Planning Division

PLANNING COMMISSION
STAFF REPORT

TO: Planning Commission

FROM: Juan Martinez, Associate Planner

DATE: April 2, 2009

SUBJECT: Planning and Zoning Permit No. 08-510-12 (Special Use Permit), Saviers Market, 3280 Saviers Road.

1) **Recommendation:** That the Planning Commission adopt a resolution denying Planning and Zoning Permit No. 08-510-12 (Special Use Permit), subject to certain findings.

2) **Project Description and Applicant:** An application to allow an existing non-conforming market (Saviers Market) located at 3280 Saviers Road to upgrade from beer and wine for off-site consumption (ABC Type 20) to off-site sale of beer, wine, and distilled spirits for off-site consumption (ABC Type 21). Filed by Zaher Hawara, 3280 Saviers Road, Oxnard, CA 93033 (APN 219-0-031-065)

3) **Existing & Surrounding Land Uses:** Saviers Market currently occupies 2,400 square feet of the existing 4,500 square foot and Da Kine Laundry (self-serve laundry facility) occupies the remaining 2,100 square feet of the building area.

DIRECTION	ZONING	GENERAL PLAN	EXISTING LAND USE
PROJECT SITE	C-2	Commercial General	Market and Laundromat
North	C-2	Commercial General	Self Serve Laundry (Da Kine Laundry)
East	R-1	Commercial General	Multi-Tenant Building
South	C-2	Commercial General	Restaurant (La Fogata)
West	C-2	Commercial General	Fast Food Restaurant (Carl's Jr #104)

4) **Background Information:** The existing beer and wine sales for off-site consumption at this premise are considered existing non-conforming, since the site does not posses a special use permit. At that time, convenience stores were not required a special use permit to sell alcoholic beverages and it was until October 27, 1987, that the C-2 zone was amended to list such uses as conditionally permitted. The building and site improvements were approved in 1981 and at that

time, the site was developed to accommodate a 7-Eleven convenience store and a self-serve laundry facility. Since then, several tenant improvements permits have approved various interior improvements.

5) **Environmental Determination:** Section No. 15270(a) of CEQA applies to projects, which an agency rejects or disapproves. The owner was made aware of staff's recommendation prior to scheduling a hearing, and requested that staff pursue the request for Planning Commission consideration at a hearing. Therefore, environmental review for this project is not required nor has been completed.

6) **Analysis:**

a) ***General Discussion:*** The current business operator of Saviers Market has been licensed since June of 2007, after a transfer of business; however, the use has been permitted since 1981. The market employs six persons and is open seven days a week. It operates two shifts during the hours of 6am to midnight seven days a week.

b) ***Conformance with General Plan and Zoning Designation Policies:*** The 2020 General Plan land use and zoning designations for the project site are consistently identified as General Commercial and C-2. Although, the California Department of Alcoholic Beverage Control has issued a Type 20 ABC license for the site, a special use permit for alcohol sales has not been obtain from the City. Therefore, the existing beer and wine sales for off-site consumption are considered an existing non-conforming use at this location.

The Police Department has prepared a police report, in accordance with City Council Resolution No. 11,896, adopting standards for special use permits involving the sale of alcoholic beverages. Also, Policy 35 of the 2020 General Plan's Safety Element, requires the Police Department's review, and recommendation of potentially dangerous situations when considering such requests. Based on the Police Department's review, approval of this request would be in conflict with the City Council Resolution referenced above and Policy 35 of the 2020 General Plan's Safety Element. This is further discussed in section h of this staff report.

c) ***Site Design:*** The 4,500 square foot building is situated on a corner lot at the northeast corner of Saviers Road and Thomas Avenue. The L-shaped building is placed toward the eastern edge of the site and 17 perpendicular parking stalls are designed along the front of the building to serve the convenience store and laundry facility. The proposed special use permit does not propose any physical site changes or modifications and would only upgrade the availability of alcoholic products to include spirits at this location.

d) ***Circulation and Parking:*** Existing site conditions show that the site does may not conform to current development and design standards. The site is served by a two-way drive approach off Saviers Road and a second two-way drive approach off Thomas Avenue which do not meet current minimum distance standards from the corner. The site's parking design

(back-up requirements, loading zone, aisle widths, landscape planter requirements, striping, etc) also does not meet some of the City's strict current development standards; however, these conditions, are considered to be existing non-conforming conditions serving the property and permitted at the time (1981) the site was granted development permits.

7) **Police Department Review and Recommendations:** The Oxnard Police Department has provided a report with information as required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment C). The police report analyses and provides information regarding the presumption of undue concentration of establishments selling alcoholic beverages and reports on the number of police response incidents and whether approval of the special use permit is likely to significantly aggravate policing problems. The report indicates that there is a convenience store selling alcohol within 350 feet of the project site and twelve (12) other sites within 1000 feet of the project site selling alcoholic beverages. A local issue of undue concentration exists, since there is another business (Fred's Gas) of the similar type within 350 feet and there are four additional off-sale outlets within 1000 feet, three of which sell distilled spirits. The Police Department also notes that there are four additional such outlets slightly outside the 1000 foot area.

   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. 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, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

   The average citywide, 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 155 during the same 12-month time period. This is 25% higher than the average crime rate citywide and the Police Department has determined that adding the availability of distilled spirits may alter existing crime rate factors and create policing problems in an area already impacted by a higher than average crime rate.

8) **Community Workshop:** On January 15, 2009, the applicant mailed notices of the Community Workshop meeting to all property owners within the Blackstock North and Bryce Canyon North Neighborhoods. The applicant also posted such notice on the project site with a brief description of the project and contact information. The Community Workshop was conducted on Monday, January 26, 2009. Approximately 55 persons attended the Community Workshop meeting, which involved the presentation of eight project applications; however, most persons were there to participate in other project presentations and only one person spoke in opposition to this project, claiming that there were already too many licensed premises in the area.

9) **Issues For Planning Commission Consideration:** City Staff and the Police Department are unable to recommend approval of this application due to issues of undue concentration and the area's high crime rate. The police report indicates that the sale of distilled spirits is generally

considered to have a greater likelihood of policing problems than outlets that only sell beer and wine. The police report states that conditions imposed on this project could not mitigate potential risks to the community and that the granting of this permit would aggravate policing problems for this area. However, should the Planning Commission disagree with Staff and decide to grant approval of this permit, the project should be referred back to Staff, so that this project can be reconsidered with standard and special project conditions.

10) 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 fees before the end of the appeal period.

Attachments:

A. Maps (Vicinity, General Plan, Zoning)
B. Reduced Project Plans
C. Police Report
D. Resolution

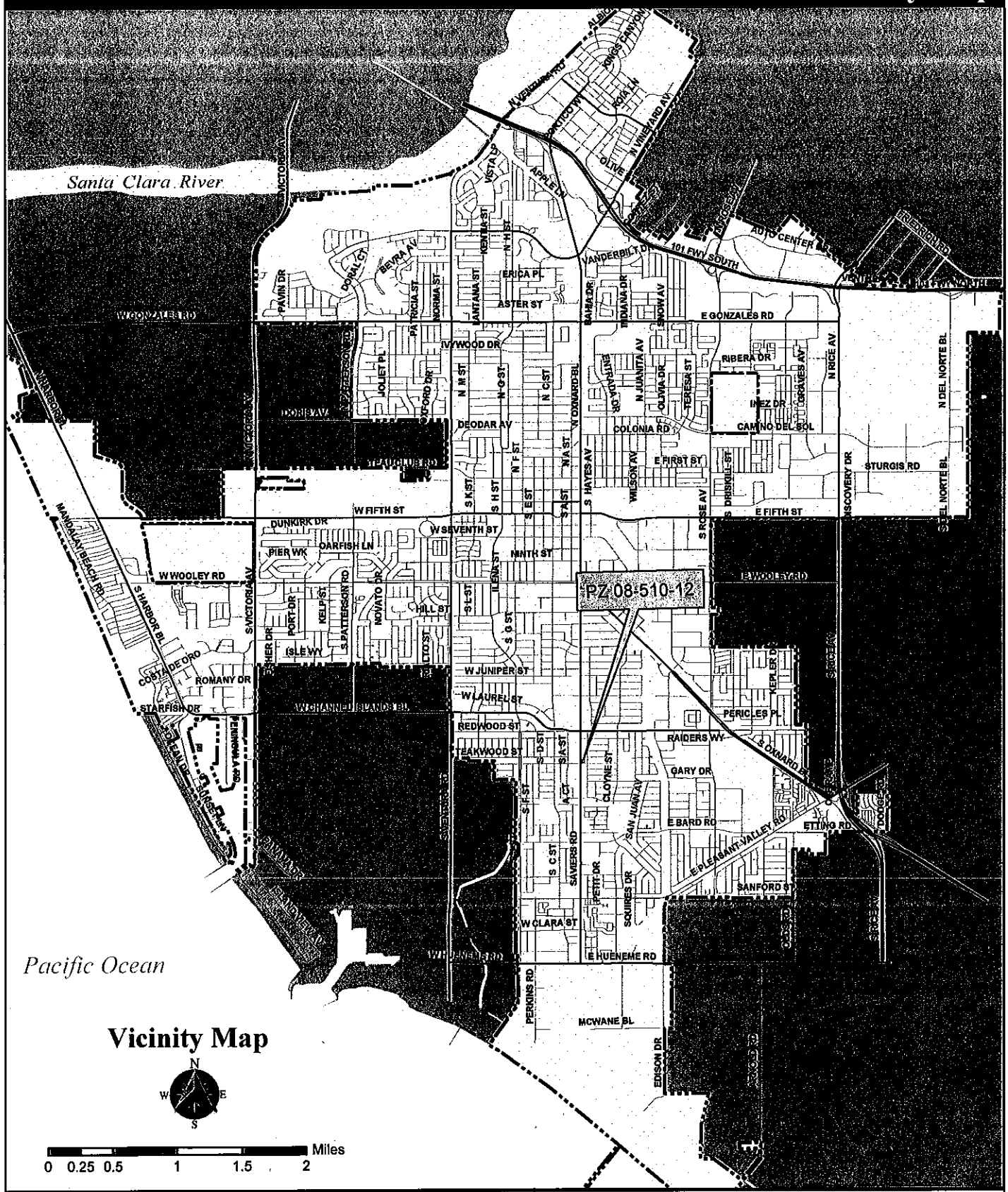
Prepared by: JM

Approved by: SM

ATTACHMENT
A

MAPS
(VICINITY, ZONING, GENERAL PLAN MAP)

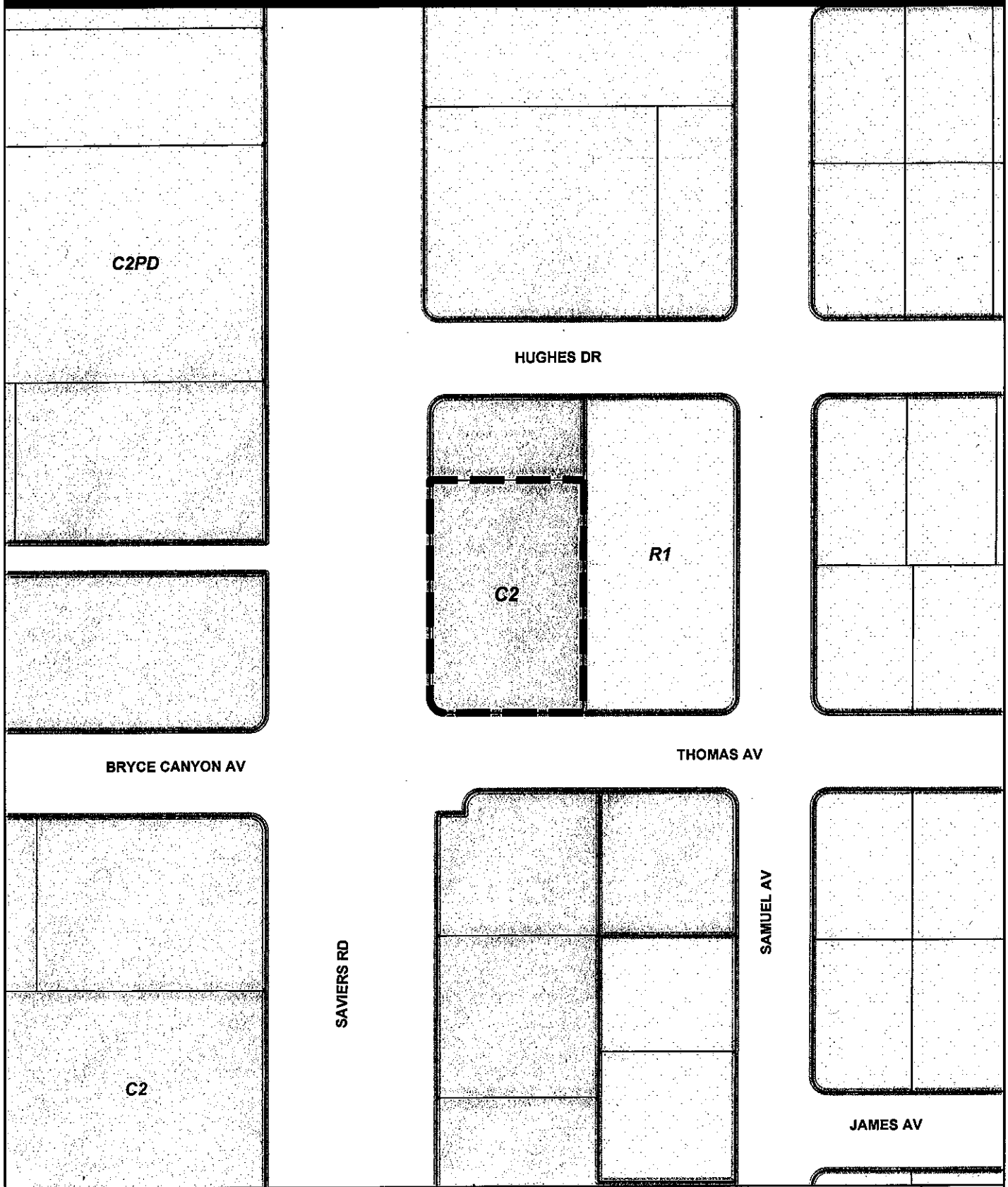
Vicinity Map



Oxnard Planning
December 23, 2008

PZ 08-510-12
Location: 3280 Saviers Rd
APN: 219003106
Saviers Market

Zone Map



Oxnard Planning
December 23, 2008

PZ 08-510-12
Location: 3280 Saviers Rd
APN: 219003106
Saviers Market

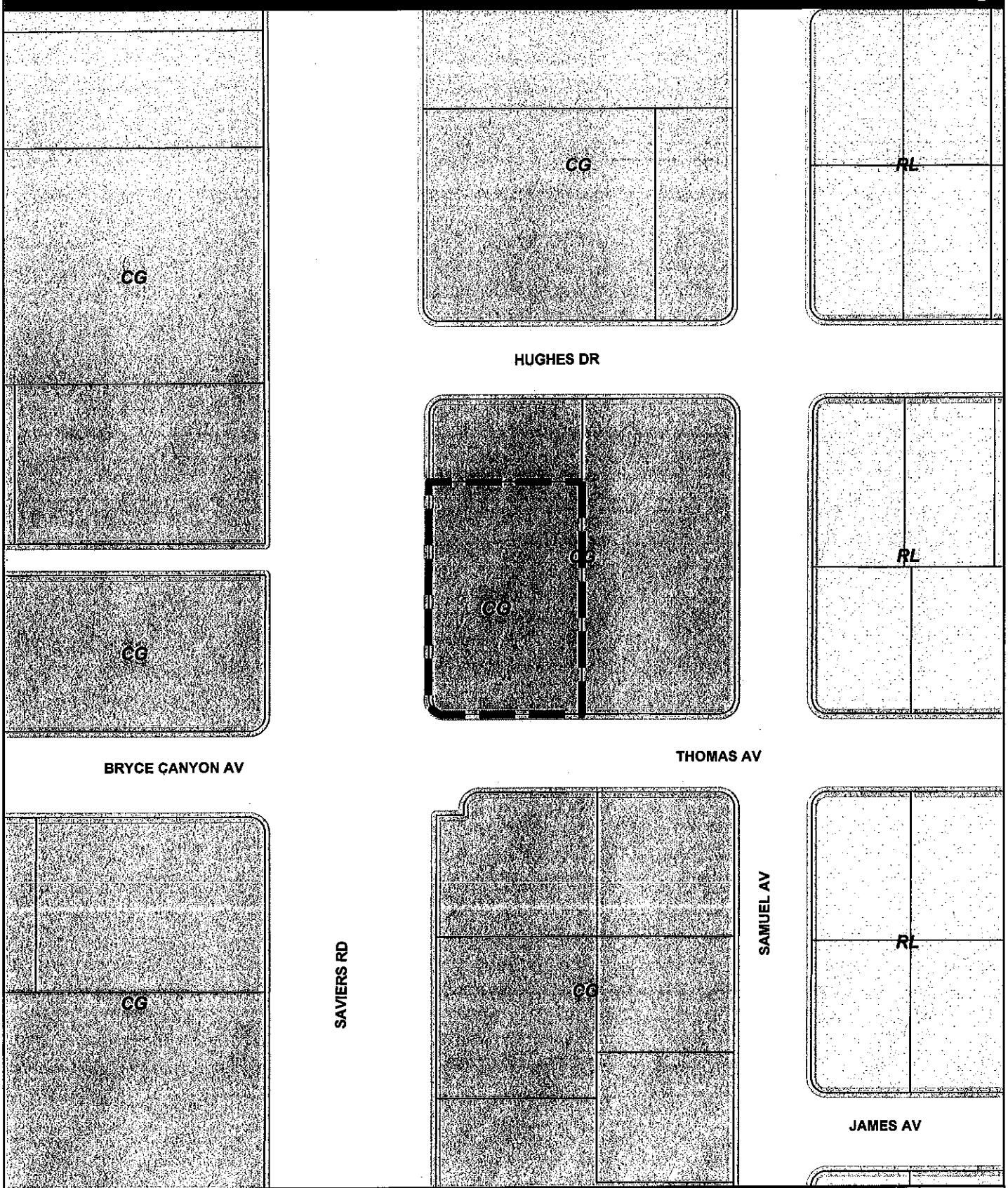
Feet
0 12.5 25 50 75 100

Zone Map

N W E S

1:992

General Plan Map



Oxnard Planning
December 23, 2008

PZ 08-510-12
Location: 3280 Saviers Rd
APN: 219003106
Saviers Market

Feet
0 12.5 25 50 75 100

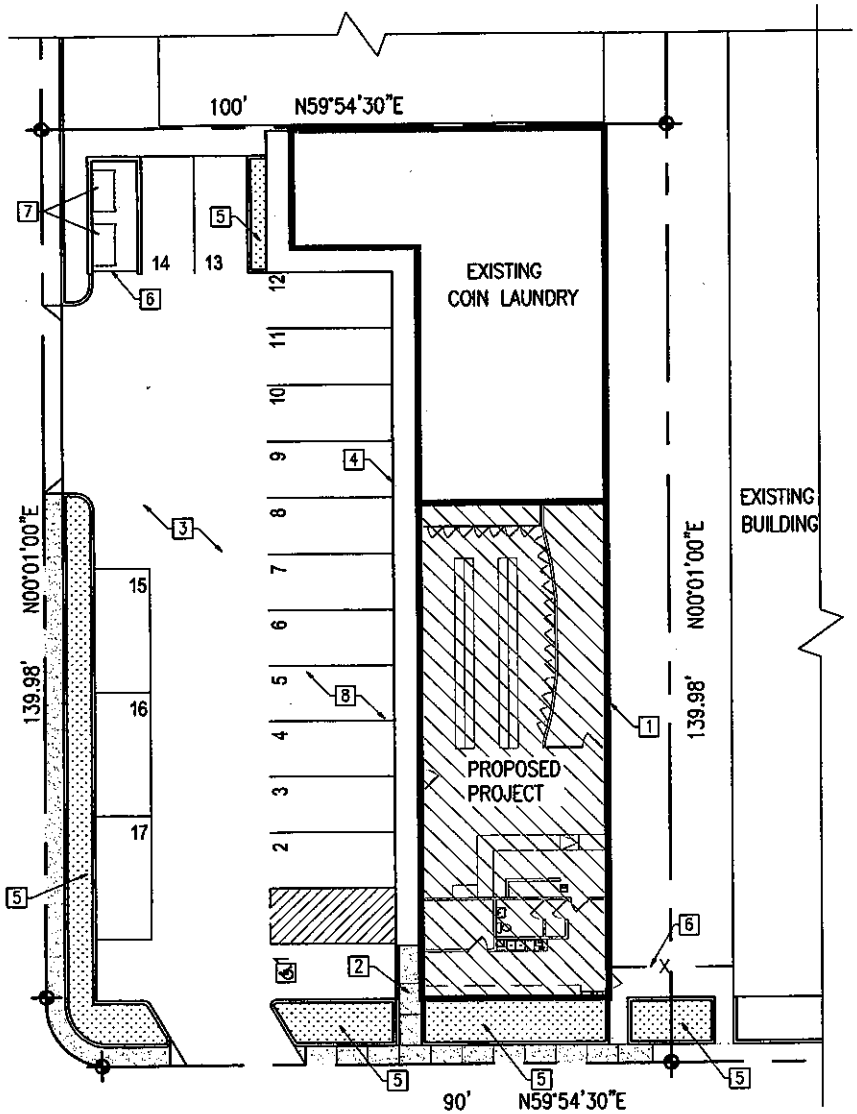
General Plan Map

N W E S

1:988

ATTACHMENT
B

REDUCED PROJECT PLANS



A SITE PLAN

SCALE: 1" = 20'-0"

KEYNOTE LEGEND

1. LINE OF (E) BUILDING FOOTPRINT TO REMAIN UNALTERED, HEAVYLINE.
2. (E) CONCRETE SIDEWALK TO REMAIN.
3. (E)PARKING LOT TO REMAIN
4. LINE OF (E)BUILDING ROOF
5. (E) GRADE LEVEL PLANTER TO REMAIN.
6. (E) CHAIN LINK FENCE
7. (E) TRASH BIN.
8. (E) PARKING TO REMAIN

PROJECT DATA

ASSESSOR PARCEL NO.:	219-0-031-065
TENANT:	SAVIERS MARKET INC. 3280 SAVIERS ROAD OXNARD, CA 93033
ZONING:	C-2
PARKING:	EXISTING TO REMAIN, NO CHANGE
OCCUPANCY TYPE:	M – RETAIL

LEGEND

1. AREA OF PROJECT
2. AREA OF LANDSCPAE

JAMES E. ARMSTRONG
ARCHITECT, AIA
2300 KNOLL DR. SUITE A, VENTURA CA 93003 - 805/644-6100

LICENSED ARCHITECT
JAMES E. ARMSTRONG
No. C-22059
REN. MAY 31, 2009
STATE OF CALIFORNIA

PROJECT TITLE:

SAVIERS MARKET INC.

FOR
ZAHER HAWARD

3280 SAVIERS ROAD
OXNARD,CA 93033

SHEET TITLE:

SITE PLAN

FOR CONSTRUCTION

REVISIONS:

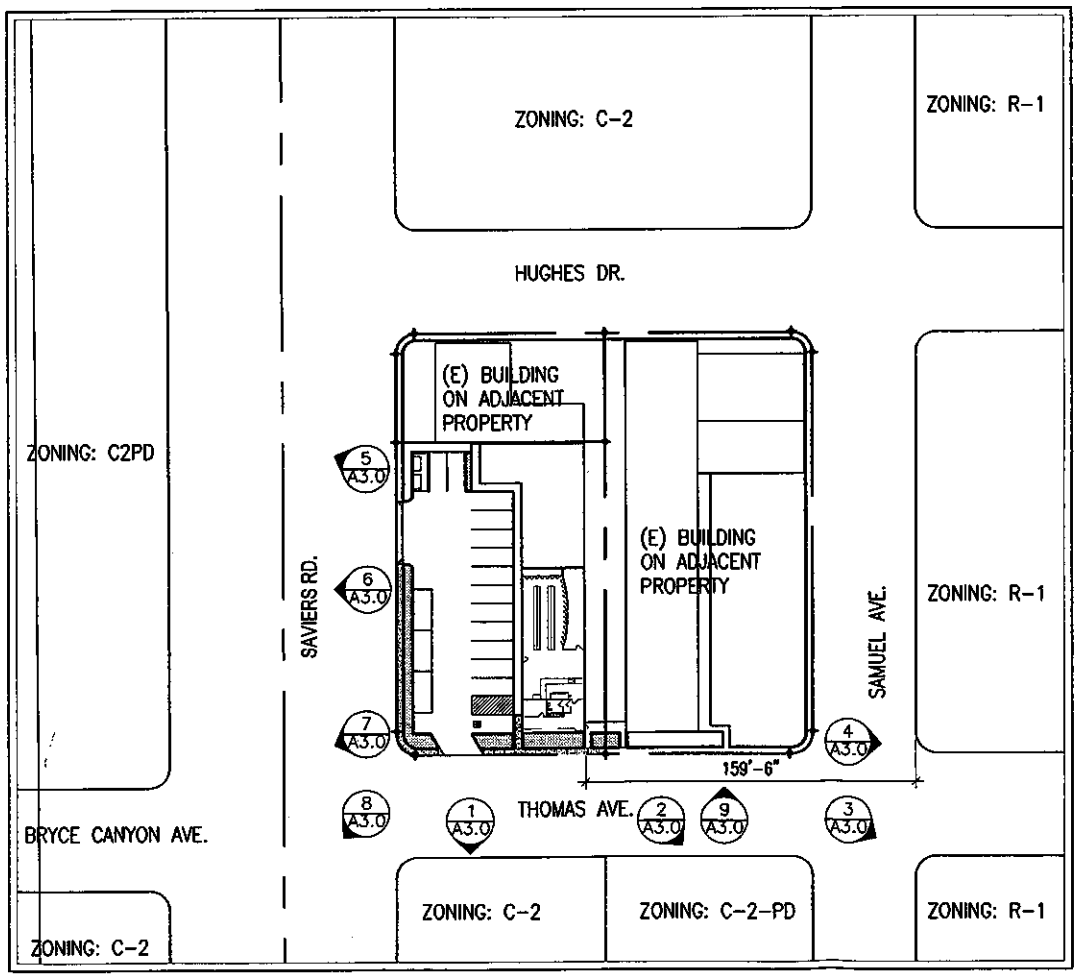
1
2
3

DATE: 11-04-2008	SCALE: AS NOTED
PROJECT: 0845	DRAWN BY: THK
FILENAME: A010.DWG	REVIEWED BY: JEA

THE ORIGINAL SIZE OF THIS SHEET IS 17" x 11". IF THE CURRENT SIZE IS SMALLER THAN 17" x 11" ADJUST THE SCALE OF THE DRAWINGS ACCORDINGLY.

A1.0

SHT. 1 OF 4



A AREA MAP

SCALE: 1"=60'-0"

JAMES E. ARMSTRONG
ARCHITECT, AIA
2200 KNOLL DR. SUITE A, VENTURA CA 93003 - 805/644-8180

LICENSED ARCHITECT
JAMES E. ARMSTRONG
No. C-22059
REN. MAY 31, 2009
STATE OF CALIFORNIA

PROJECT TITLE:

SAVIERS MARKET INC.

FOR
ZAHER HAWARD

3280 SAVIERS ROAD
OXNARD, CA 93033

SHEET TITLE:

AREA MAP

FOR CONSTRUCTION

REVISIONS:

DATE: 11-04-2008	SCALE: AS NOTED
PROJECT: 0845	DRAWN BY: THK
FILENAME: A020.DWG	REVIEWED BY: JEA

THE ORIGINAL SIZE OF THIS SHEET IS 17" x 11" IF THE CURRENT SIZE IS OTHER THAN 17" x 11" ADJUST THE SCALE OF THE DRAWINGS ACCORDINGLY.

A2.0

SHT. 2 OF 4

KEYNOTE LEGEND

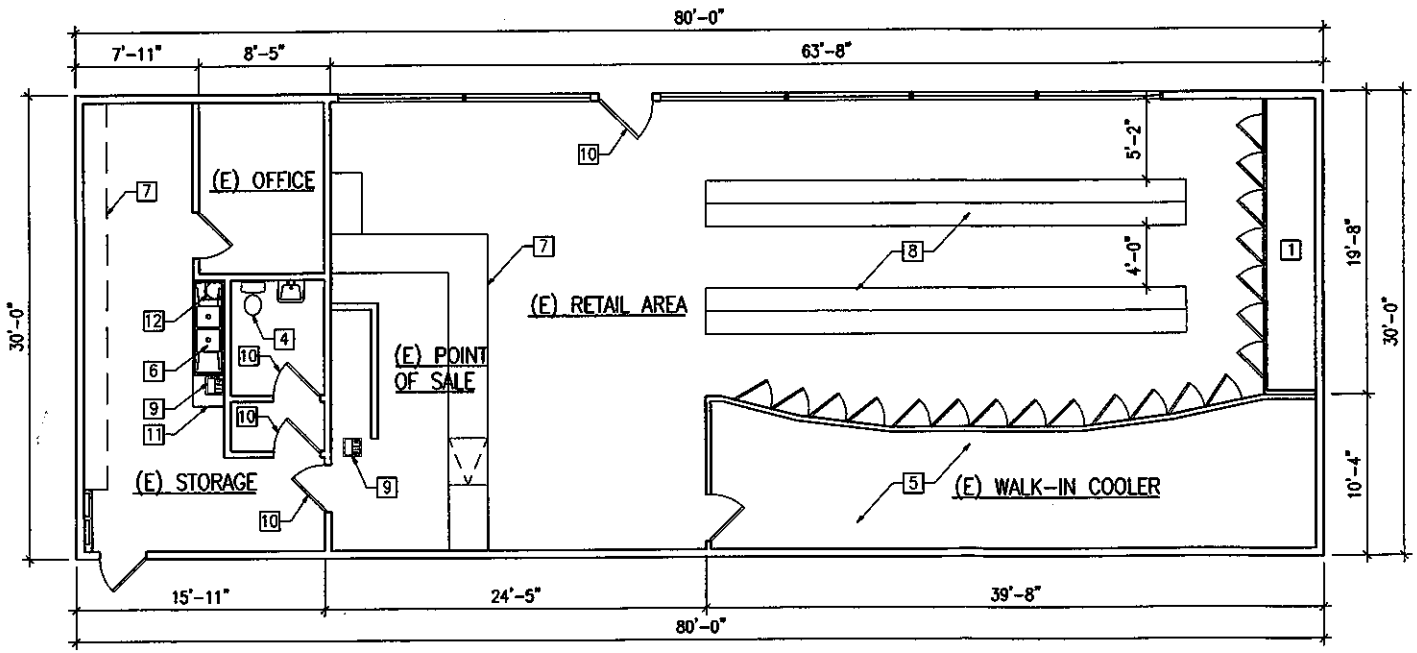
1. (E) REACH-IN COOLER
2. (E) ELECTRICAL PANELS, RELOCATED
3. (E) ELECTRIC METER, TO REMAIN
4. (E) PLUMBING FIXTURES TO REMAIN
5. (E) WALK-IN COOLER
6. (E) 2 COMPARTMENT SINK
7. (E) CASEWORK.
8. (E) TWO-SIDE GONDOLA SHELVING.
9. (E) FLOOR SINK.
10. (E) DOOR.
11. (E) ICE MACHIN, TO REMAIN.
12. (E) WATER HEATER, TO REMAIN.
13. (E) COFFEE TABLE.

WALL LEGEND

EXISTING WALL, TO REMAIN

DOOR LEGEND

EXISTING DOOR TO REMAIN



A FLOOR PLAN - EXISTING

SCALE: 1/8" = 1'-0"

JAMES E. ARMSTRONG
ARCHITECT, AIA
2300 KNOLL DR. SUITE A, VENTURA CA 93003 - 805/644-8180

LICENSED ARCHITECT
JAMES E. ARMSTRONG
No. C-22059
REN. MAY 31, 2009
STATE OF CALIFORNIA

PROJECT TITLE:

SAVIERS MARKET INC.

FOR
ZAHER HAWARD

3280 SAVIERS ROAD
OXNARD, CA 93033

SHEET TITLE:

FLOOR PLAN

FOR CONSTRUCTION

REVISIONS:

DATE: 11-04-2008	SCALE: AS NOTED
PROJECT: 0845	DRAWN BY: THK
FILENAME: A010.DWG	REVIEWED BY: JEA

THE ORIGINAL SIZE OF THIS SHEET IS 17" x 11". IF THE CURRENT SIZE IS OTHER THAN 17" x 11" ADJUST THE SCALE OF THE DRAWINGS ACCORDINGLY.

A4.0

SHT. 4 OF 4

ATTACHMENT C

POLICE REPORT

Police Department

John Crombach, Police Chief

Date: January 5, 2009

To: Juan Martinez, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 3280 Saviers Road (Saviers Market) **Re: PZ 08-510-02**

Site Information:

The proposed site is located on the northeast corner of Thomas Avenue and Saviers Road in a small commercial center. The front doors open to the parking lot facing Saviers Road and there is a Laundromat directly adjacent to the site. The business is currently being operated as a convenience store with the sales of beer and wine and the owner is requesting an upgrade to be allowed to also sell distilled spirits.

The site it is generally bordered by commercial uses to the north, Saviers Road to the west, Thomas Avenue to the south and residential to the east. The nearest residences are approximately 150 feet to the east and there is a small church directly east of the business at the corner of Samuel Avenue and Thomas Avenue.

The applicant has requested to obtain a California Alcoholic Beverage Control (ABC) License Type-21 which is an Off-Sale License that allows for the sale of beer, wine and distilled spirits. There is one similar alcohol outlet approximately 200 feet to the west (Fred's Gas). Within a 1000 foot radius from the business there are four similar Off-Sale ABC licenses and just outside the 1000 foot radius there are four additional similar outlets.

Alcohol outlets located within **350 feet** of the proposed site include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	BUSINESS TYPE	ALCOHOL ALLOWED
1. Fred's Gas	3211 Saviers Road	Type 20	Off-Sale Beer and Wine	Convenience Store	Beer and Wine

Alcohol outlets located within **1000 feet** of the proposed site include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	BUSINESS TYPE	ALCOHOL ALLOWED
1. Oxnard Market	160 Bryce Canyon	Type 20	Off-Sale Beer and Wine	Convenience store	Beer and Wine
2. Ralph's Grocery	3443 Saviers	Type 21	Off-Sale General	Grocery store	Beer, Wine & Spirits
3. El Maguey Liquor	3610 Saviers	Type 21	Off-Sale General	Liquor store	Beer, Wine & Spirits
4. Liquor Cellar	150 W Channel Islands	Type 21	Off-Sale General	Liquor store	Beer, Wine & Spirits
5. Puerto Vallarta	3021 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine
6. Ambiante Latino	3035 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine
7. Mariscos Ixtapa	3045 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine
8. Taqueria Hernandez	3105 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine
9. Taco De Mexico	3101 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine
10. Sam's Saloon	3129 Saviers	Type 48	On-Sale General	Bar	Beer, Wine & Spirits
11. Mariscos El Pulpo	3550 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine
12. Puerto Nuevo	3600 Saviers	Type 41	On-Sale Beer and Wine (food)	Restaurant	Beer and Wine

Crime Statistic 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 155 during the same 12-month time period. This is 25% higher than the average crime rate citywide and is on the threshold of what the Police Department would consider to be significant.

The heaviest concentration of incidents occurred northeast of the site and south along Samuel Avenue to Yucca. In the area east of the site, along the strip-mall, there were approximately 50 disturbance related police *calls for service* which are not necessarily Part I or II crimes. There were seven calls directly related to the Saviers Market with four of those being disturbance related. The number of incidents in the area that listed alcohol as a contributing factor was above the citywide average.

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, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct. Any reference to "police calls for service" may include any type of police response to the area.

Police Department Input:
The Beat Coordinator for the area was contacted and said the surrounding area is not generally considered a serious crime problem but that the area along the east side of the 3000 block of Saviers can be problematic at times. Most of the disturbance incidents within 1000 feet of the proposed site occurred in the nighttime hours and may be associated with the many On-Sale alcohol outlets located in the older strip-mall.

The Police Department's primary concern is the proximity of the proposed business several other Off-Sale alcohol outlets. Fred's Gas, which sells beer and wine, is approximately 200 feet from the site and there are four more Off-Sale outlets within 1000 feet. Three of those four sell distilled spirits. There are four additional such outlets slightly outside the 1000 foot radius normally considered to be the area of influence for the proposed license type and this is in addition to the eight On-Sale establishments also within 1000 feet of the business. Basically, there are seven Off-Sale alcohol outlets nearby that sell distilled spirits and eight additional bars or restaurants.

Numerous studies have repeatedly shown that higher alcohol outlet density contributes to increased crime and violence in the surrounding neighborhood and also leads to other alcohol-related community problems.[1]-[2]-[3] The type of license requested allows for the sale of distilled

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[1] Scribner RA; Cohen DA; Fisher W. Evidence of a Structural Effect for Alcohol Outlet Density: A Multilevel Analysis. *Alcoholism: Clinical & Experimental Research.* 24(2): 188-195, February 2000.
[2] LaBouvie E; Ontkush M. Violent crime and alcohol availability: relationships in an urban community. *Journal of Public Health Policy* 19(3): 303-318. 1998.

sprits and is generally considered to have a greater likelihood of experiencing problems than do outlets that just sell beer and wine. Recognizing the increased risks, The California Department of Alcoholic Beverage Control (ABC) closely regulates these types of licenses and only allows a finite number of them to be issued each year. The degree to which the outlets may negatively impact the neighborhood often depends upon the level of policy regulation applied by the local government through the application of preventative conditions of operation. That being said, it may be that under certain circumstances, no number of preventative conditions can mitigate the risks to the community. That, in fact, is the determination of the Police Department in this case as we are opposed to the granting of the Permit due to the undue concentration of similar outlets and the likelihood that it would aggravate existing policing problems.

Community Input:

The Responsible Alcohol Policy Action Coalition (RAPAC) has discussed this proposal at their monthly meetings and echoed the concern about the proximity to the several similar outlets. The group was generally opposed the use based upon the crime rate and proximity to similar uses. No other community groups were contacted by the Police Department at the time of this report.

Conclusion:

The statistical analysis shows the area to have a crime rate that is higher than the city-wide average and that the area east of the site have a significant number of disturbance-related calls. The area is generally not considered to be a significant policing problem but the crime rate is high enough to be of some concern.

There is one similar use within 350 feet of the proposed site so there is an issue of undue concentration by local standards. The Police Department recognizes that the business currently sells beer and wine and operates as a convenience store with relatively few problems. We conclude, however, that adding the availability of distilled spirits will significantly alter the existing environment and present an unnecessary risk to the surrounding area. Additionally, the neighborhood has many options in close proximity to purchase distilled spirits and the addition of another outlet in a saturated area is of no convenience or necessity to residents. For these reasons, the Police Department is opposed to the granting of the Permit.

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[3] Scribner RA; Mackinnon D; Dwyer, J. The risk of assaultive violence and alcohol availability in Los Angeles County. *American Journal of Public Health* (85) 3: 335-340. 1995.

ATTACHMENT D

RESOLUTION

RESOLUTION NO. 2009 - ___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DENYING PLANNING AND ZONING PERMIT NO. 08-510-12 (SPECIAL USE PERMIT), TO ALLOW AN EXISTING NON-CONFORMING MARKET (SAVIERS MARKET) TO UPGRADE FROM OFF-SITE BEER AND WINE (ABC TYPE 20) TO OFF-SITE SALE OF BEER, WINE, AND DISTILLED SPIRITS (ABC TYPE 21). THE SUBJECT MARKET IS LOCATED AT 3280 SAVIERS ROAD, WITHIN THE BLACKSTOCK NORTH NEIGHBORHOOD. FILED BY ZAHER HAWARA, 3280 SAVIERS ROAD, OXNARD, CA 93033.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 08-510-12, filed by Zaher Hawara in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, the Planning Commission finds, after due study, deliberation, public hearing, and consideration of the Police Department's report and all other relevant evidence in the record before the Planning Commission, that the following circumstances exist:

1. The denial of this special use permit will not affect the preservation and enjoyment of substantial property rights of the applicant.

2. The granting of this special use permit would, under the circumstances of this particular case, adversely affect or be materially detrimental to adjacent uses, buildings or structures, to the health or safety of persons residing in or working in the neighborhood, or to the general welfare in that it may exacerbate an already elevated crime rate in the area and the non-conforming existing conditions of the site may not be suited to the proposed use.

3. As indicated in the Police Department's report regarding the subject application, the upgrade to distilled spirits would significantly aggravate police problems within 1000 feet of the location for which the special use permit is applied.

4. There is a presumption of undue concentration pursuant to Section 3(b) of City Council Resolution No. 11,896 in that another establishment of the same type is located within 350 feet of the subject location, which presumption has not been rebutted by a preponderance of the evidence in the record before the Planning Commission. There are five off-sale outlets within 1000 feet of the subject location, three of which sell distilled spirits. As such, approval of this special use permit would result in or add to an undue concentration of alcoholic beverage retail establishments within 1000 feet of the subject location.

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

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 2nd day of April 2009, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

_____
Deirdre Frank, Chair

ATTEST: _____
Susan L. Martin, Secretary