



July 8, 2009

TO: Planning Commission

FROM: Kathleen Mallory, AICP, Contract Planner *K. Mallory*

SUBJECT: Planning and Zoning Permit No. 09-550-02 (Major Modification to Special Use Permit No. 07-500-14) amendment to conditions of approval for Fresh and Easy Neighborhood Market, located at 1750 E. Channel Islands Boulevard.

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As a result of a power outage, the July 2, 2009 Planning Commission meeting was continued to July 16, 2009. Prior to this meeting, the City Traffic Engineer agreed to a revision to condition of approval no. 103; new language is denoted in underline and deleted text is denoted in strike through:

"With the exception of deliveries associated with alcoholic beverages, deliveries associated with parcel 1 shall only be within the loading and unloading area in the rear of the building on parcel 1 and shall only occur from 6:00 a.m. to 7:30 a.m., ~~9:00 a.m.~~ 8:30 a.m. to 4:00 p.m. and 6:00 p.m. to 10:00 p.m. Monday through Friday. Deliveries (inclusive of alcohol) may be permitted from 6:00 a.m. to 10:00 p.m. Saturday and Sunday. However, deliveries on any day shall be completed by 10:00 p.m."

The proposed revisions to conditions of approval no. 68 and 100 as communicated in staff's June 30, 2009 memo (see Attached), are still valid.

Attachment:
June 30, 2009 Memorandum



June 30, 2009

TO: Planning Commission

FROM: Kathleen Mallory, AICP, Contract Planner *K. Mallory*

SUBJECT: Planning and Zoning Permit No. 09-550-02 (Major Modification to Special Use Permit No. 07-500-14) amendment to conditions of approval for Fresh and Easy Neighborhood Market, located at 1750 E. Channel Islands Boulevard.

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On June 18, 2009, the Planning Commission considered a request to amend conditions of approval to allow the addition of two outdoor display areas and an increase in delivery hours to allow deliveries up until 10:00 p.m. Monday through Sunday at Fresh and Easy Neighborhood Market.

At the meeting, the Commission deliberated on the requested revisions to the conditions of approval. Commissioner Sanchez made a motion and Chair Frank seconded the motion to amend the conditions of approval to allow two outdoor display areas (as amended by the applicant at the June 18th meeting) and deliveries up until 10:00 p.m. Monday through Sunday at Fresh and Easy. This motion failed for lack of an affirmative vote of a majority. Therefore, the motion failed. Chairwoman Frank then requested that each Commissioner state their position on the proposed outdoor display request and delivery hour modification in an attempt to gauge the potential for consensus on any of the three conditions that the applicant sought to amend. The Commission then requested that this item be continued to the Commission's July 2nd meeting and that staff and the applicant continue discussing the proposed revisions.

As a result of discussions with the applicant following the June 18th meeting, the applicant agreed to a compromise on two of the three conditions. The following summarizes the revisions to the conditions; Staff's response to the requested revisions is contained in italics following the identified condition:

Outdoor Display Area – Condition No. 100:

The applicant has reconsidered their outdoor display request and is now proposing two outdoor display areas (see Attachment 1) as follows: 4' (W) x 4' (L) x 3'9" (H) and 4' (W) x 8' (L) x 3'9" (H).

Staff is supportive of the applicant's proposal and has prepared a resolution reflecting this request (see Attachment 2). In response to discussions during the June 18, 2009 Planning Commission meeting, staff has added conditions to prohibit "A frame" signs within the entrance and exit area; and that outdoor display areas shall be limited to merchandise that is customarily offered for sale inside the store (i.e., water bottles, charcoal, and flowers).

Deliveries/Loading and Unloading – Conditions No. 68 and 103:

The applicant is requesting that the conditions of approval be modified as follows; revisions to the conditions of approval are denoted in strike through (deleted text) and underline (added text):

68. There shall be no deliveries of alcoholic beverages permitted during typical high school commuting hours. Specifically, deliveries of alcohol are prohibited between 7:30 a.m. and 8:30 a.m. and between 2:30 p.m. to 3:30 p.m. Monday through Friday (PD).

Staff is supportive of the applicant's proposal and has prepared a resolution reflecting this request (see Attachment 2).

103. Deliveries associated with parcel 1 shall only be within the loading and unloading area in the rear of the building on parcel 1 and shall only occur from 6:00 a.m. to 4:00 p.m. and from 6:00 p.m. to 10:00 p.m. Monday through Sunday. ~~from 6:00 a.m. to 7:30 a.m. and from 9:00 a.m. to 4:00 p.m.~~

Staff is not in support of the revised condition as proposed by the applicant. The City Traffic Engineer is opposed to changing the conditions of approval to allow deliveries during peak hours and therefore, does not recommend changing condition no. 103 as requested by the applicant (see Attachment 3). A resolution denying the applicant's requested revision to this condition is contained in Attachment 4. Staff recommends that condition no. 103 read as follows; added text is denoted in underline:

"With the exception of deliveries associated with alcoholic beverages, deliveries associated with parcel 1 shall only be within the loading and unloading area in the rear of the building on parcel 1 and shall only occur from 6:00 a.m. to 7:30 a.m., 9:00 a.m. to 4:00 p.m. and 6:00 p.m. to 10:00 p.m. Monday through Friday. Deliveries (inclusive of alcohol) may be permitted from 6:00 a.m. to 10:00 p.m. Saturday and Sunday. However, deliveries on any day shall be completed by 10:00 p.m."

Summary

Staff and the applicant are in concurrence with the proposed revisions to conditions of approval no. 100 and 68; the approval resolution (see Attachment 2) reflects this concurrence.

Staff does not support the revisions to condition no. 103 proposed by the applicant. Should the Planning Commission concur with staff's proposed revisions to condition of approval no. 103 (see above), this language should be incorporated into the approval resolution - Attachment 2. Should the Planning Commission support the applicant's requested revision to condition no. 103, adoption of a denial resolution is not needed (see Attachment 4) and approval language should be incorporated into the approval resolution – Attachment 2.

Attachments:

1. June 29, 2009 Applicant Requested Outdoor Display Area Map
2. Resolution Approving Revisions to Conditions of Approval No. 100 and 68
3. Memorandum Dated March 29, 2009 from Jason Samonte, City Traffic Engineer
4. Resolution Denying Applicant's Proposed Revision to Condition of Approval No. 103 (Change in Delivery Hour Condition)

Attachment 2.

RESOLUTION NO. 2009 – [PZ 09-550-02]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 09-550-02 (MAJOR MODIFICATION TO SPECIAL USE PERMIT NO. 07-500-14), TO ALLOW TWO OUTDOOR DISPLAY AREAS(CONDITION NO. 100) AND A MODIFICATION REGARDING DELIVERIES OF ALCOHOLIC BEVERAGES (CONDITION NO. 68) AT FRESH AND EASY NEIGHBORHOOD MARKET LOCATED AT 1750 E. CHANNEL ISLANDS BOULEVARD (APN 221-0-232-515) SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY CHURCHYARD DEVELOPMENT, LLC., 2225 GLASTONBURY ROAD, WESTLAKE VILLAGE, CA 91361.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for a Major Modification to Planning and Zoning Permit No. 07-500-14, filed by Churchyard Development, LLC., in accordance with Section 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, Section 15301 of Title 14 of the California Code of Regulations exempts the project from the requirement for the preparation of environmental documents imposed by the California Environmental Quality Act; and

WHEREAS, on June 18, 2009, the Planning Commission conducted a public hearing and after considerable deliberation continued this matter to their July 2, 2009 Planning Commission meeting; and

WHEREAS, approval of Major Modification No. 09-550-02 amends conditions of approval number 68 and 100 of PZ 07-500-14 within Resolution No. 2008-18; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the following circumstances exist:

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

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

**STANDARD CONDITIONS OF APPROVAL
FOR LAND USE PERMITS**

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning and Environmental Services Division ("Planning Division"), and may not be transferred from one property to another. (PL, *G-1*).
2. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, *G-5*)
3. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, *G-11*)
4. Permit conditions associated with PZ 07-500-14 shall remain in force and effect except as amended within this resolution.

POLICE DEPARTMENT SPECIAL CONDITION

5. Condition no. 68 of Resolution No. 2008-18 is hereby amended to read as follows: "There shall be no deliveries of alcoholic beverages permitted during typical high school commuting hours. Specifically, deliveries of alcohol are prohibited between 7:30 a.m. and 8:30 a.m. and between 2:30 p.m. and 3:30 p.m. Monday through Friday (PD)."

PLANNING DEPARTMENT SPECIAL CONDITIONS

6. Condition no. 100 of Resolution No. 2008-18 is hereby amended to read as follows: "Two outdoor display areas are permitted on parcel 1. The display areas shall be 4 feet (width) x 4 feet (length) and 3 feet 9 inches (height) and 4 feet (width) x 8 feet (length) and 3 feet 9 inches (height). A 5 foot wide path of travel shall be provided around the outdoor display areas at all times as shown within Exhibit No. 1. No outdoor storage or box storage shall be permitted outside of the buildings on parcel 2."
7. A Frame Signs are not permitted within the entrance and exit area.
8. The outdoor display areas shall be limited to merchandise that is customarily offered for sale inside the store (i.e., water bottles, charcoal, and flowers).
9. No alcohol displays or advertising on the outdoor area shall occur.

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

AYES: Commissioners

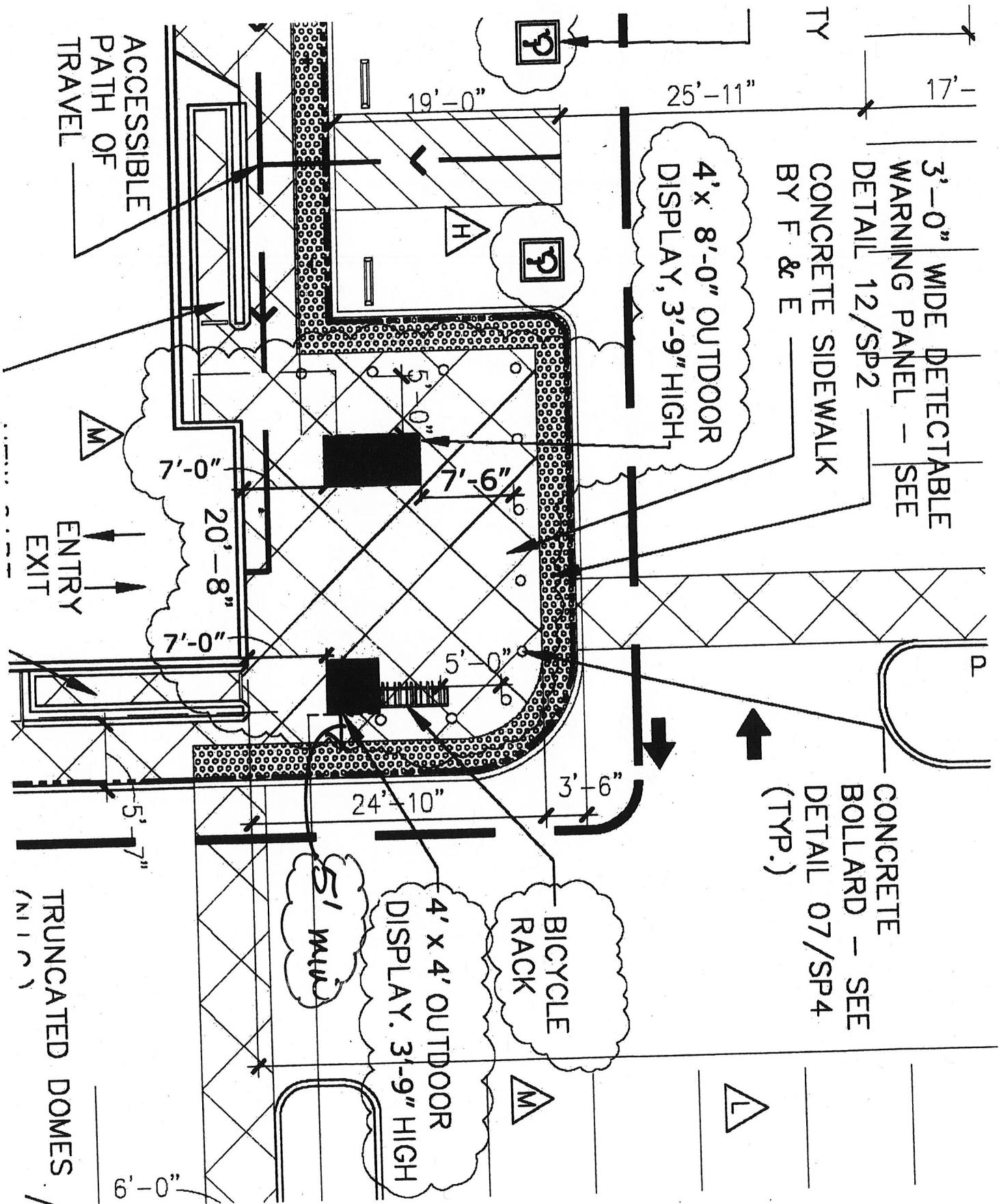
NOES: Commissioners

ABSENT: Commissioners

Deirdre Frank, Chair

ATTEST: _____
Susan L. Martin, Secretary

Exhibit A





Attachment 3.

March 10, 2009

TO: Kathleen Mallory, Contract Planner

FROM: 
Jason M. Samonte, Traffic Engineer

SUBJECT: **Delivery trucks on City Streets during Peak Periods**

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Traffic on City Streets is heaviest during the peak periods. These peak periods typically occur between the morning hours of 7 AM and 9 AM and the evening hours of 3 PM and 6 PM. During these time periods traffic at major intersections such as the intersection of Channel Islands Boulevard and Rose Avenue can degrade to a Level Of Service (LOS) below C. City policy states that all intersections must operate at LOS C or better at all times, this includes Peak Periods. Because Channel Islands Boulevard and Rose Avenue is close to Channel Islands High School it experiences heaviest traffic in the morning during school admittance times. In the evening traffic counts indicate traffic is heaviest between 4 PM and 6 PM.

In an effort to minimize development impacts along Rose Avenue and Channel Islands Boulevard, commercial deliveries must be avoided during the morning Peak Period of 7:30 AM and 9 AM and the evening Peak Period of 4 PM and 6 PM. Commercial deliveries can occur after 6 PM.

Please contact me at extension 7872 if you have any further questions regarding this matter.

JMS:jms

Attachment 4.

RESOLUTION NO. 2009 – [PZ 09-550-02]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DENYING THE APPLICANT'S PROPOSED REVISION TO CONDITION OF APPROVAL NO.103 PLANNING AND ZONING PERMIT NO. 09-550-02 (MAJOR MODIFICATION TO SPECIAL USE PERMIT NO. 07-500-14), FOR FRESH AND EASY NEIGHBORHOOD MARKET LOCATED AT 1750 E. CHANNEL ISLANDS BOULEVARD (APN 221-0-232-515). FILED BY CHURCHYARD DEVELOPMENT, LLC., 2225 GLASTONBURY ROAD, WESTLAKE VILLAGE, CA 91361.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for a revision to condition of approval no. 103, Major Modification to Planning and Zoning Permit No. 07-500-14, filed by Churchyard Development, LLC., in accordance with Section 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, Section 15301 of Title 14 of the California Code of Regulations exempts the project from the requirement for the preparation of environmental documents imposed by the California Environmental Quality Act; and

WHEREAS, on June 18, 2009, the Planning Commission conducted a public hearing and after considerable deliberation continued this matter to their July 2, 2009 Planning Commission meeting; and

WHEREAS, the applicant seeks to amend condition of approval no. 103 to allow deliveries in the rear of the building on parcel 1 from 6:00 a.m. to 4:00 p.m. and from 6:00 p.m. to 10:00 p.m. Monday through Sunday; and

WHEREAS, the proposed amendment to condition of approval no. 103 will negatively impact traffic by impeding traffic flows in the vicinity of the Rose Avenue and Channel Islands Boulevard intersections; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the following circumstances exist:

1. The proposed use will adversely affect or be materially detrimental to the adjacent school uses, buildings or structures and to the public health, safety or general welfare given that truck deliveries will limit the flow of vehicles through the Rose Avenue and Channel Islands Boulevard intersection and that traffic volumes are higher during the requested hours (7:30 – 8:30 a.m. and 4:00-6:00 p.m.) due to the adjacent commercial uses, Channel Islands High School, and proximity to State Route 1. The intersection during the period of time requested (7:30 – 8:30 a.m. and 4:00-6:00 p.m.) by the applicant will be negatively impacted due to motorist time delay as a result of the presence of trucks and their car equivalency.

July 2, 2009

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby denies the applicant's request to amend condition of approval no. 103 contained within Resolution No. 2008-18. 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 July, 2009, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

Deirdre Frank, Chair

ATTEST: _____
Susan L. Martin, Secretary