all uses on this lot must be addressed before I could recommend approval of this Conditional Use Permit.

Submitted by,
THOMPSON, DREESSEN & DORNER, INC.

John M. Kottmann, P.E.

cc: File

**City of La Vista
Conditional Use Permit**

Conditional Use Permit for a Tavern and Cocktail Lounge

This Conditional Use Permit issued this ____ day of December, 2007, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Fantasy's, Inc. ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate a tavern and cocktail lounge upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 2, Southport East Replat 3 located in the NE $\frac{1}{4}$ Section 18 and the NW $\frac{1}{4}$ Section 17, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a tavern and cocktail lounge; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area designated on Exhibit "A" hereto for a tavern and cocktail lounge, said use hereinafter being referred to as "Permitted Use or Use".

Conditions of Permit

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
 - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures, parking, access points, and drives shall be provided to the City and attached to the permit as Exhibit "A". Specifically, the parking area for the tavern and cocktail lounge shall be identified. Parking for the use shall only be allowed in these designated parking spaces.
 - b. Hours of operation for the use will be from 11 a.m. – 1:00 a.m. seven days a week.
 - c. There will be a maximum of fourteen (12) employees working at any given time at the tavern.
 - d. The use will be comprised of 2,666 sq. feet of building space; all seating for the permitted use shall be inside the building.
 - e. Adequate parking shall be provided to accommodate the maximum number of patrons and employees in attendance at any one time between the hours of operation.
 - f. No other restaurants, taverns, or cocktail lounges will be permitted within the same building as the tenants of the permitted use.
 - g. The premises shall be developed and maintained in accordance with the site plan (Exhibit "A") as

approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.

- h. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the facility, except trash receptacles and those approved in writing by the City.
 - i. There shall not be any outside storage of materials. All trash receptacles, benches and planters shall be placed on property and securely fastened to building or concrete.
 - j. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building, fire, ADA and FAA.
 - k. Owner shall comply (and shall ensure that all employees, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
 - l. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
- a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval, if the violation continues after written notice from the City to Owner and a reasonable time was given for Owner to cure such violation.
4. In respect to the Gateway Corridor Overlay District and Southport East Design Guidelines:
(All design guidelines have been followed in original Conditional Use Permit for Fantasy Food and Fuel)
5. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
- a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
 - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
 - c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner's expense within twelve (12) months of cessation of the conditional use.
6. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:
- a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
 - c. Owner's construction or placement of a storage tank, structure or other improvement on the premises not specified in this permit.
 - d. Owner's breach of any other terms hereof and his failure to correct such breach within ten (10) days

of City's giving notice thereof.

7. If the permitted use is not commenced within one (1) year from October 2, 2007, this Permit shall be null and void and all rights hereunder shall lapse, without prejudice to owner's right to file for an extension of time pursuant to the La Vista Zoning Ordinance.
8. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.
9. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

The conditions and terms of this permit shall be binding upon owner, his successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

Contact Name and Address: Mike Schramek
Fantasy's, Inc.
8930 So. 137th Circle
Omaha, NE 68138
(402) 891-9455

Effective Date:

This permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pamela A Buethe, CMC
Deputy City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by owner to be performed or discharged.

Owner:

By: _____

Title: _____

Date: _____

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