



P-19-08

Towne Center West, LLC

Staff Report for Planning Commission Public Hearing

Prepared February 19, 2009

This report is prepared by the Henrico County Planning Staff to provide information to the Planning Commission and the Board of Supervisors to assist them in making a decision on this application. It may also be useful to others interested in this zoning matter.

I. PUBLIC HEARINGS:

Planning Commission:	December 11, 2008	Deferred at applicant's request
	January 15, 2009	Deferred by Planning Commission
	February 12, 2009	Deferred at applicant's request
	March 12, 2009	Pending

II. IDENTIFICATION AND LOCATIONAL INFORMATION:

Request: Permit outdoor dining and extended hours of operation until 2 a.m. for Emilio's restaurant at Towne Center West

Existing Zoning: B-2C, Business District (Conditional)
West Broad Street Overlay District

Acreage: 2.459 overall parcel

Proposed Use: Restaurant with outdoor dining and extended hours of operation

Location: 660 feet north of W. Broad Street (U. S. Route 250) approximately 1, 200 feet west of its intersection with N. Gayton Road.

Magisterial District: Three Chopt

Land Use Plan Recommendation: Mixed Use Development Area

Land Development Guide Recommendation: Far West Broad Street Corridor (FWB) Special Strategy Area

Parcel No: Part of Parcel 735-764-7344

Zoning of Surrounding Property:

North:	B-2C Business District (Conditional)
South:	B-2C Business District (Conditional)
East:	B-2C Business District (Conditional)
West:	B-2C Business District (Conditional)

Staff Contact: Lisa Taylor (501-5486)

III. SUMMARY OF STAFF REPORT COMMENTS:

The applicant is requesting approval of a provisional use permit to allow Emilio's, a proposed restaurant at Towne Center West, to construct an outdoor dining area. It would be located along the southwestern exterior wall of the restaurant. The applicant is also requesting hours of operation be permitted until 2:00 a.m.

Staff believes outdoor dining would be an appropriate use at this location. Properly regulated, this request would be compatible with the surrounding proposed and existing commercial uses of the shopping center and would provide a reasonable extension of Emilio's operation. Extended hours of operation could also be appropriate for the interior operation of the restaurant, but given the proximity to a nearby apartment complex, and to be consistent with other approved outdoor dining areas, staff recommends the outdoor dining area should not be in operation beyond 10:00 p.m.

Staff recommends approval of this request subject to the conditions outlined in Section IV of this staff report. ~~At their January 15, 2008 meeting, the Planning Commission deferred this item at the Planning Commission's request to allow time for the applicant to revise the outdoor dining area plans. To address staff concerns regarding the pedestrian access, the applicant has provided a new site plan providing a 4' pedestrian path around the outdoor dining area.~~

At their February 12, 2009 meeting, the Planning Commission deferred this item at the applicant's request. No new information has been provided.

IV. LAND USE ANALYSIS AND IMPLICATIONS:

Emilio's is a proposed restaurant at Towne Center West, a developing shopping center approved by the Planning Commission (POD-062-05) in 2005. There are four separate, single story buildings approved with this plan of development that share a total of 77,667 square feet of retail and office uses. Emilio's would be located in the western most corner of Building #6. A building permit (BLD2008-02641) for a tenant upfit was issued for the restaurant. The outdoor dining area was originally part of that application, but was removed because approval of a provisional use permit is needed for outdoor dining in the B-2 District.

The restaurant's main entrance faces the northwest and Towne Center West Boulevard. The outdoor dining area would be located along the southwestern exterior wall adjacent to the access road. The applicant has submitted "Exhibit A" which is a floor plan of the interior space of the restaurant and the outdoor dining section.

The subject property is zoned B-2C, Business District (Conditional) and the shopping center is governed by the proffers accepted with rezoning case C-49C-04. Surrounding uses are zoned B-2C Business District (Conditional) and contain retail, restaurants, offices, two hotels, and a child care center. The site also lies within the County's West Broad Street Overlay District. Emilio's would provide service to the outdoor tables and allow the consumption of alcoholic beverages, which necessitates the approval of a provisional use permit for outdoor dining.

In addition to "Exhibit A", the applicant has also submitted the following:

- "Exhibit B" showing the restaurant, outdoor dining area, 4' pedestrian path, and surrounding sidewalks and curb and gutter; and
- "Exhibit C" providing an example of the type of outdoor railing enclosure that would surround the outside dining area.

The applicant submitted revised exhibits on January 26, 2009 showing an enlarged outdoor dining area that provides a 4' sidewalk along the outdoor dining area and the adjacent access road. Staff believes that a continuous, pedestrian path of at least 4' is necessary to provide unimpeded walkways throughout the development of pedestrian-oriented Towne Center West. This request would allow the extension of the paved area and the relocation of a sidewalk into the existing grassed area which includes trees. Because of the loss of landscaping and increase in impervious area, staff believes supplemental landscaping should be provided. Staff has amended Condition #4 to address this issue.

Given the proximity to the B-3C zoned Short Pump Town Center, where proffers allow retail and food service establishments to operate until 2 a.m., staff believes the interior operation of Emilio's until 2 a.m. could be appropriate. However, given the close proximity to the Reflections of West Creek apartment complex and to mitigate potential impacts on residents, staff recommends limiting the outside dining operation to the hours of 7:00 a.m. to 10:00 p.m. This is consistent with hours approved for other outdoor dining areas in the County.

The 2010 Land Use Plan designates this area as Mixed Use Development. The proposed outdoor dining area is consistent with this designation and the site's B-2C Business District (Conditional) zoning. Properly regulated the outside dining use and extended hours of interior operation would be compatible with surrounding uses.

Staff recommends approval of this request subject to the following conditions:

1. No outdoor live music performances shall be permitted.
2. The operator shall not permit food preparation outside the enclosed building.
3. The outside dining area shall not be in operation between 10:00 p.m. and 7:00 a.m.
4. Prior to operation of the outdoor dining area, the applicant shall submit a site plan of the restaurant and outdoor dining area and obtain Administrative Approval from the Planning Department. The site plan shall show the location of any relocated street furniture, trees/landscaping, and utility lines. Such site plan shall also show landscaping within or along the perimeter of the outdoor dining area to address the reduction and relocation of landscaping, including trees.
5. A clear, continuous, and unobstructed pedestrian path not less than 4' in width shall be required for pedestrian circulation between the outdoor dining area and the sidewalk curb.
6. Barriers to the sidewalk and parking area shall be installed and shall complement the building façade as well as any street furniture. The railings shall not exceed 36" in height and shall consist of commercial grade material for durability. Unless otherwise approved by the Planning Commission, the outdoor railing enclosure shall conform to "Exhibit C".
7. Outdoor lighting fixtures shall complement the style of building. Lighting fixtures shall be from a concealed source and shall not produce glare for motorists or pedestrians on the adjacent rights-of-way and parking areas and shall illuminate only the outdoor dining area.
8. Trash receptacles shall be provided and properly serviced to control litter generated by this use.
9. This permit shall apply only to the tenant space to be occupied by Emilio's restaurant and shall not apply to any other business in the overall shopping center.

10. Access to the outdoor dining area shall be available only through the interior of the restaurant, except during an emergency when a patio fence exit gate may be utilized.
11. Prior to operation, the applicant shall consult with the Special Services Unit within the Division of Police to discuss crime prevention recommendations and conduct a security survey of the property and restaurant operations. The applicant shall implement mutually agreed upon security recommendations.
12. Due to the location of existing water and sewer easements, the applicant and/or owner acknowledges their responsibility for any and all damages resulting from the County's need to access and repair the lines.
13. The applicant/owner shall be responsible for relocating any street trees or furniture that is displaced by the outdoor dining area.
14. Hours of operation shall be extended until 2 a.m. for the interior use of the restaurant only.
15. The facility's windows shall not be tinted or obscured by posters, advertisements, or similar materials in order to permit surveillance opportunities both from within and from the outside of the building. This shall not prevent blinds from being used during daylight hours.
16. If calls for police service or other activities on the site dictate the need for security cameras (as determined by the Division of Police), the applicant shall install such cameras. The security cameras and video system shall be designed by a security specialist and shall meet the requirements of the Crime Prevention Unit of the Division of Police.
17. The owner or operator shall provide adequate lighting for the entrances, exits, and parking areas serving the use or location. "Adequate lighting" means lighting sufficient for clear visual and security camera surveillance.
18. In the event that evidence (i.e. police calls to the premises or complaints from other businesses) indicate that extended hours of operation is having an adverse effect (i.e. increased public nuisance, loitering, excessive noise outside the building, criminal assault, etc.) on the surrounding area, the Board of Supervisors may hold a public hearing to consider revoking the provisional use permit.

~~At their January 15, 2008 meeting, the Planning Commission deferred this item at the Planning Commission's request to allow time for the applicant to revise the outdoor dining area plans. To address staff concerns regarding the pedestrian access, the applicant has provided a new site plan providing a 4' pedestrian path around the outdoor dining area.~~

At their February 12, 2009 meeting, the Planning Commission deferred this item at the applicant's request. No new information has been provided.

V. COMPREHENSIVE PLAN ANALYSIS:

Land Use Plan Recommendation:

The 2010 Land Use Plan recommends Mixed Use Development for this site. The proposed outdoor dining and extended hours of operation for the interior restaurant use would be consistent with this designation.

Land Development Guide:

This site lies within the Far West Broad Street Special Strategy Area and the West Broad Street Overlay District. The proposed outdoor dining use and extended hours of operation for the interior restaurant use is consistent with these designations.

Goals, Objectives and Policies:

With adherence to the conditions recommended in Section IV of this report, this request is most consistent with the following Goals, Objectives, and Policies of the 2010 Land Use Plan:

- General Goal "III": To encourage land uses throughout the County which provide for the most efficient and desirable arrangement based on land use trends and area needs.
- Economic Development Policy "g": Encourage good site design which maximizes safe pedestrian movement to the site and within the site.
- Economic Development Policy "h": Promote site features which enhance the overall appearance of a development such as uniform architecture, sign and lighting restrictions, street trees and open space.

VI. PUBLIC SERVICE AND SITE CONSIDERATIONS:

Major Thoroughfare and Transportation:

Once a detailed plan is submitted, vehicle protection may be required along the drive aisle for protection for the dining patrons.

Drainage:

- The site must comply with applicable water quality requirements. The site is located in a Watershed Enhancement Area (Tuckahoe Creek – Little).
- All proposed improvements must comply with all applicable Public Works plan of development requirements.
- Based on GIS, Waters of the U.S. and/or hydric soils are present (indicating possible wetlands) Corps of Engineers and DEQ permits may be required.

Public Utilities Services:

The existing retail building at 200 Towne Center West Boulevard is currently served with County water and sewer. The proposed outdoor dining area may conflict with a utility easement for water and sewer. DPU needs to review plans with dimensions showing the proposed dining area in relation to the easement.

Schools:

This case does not have adverse educational impacts.

Division of Fire:

No comments.

Division of Police:

The applicant is encouraged to contact and work with the Community Policing Unit within the Division of Police for crime prevention techniques and Crime Prevention Through Environmental Design (CPTED) concepts as a plan of development is drafted to be submitted for review.

The following crime prevention measures should be considered:

- ~~The outdoor dining area should have some type of fencing to prohibit entrance into this space.~~
The applicant has provided fencing around the proposed outdoor dining area that will work towards controlling entry into this space from the exterior, allowing entry to only be gained from inside the restaurant.

- ~~Access should only be gained to this area from inside the restaurant. Information was provided on the fencing details and location but is not very clear, additional details are requested. Provide information as well on the gate shown into the outdoor dining area.~~
- ~~Visibility should be provided from the interior of the restaurant to the outdoor dining area.~~
- ~~Provide an elevation plan showing the outdoor dining area and tenant space exterior wall details.~~

Libraries:

No comments.

Recreation and Parks:

No park or recreation facilities, historical, archeological or battlefield impact.

Community Revitalization:

No comments.

Community Development:

No comments.

Topography and Land Characteristics Adaptability:

There are no known topographical constraints affecting this request.



Existing Tree to be Relocated

New 4'-0" Walk Around Patio

2'-0" Greenspace

Outdoor Dining Area

Emilios
UNIT 601

UNIT 602

EXHIBIT B

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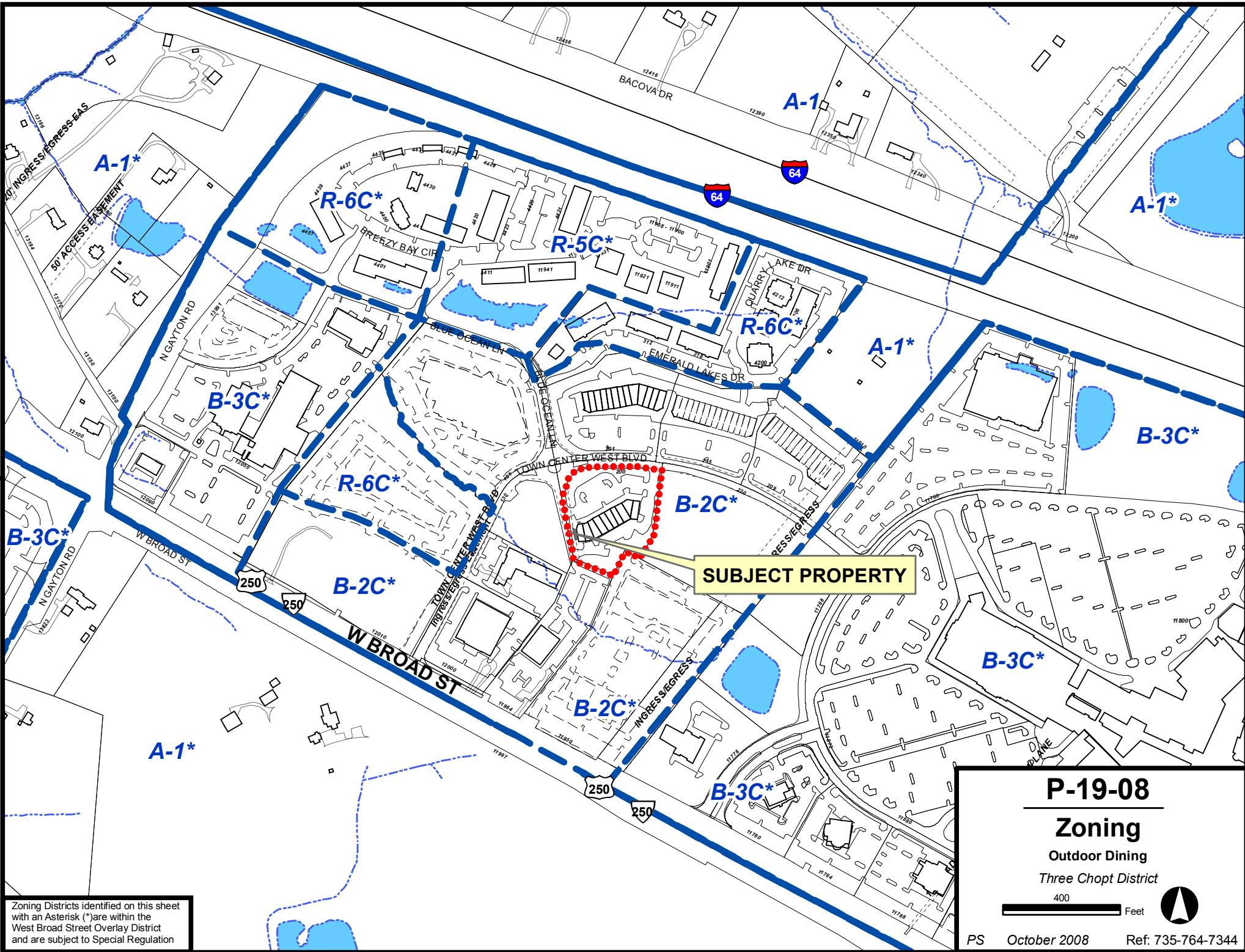
01/26/09



Existing Railing Installed at
The Towne Center West Development

EXHIBIT C

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Zoning Districts identified on this sheet with an Asterisk (*) are within the West Broad Street Overlay District and are subject to Special Regulation

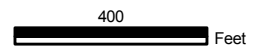
SUBJECT PROPERTY

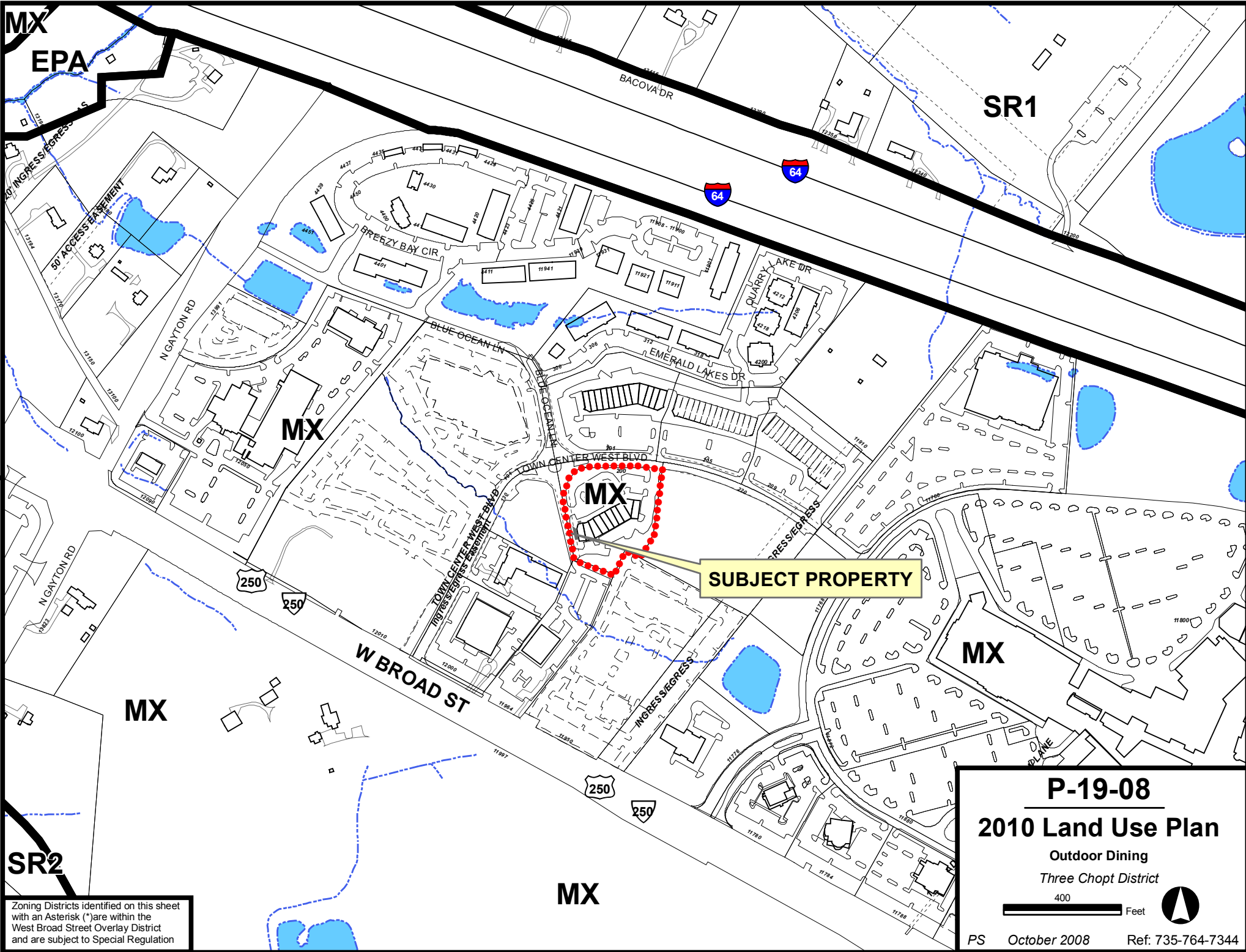
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Zoning

Outdoor Dining

Three Chopt District





MX
EPA

SR1

MX

MX

SUBJECT PROPERTY

MX

MX

SR2

MX

Zoning Districts identified on this sheet with an Asterisk (*) are within the West Broad Street Overlay District and are subject to Special Regulation

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2010 Land Use Plan
 Outdoor Dining
 Three Chopt District

400 Feet

PS October 2008 Ref: 735-764-7344