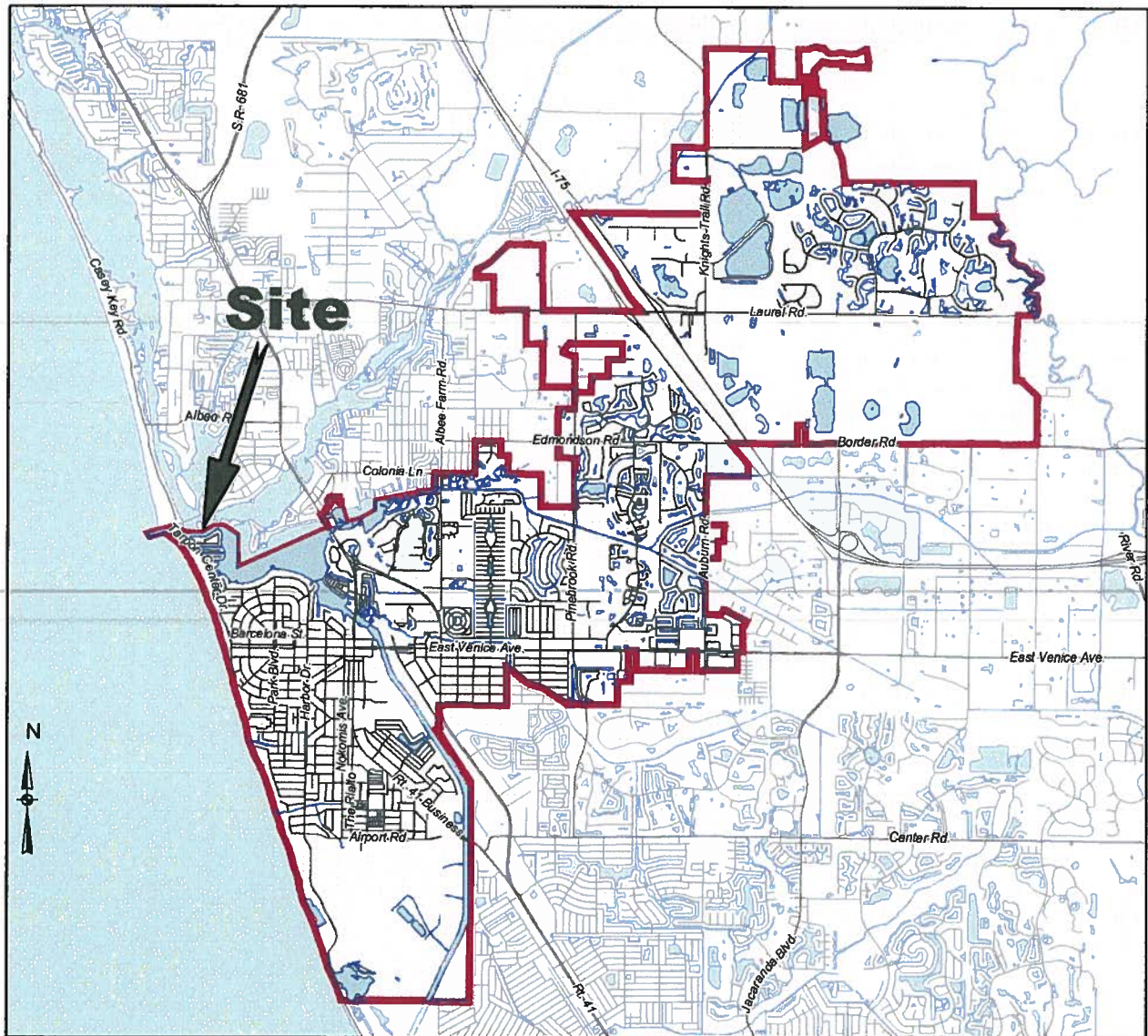

City of Venice Planning Commission Information Packet

VARIANCE (No. 13-3VZ) Crow's Nest Restaurant



Prepared by the Planning and Zoning Department
City of Venice, Florida

I. GENERAL INFORMATION

Owner: Stephen L. Harner, Owner & President, The Crow's Nest Restaurant and Tavern, Inc.

Agent: Mark Beebe, Project Architect

General Location: The subject property is located at 1968 Tarpon Center Drive.

Request Overview: The applicant is requesting Planning Commission approval of a 10 foot 3 inch variance from the minimum required front yard setback of 20 feet to 9 foot 3 inches to construct an addition to the existing structure. The proposed building addition will include the repair and enlargement of an existing second story covered deck.

Section 86-93(i)(5)a of the Land Development Code states that the minimum front yard setback for permitted or permissible uses and structures in the CI zoning district is twenty (20) feet.

Numerous portions of the existing structure are non-conforming with regard to the minimum front yard setback, including corners of the structure that are setback between 0.44 feet to 1.69 feet from the front property line. On September 12, 2002, Variance Petition No. 02-6VZ was approved by the Planning Commission to reduce the required front yard setback from 20 feet to no less than the existing nonconforming front yard setback of 0.5 feet to allow for the addition of a Florida Accessibility Code compliant elevator and a new exit stairway. The proposed addition extends into the minimum 20 foot front yard setback and is not allowed by the Land Development Code unless a variance is obtained by the applicant. The applicant has indicated that no increase in seating will result from the proposed addition.



II. APPLICABLE ZONING CODE

A. Section 86-93. CI commercial, intensive district.

(i) *Minimum yard requirements. Minimum yard requirements in the CI district are:*

(5) *Other permitted or permissible uses:*

- a. **Front yard: 20 feet**
- b. **Side yard: 10 feet**
- c. **Rear yard: 15 feet.**
- d. **Waterfront yards: 20 feet.**

III. ACTION REQUIRED BY THE PLANNING COMMISSION

A. Planning Commission Determination:

The Zoning Ordinance, Chapter 86, provides the Planning Commission with variance review criteria for determining the appropriateness for variance approval. The considerations in granting a variance that guide the Planning Commission in making a determination are included below. Upon review of these standards, the applicant's presentation, and public input, the following determination alternatives are available for Planning Commission consideration:

1. Petition approval.
2. Petition approval with appropriate conditions and safeguards.
3. Petition denial.

Sec. 86-46. Variances.

(a) *Procedure and conditions for granting variances. A variance from the terms of this chapter shall not be granted by the planning commission unless and until:*

(1) *Written petition. A written petition for a variance is submitted by the applicant.*

- **Staff Comment:** The applicant has met the written petition requirement. Please see attached.

(2) *Notice of public hearing. Notice of a public hearing shall be given at least 15 days in advance of the public hearing. The owner of the property for which the variance is sought, or his agent or attorney as designated on the petition, shall be notified by mail. Notice of the public hearing shall be prominently posted on the property for which the variance is sought. Notice of the public hearing shall be advertised in a newspaper of general circulation in the city at least one time 15 days prior to the hearing. Notice shall be given by mail to all owners of property within 250 feet of the boundary line of the property for which the variance is requested, or within 250 feet of the centerline of any right-of-way or water body*

adjacent to the subject property, whichever distance is greater; provided, however, that, where the applicant is the owner of land not included in the applicant's application, and such land that is not included in the application is a part of or adjoins the parcel for which the request is made, the 250-foot requirement shall be measured from the boundaries of the applicant's ownership, including the land not covered by the applicant's application up to a maximum of 600 feet for purposes of this provision, owners of such adjacent or nearby properties within the distance set out shall be deemed those whose names appear on the latest available tax rolls of the county. Failure of a property owner to receive mail notice shall not invalidate the hearing or subsequent action related thereto. The city clerk shall execute and file a certificate, which shall contain the names and addresses of those persons notified, and the dates the notice was mailed. The certificate shall be signed by the city clerk and official seal affixed. The certificate shall be prima facie evidence of the fact that notice was mailed.

- **Staff Comment:** Staff confirms that notification has been provided to the adjacent property owners.

(3) *Conduct of hearing. The public hearing shall be held by the planning commission. Any party may appear in person or by agent or attorney.*

- **Staff Comment:** Public hearing scheduled for August 6, 2013.

(4) *Considerations in granting. The planning commission shall consider the following in making a determination on any petition:*

- a. *Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district;*
- b. *The special conditions and circumstances do not result from the actions of the applicant;*
- c. *Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant;*
- d. *The variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;*
- e. *The grant of the variance will be in harmony with the general intent and purpose of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and*
- f. *Such other conditions that are shown to exist wherein the public interests*

would be best served.

- **Staff Comment:** The applicant has provided responses to the above considerations. Please see attached.

(b) *Conditions and safeguards on variances; expiration of variance. In granting any variance, the planning commission may prescribe appropriate conditions and safeguards in conformity with this chapter, including, but not limited to time limits not to exceed 365 days, within which the action for which a variance is required shall be begun or completed, or both. Where no other time limit is set by action of the commission, the variance shall be null and void unless work for which the variance is granted begins within 180 days. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.*

(c) *Limitations on power to grant variances.*

- (1) *A variance is authorized for the height, area and size of structures and signs; size of yards and open spaces; driveways and curb cuts; off-street parking and loading; or landscaping, and the other standards and provisions contained herein.*
- (2) *Under no circumstances shall the planning commission grant a variance to permit the establishment or expansion of a use not permitted under the terms of this chapter in the zoning district.*
- (3) *No nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures or buildings in any other district, shall be considered grounds for the granting of a variance*

SITE PHOTOS



Multiple portions of the existing structure are non-conforming with regard to minimum front yard setback, including the elevator that was granted a variance (2-6VZ).



Street view of the existing second story waiting/dining area.



View of the existing second story waiting/dining area from the back parking area.

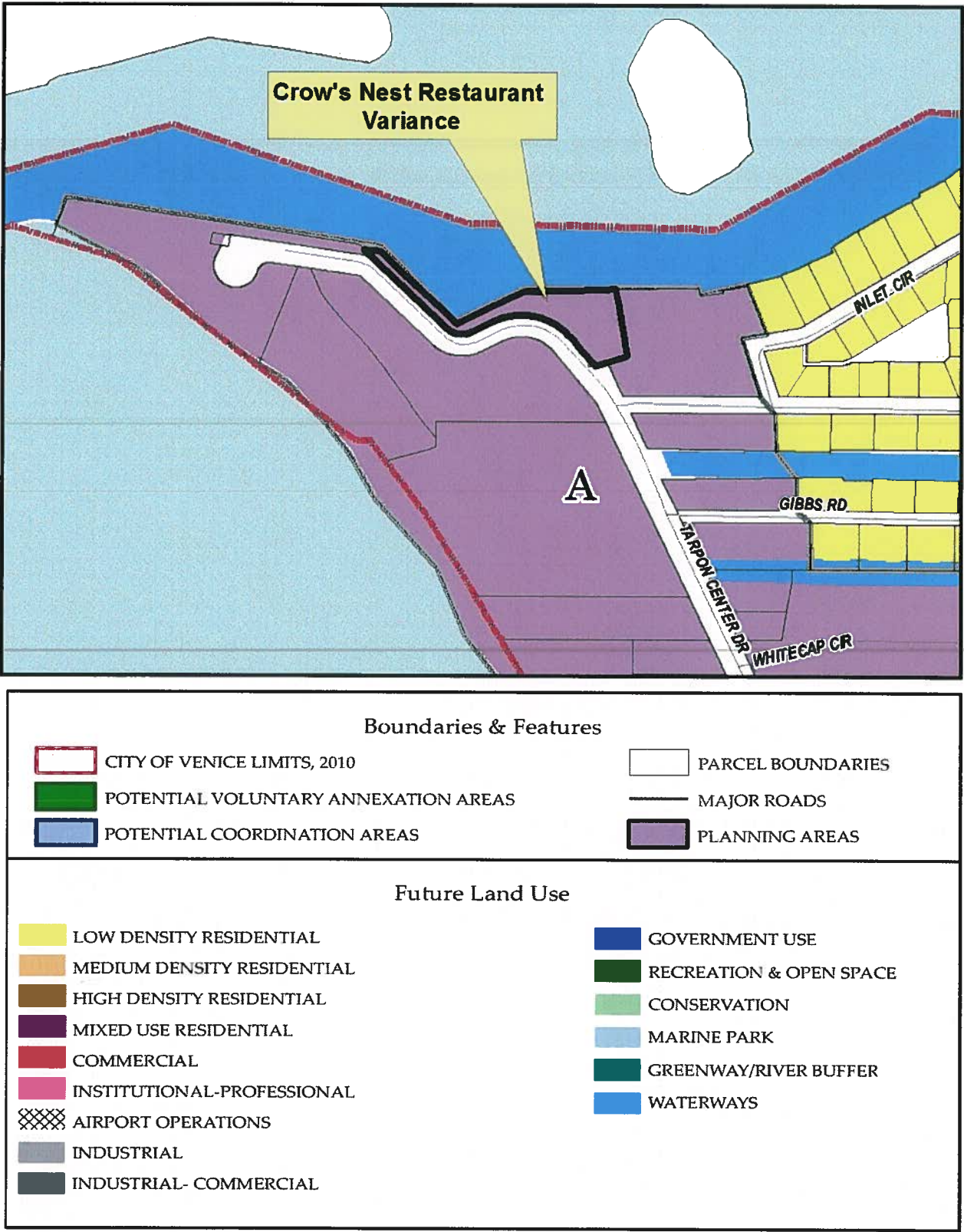


Existing second story waiting/dining area.

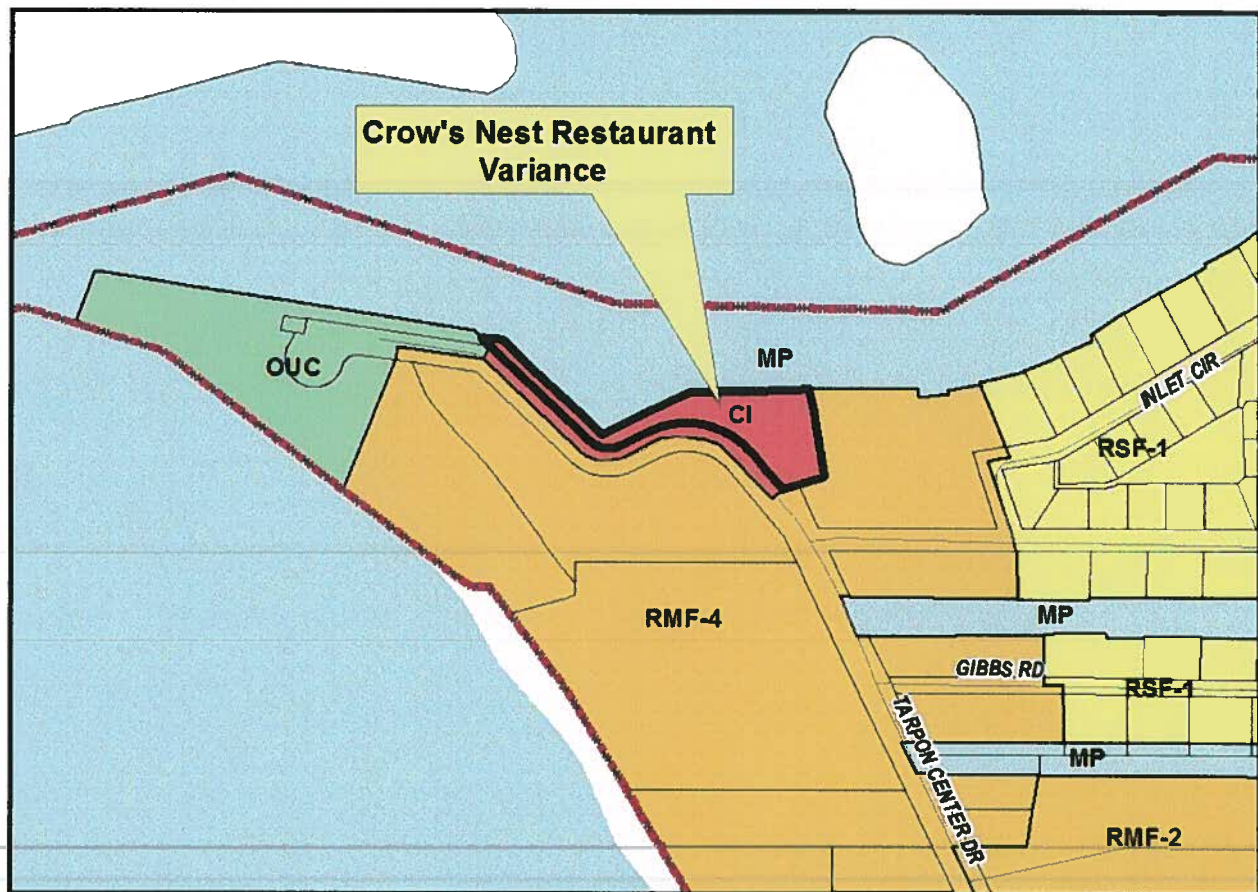


The expansion of the second story waiting/dining area will roughly extend over the area occupied by the blue awning.

FUTURE LAND USE MAP



ZONING MAP



Legend

OUC - Open Use, Conservation	PCD - Planned Commercial Development
MP - Marine Park	PID - Planned Industrial Development
GU - Government Use	ILW - Industrial, Light & Warehousing
PUD - Planned Unit Development	CN - Commercial, Neighborhood
RE - Residential, Estate	CG - Commercial, General
RSF - Residential, Single Family	CI - Commercial, Intensive
RMF - Residential, Multi-Family	CBD - Commercial, Business District
RMH - Residential, Manufactured Home	CSC - Commercial, Shopping Center
RTR - Residential, Tourist Resort	CHI - Commercial, Highway Interchange
OPI - Office, Professional & Institutional	Venetian Gateway Overlay District
OMI - Office, Medical & Institutional	Neighborhood Height Overlay
Venice City Boundary	Venetian Urban Design Overlay