Planning Division

PLANNING COMMISSION
STAFF REPORT

TO: Planning Commission

FROM: Winston Wright, Associate Planner

DATE: October 4, 2007

SUBJECT: Planning and Zoning Permit No. 07-510-03 (Special Use Permit), for the Sale of Alcohol for Off-site Consumption at 508 East Date Street

1) **Recommendation:** That the Planning Commission approve Planning & Zoning Permit No. 07-510-03, a Special Use Permit, subject to certain findings and conditions.

2) **Project Description and Applicant:** A request to sell beer and wine at the 4-Way Meat Market for off-site consumption located at 508 East Date Street (APN 204-0-051-140). Filed by Salvador Ayala, 508 East Date Street, Oxnard, CA 93033.

3) **Existing & Surrounding Land Uses:** The subject property is developed with a neighborhood grocery store with two attached apartments at the rear of the building.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	C2 (General Commercial)	CG (Commercial General)	Market w/Attached Apartments
North	R1 (Single-Family Res.) & C2 (General Commercial)	RL (Residential Low) & CG (Commercial General)	Single-Family Residence & Auto Parts Store
South	R3 (Garden Apartment) & C2 (General Commercial)	RM (Residential Med.) & CG (Commercial General)	Garden Apartments & Parking Lot
East	C2 (General Commercial)	CG (Commercial General)	Motel
West	R3 (Garden Apartment) & R1 (Single-Family Res.)	RL (Residential Low) & RM (Residential Med.)	Apartments & Single-Family Res.

4) **General Plan Policies and Land Use Designation Conformance:** The City's 2020 General Plan land use designation for the subject site is for General Commercial uses. *"General commercial land uses include older established one-story retail centers and free-standing commercial uses along thoroughfares and may also include higher density residential uses and office uses."* Meat markets and convenience markets are permitted uses in the general commercial zone and the sale of beer and wine for consumption off-site is permitted with a special use permit. With the approval of this special use permit, the project is consistent with the General Plan and it conforms to the land use designation.

5) **Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "operation, licensing, or minor alteration of existing...structures" may be found to be exempt from the requirements of CEQA. The request is to add an alcoholic beverage sales license to an existing market. No new development or expansion of development is associated with the request. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and recommends that Planning Commission accept the Notice of Exemption (see Attachment C).

6) **Analysis:**

   a) ***Relevant Project and Property History, Related Permits:*** On November 15, 1948, the subject commercial building was approved via Building Permit No(s). 1122 and 1456. On August 26, 1955, Building Permit No. 6512 approved the addition of two apartments to the rear of the building.

   On May 20, 1999, the Planning Commission approved Special Use Permit No. 99-500-9 via Resolution No. 99-11. This permit granted the demolition of two motels at the rear of the subject property and the construction of a 106-unit apartment complex (Gateway Apartments) in their place. The subject commercial building was maintained as part of this permit and the parking lot and access way improvements to the immediate northeast of the building were installed.

   On March 8, 2000, the Development Services Manager approved a lot line adjustment resulting in the subject lot's current configuration separating the market property from the apartment complex. A reciprocal parking and access agreement was established between the Gateway Apartments and the subject property granting the subject market use of 24 parking stalls that are to the immediate northeast.

   On October 18, 2006, the Planning Manager approved a minor modification to Special Use Permit No. 99-500-9 granting the expansion of the subject market into the one of the apartments that is located at the rear of the building. The building permit that is associated with the market expansion is in the plan check process.

b) ***Signs***: On May 7, 1992, the wall signs facing Date Street and the adjacent parking lot were approved via Building Permit No. 92-07-10. The sale signs attached to the northeast side of the building and enclosed in plastic are not approved by the City and must be removed prior to the issuance of the Alcoholic Beverage Control license and all signage must be brought up to City code standards (see condition nos. 8, 13, & 20).

c) ***Request for Sale of Alcoholic Beverages for Off-Site Consumption:*** The applicant must obtain a License Type-20 from the State of California Department of Alcoholic Beverage Control (ABC) if this special use permit is granted. This license allows for the sale of beer and wine for off-site consumption.

d) ***Police Department Input:*** The Oxnard Police Department has provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment D).

Concentration of Alcohol Sales- The report indicates that that there is one liquor store (Type-21), one restaurant (Type-41), and one bar (Type-42) serving alcohol within 350 feet of the project site. Within 1000 feet of the project site there is one additional restaurant (Type-47) selling alcoholic beverages. The ABC uses a statistical method of determining undue concentration based on census tract information and notes an undue concentration of alcohol sales in the area. Due to the undue concentration present in the area, ABC will not grant a Type-20 License unless the City declares that there is a "public convenience or necessity" that overrides this restriction. While the police report notes that there are other alcohol outlets within 350 feet of the subject market, a liquor store is not the same type of business. City Council Resolution No. 11,896 accounts for these different business models, therefore the Planning Commission may approve the market's request to sell beer and wine for off-site consumption as the nature of the market's business is different than the liquor store.

Crime Statistics- The average citywide, per grid base number of Part I and II crimes, is currently 139. 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 218 during the same 12-month time period. This is 56% higher than the average crime rate citywide. However, alcohol was listed as a contributing factor in approximately 28% of disturbance calls which is consistent with the City wide average.

Conclusion- The Police Department is not opposed to the request to sell beer and wine at the subject property as long as the applicant agrees to the conditions attached to the Special Use Permit and continues to be responsive to policing issues.

7) **Community Input:** The Responsible Alcohol Policy Action Coalition (RAPAC) is generally opposed to the sale of alcohol at the subject business due to the concentration of alcohol uses and higher than average crime rate found in the area. The applicant met with the Cal-Gisler Council to discuss their concerns. Many of the Cal-Gisler Council's concerns were addressed and operating conditions were agreed upon that were in line with the Police Department's requirements.

   The Cal-Gisler Council requested that the 15-minute parking in front of the market be revoked and the entire length of the curb be painted red. In discussions between the City's Traffic Engineer, Police Department, and Planning staff it was determined that extending the No Parking Zone ten feet was adequate. The additional ten feet of no parking eliminates a blind spot in front of the store for surveillance from the street, separates an existing crosswalk from street parking, and maintains two 15-minute parking spots in front of the store for shoppers' convenience.

   The project was presented at a Community Workshop on September 17, 2007. The Applicant mailed notices to the Cal-Gisler Neighborhood and posted the site for the Community Workshop on September 7, 2007. Fourteen people attended the workshop. Attendees spoke for the project and raised the following items: a) applicant's willingness to work with members of the Cal-Gisler Neighborhood Committee and Police Department; b) improvement of subject property over the past few years can be attributed to the owner's efforts; c) convenience of market for people who live within walking distance; d) the market is one of the last examples of a neighborhood oriented grocery store; e) the store is a good source of tax revenue and jobs; and f.) it is important that the curb in front of the store be painted red for its entire length not just adjacent to the crosswalk (for safety purposes).

8) **Attachments:**
   A. Maps (Vicinity, General Plan, Zoning)
   B. Reduced Project Plans
   C. Notice of Exemption
   D. Police Report
   E. Resolution

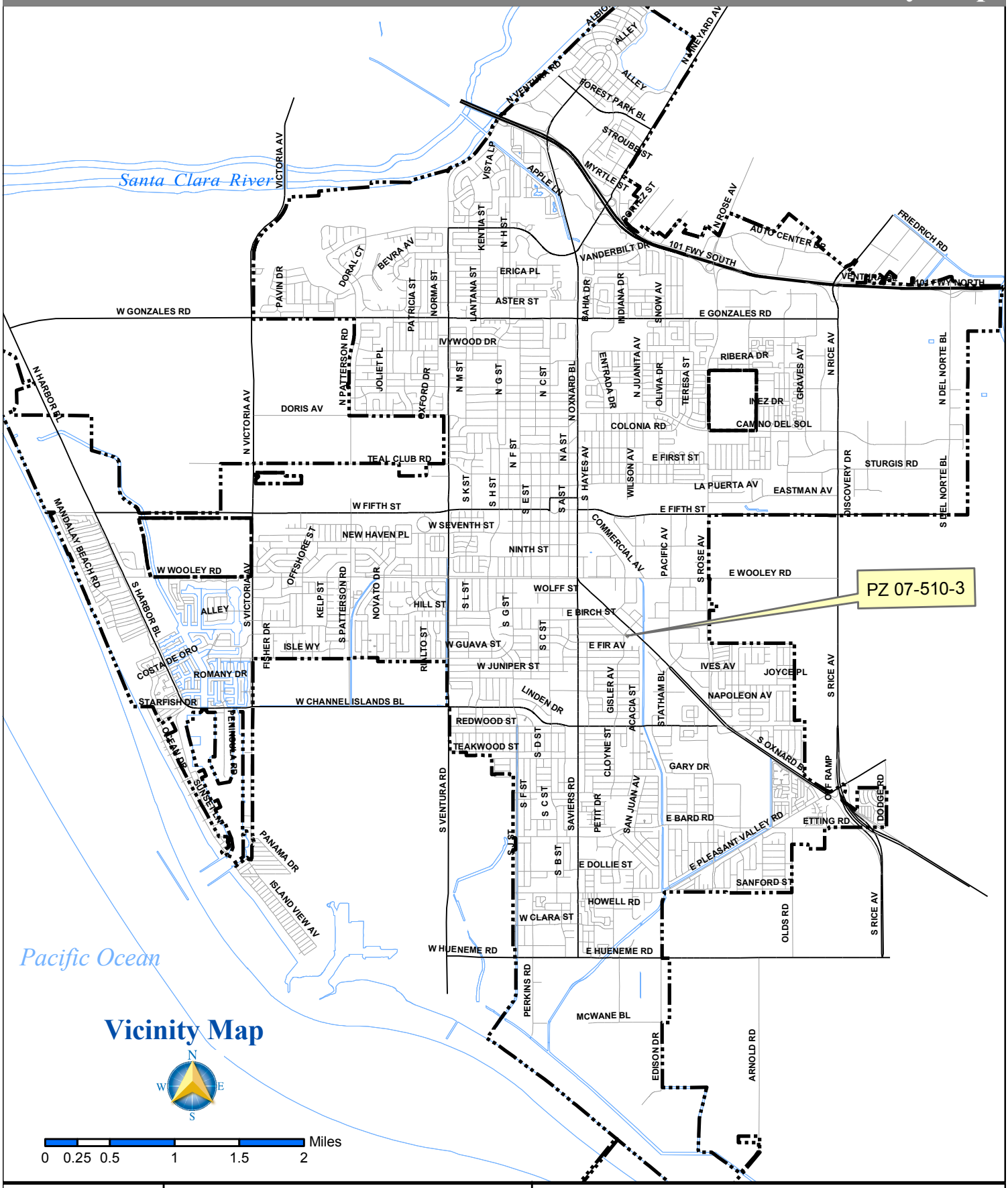
Prepared by:	WW
Approved by:	SM

ATTACHMENT

A

Maps
(Vicinity, Aerial, General Plan, & Zoning)

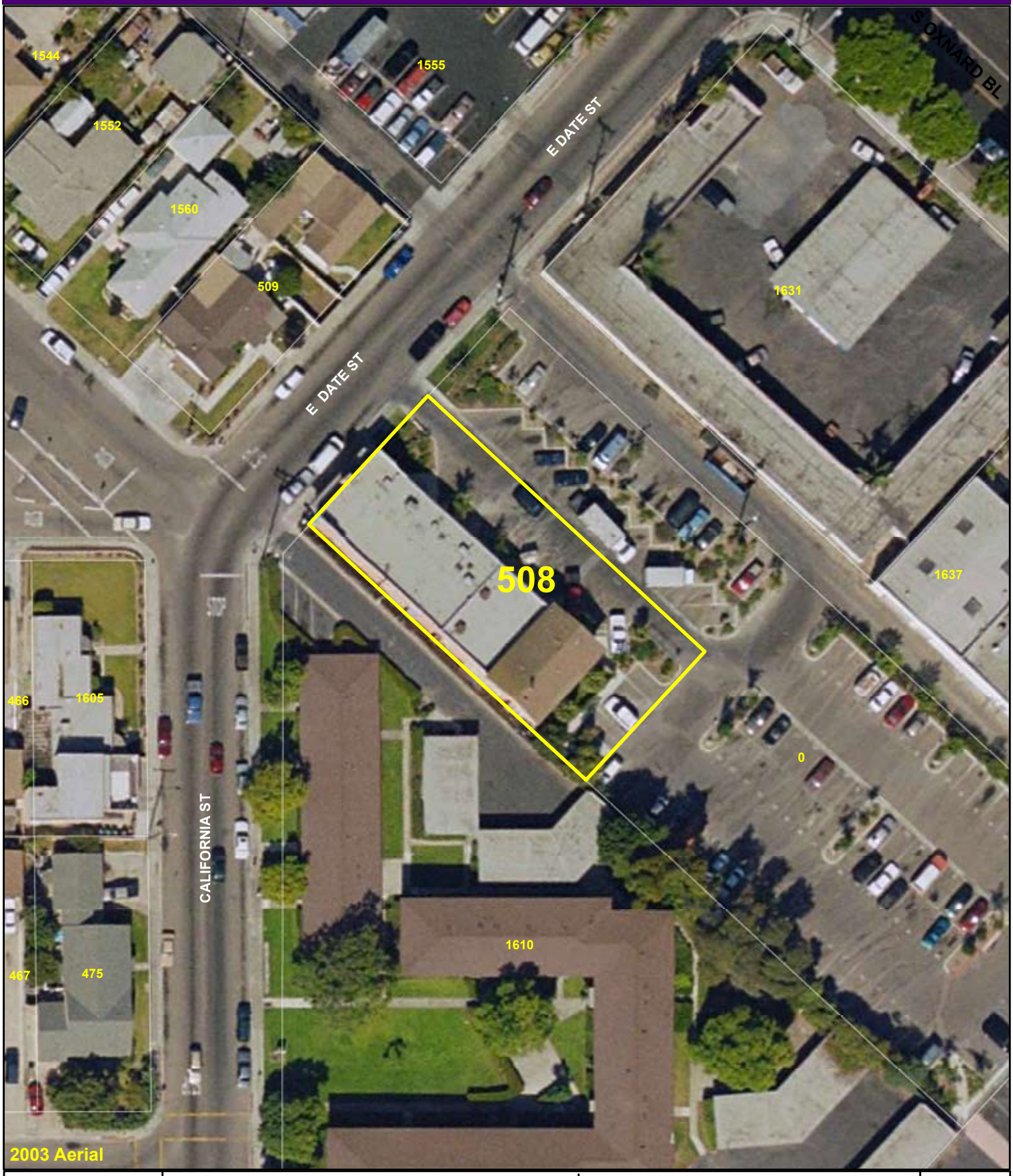
Vicinity Map



Oxnard Planning
August 20, 2007

PZ 07-510-3
Location: 508 E Date St
APN: 204005114
Salvador Ayala

Aerial Map



Oxnard Planning
August 20, 2007

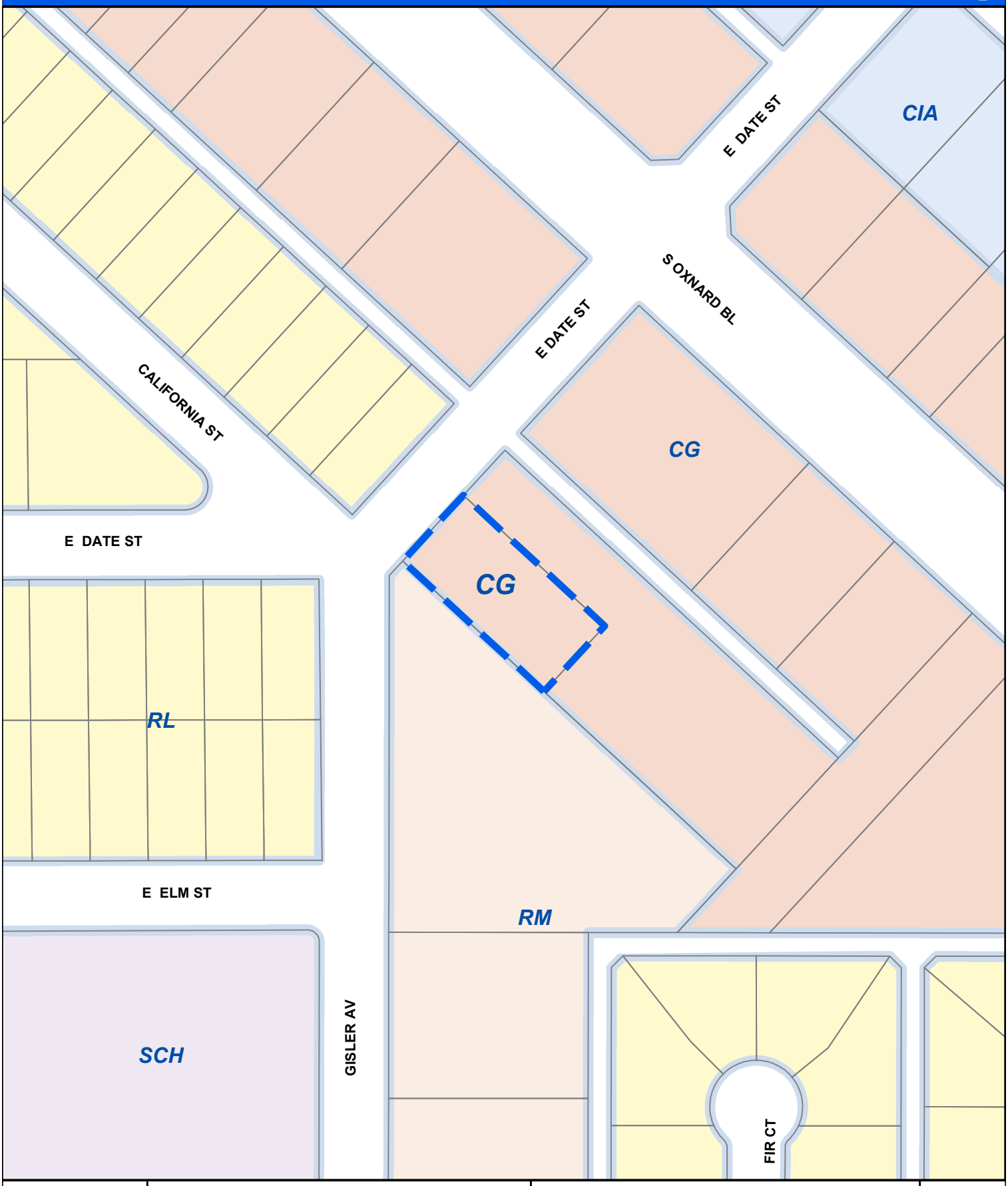
PZ 07-510-3
Location: 508 E Date St
APN: 204005114
Salvador Ayala

0 12.5 25 50 75 100 Feet

Aerial Map

N W E S

General Plan Map



Oxnard Planning
August 20, 2007

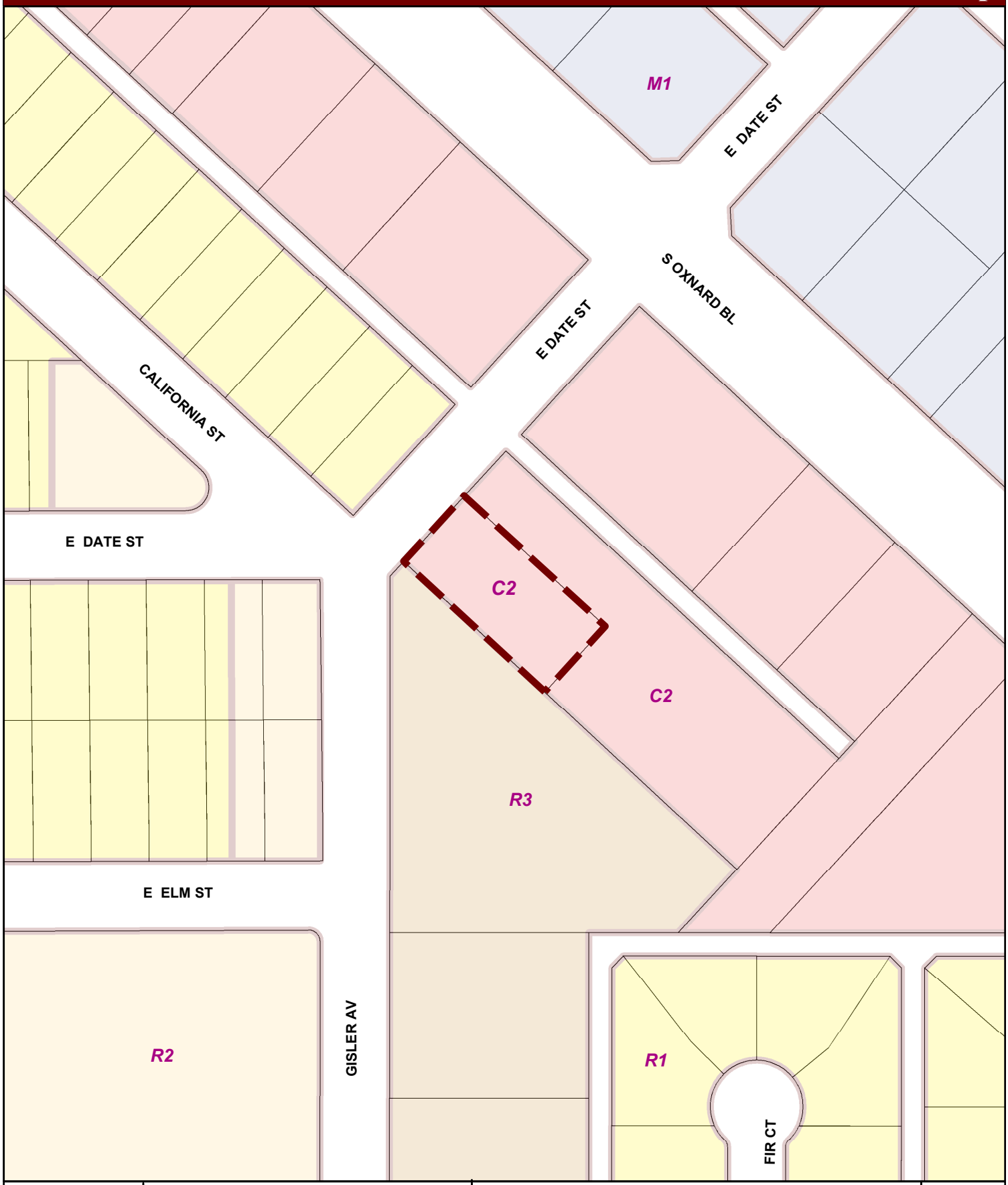
PZ 07-510-3
Location: 508 E Date St
APN: 204005114
Salvador Ayala

0 25 50 100 150 200 Feet

General Plan Map

N W E S

Zone Map



Oxnard Planning
August 20, 2007

PZ 07-510-3
Location: 508 E Date St
APN: 204005114
Salvador Ayala

0 25 50 100 150 200 Feet

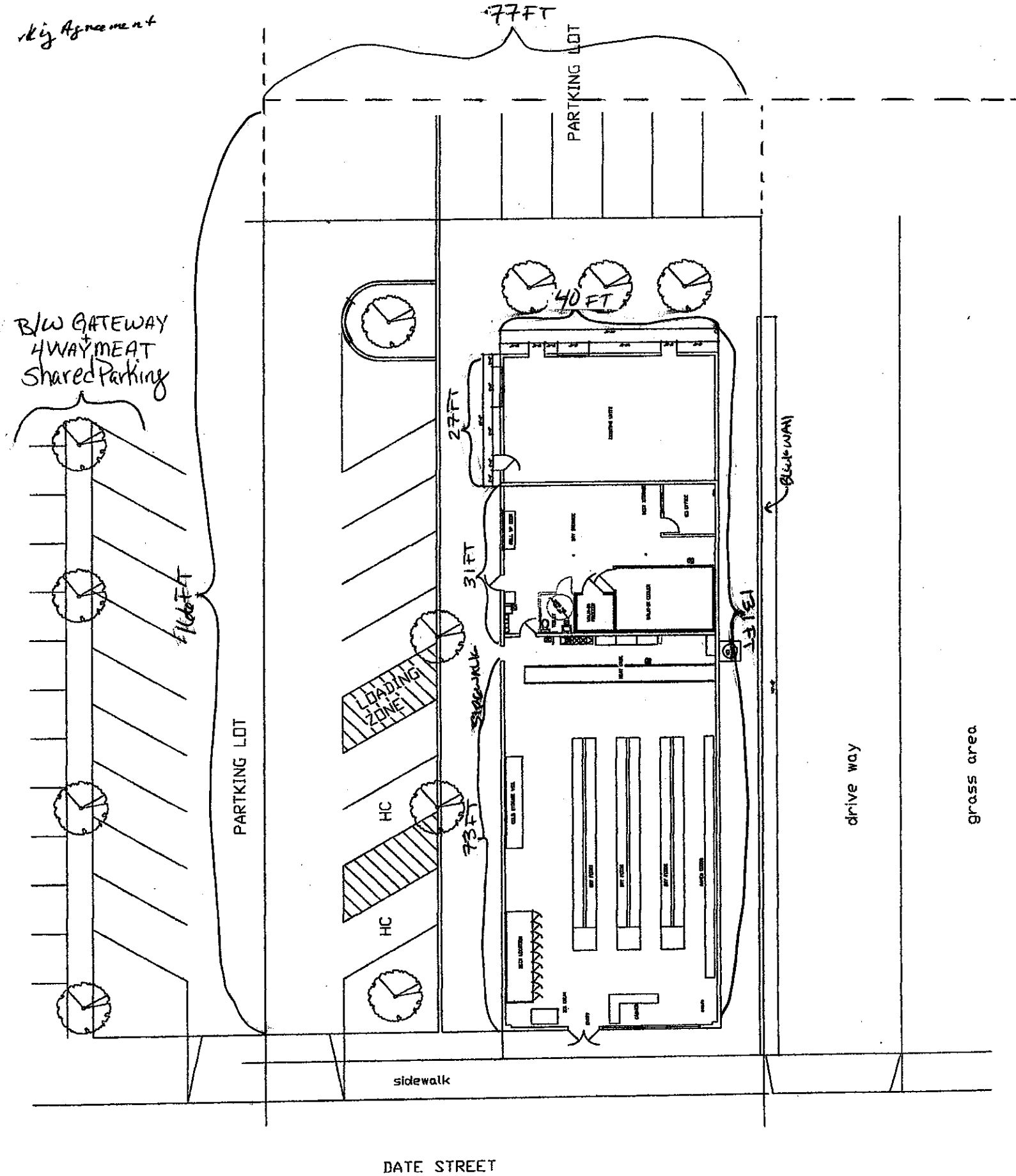
Zone Map

N W E S

ATTACHMENT

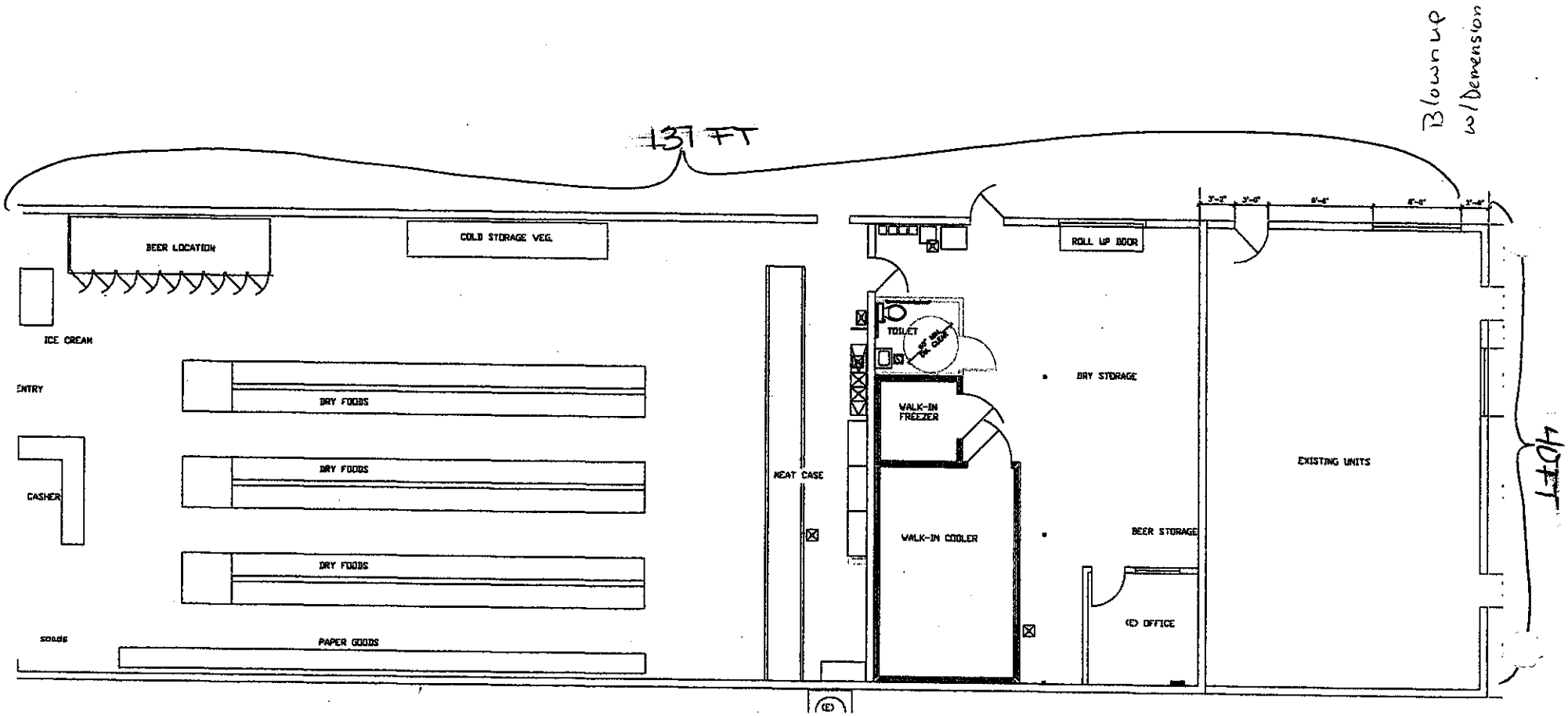
B

Project Plans



rking Agreement
77FT
PARTKING LOT
B/W GATEWAY
4WAY MEAT
Shared Parking
40 FT
27FT
31FT
31FT
116FT
LOADING ZONE
HC
HC
73FT
PARTKING LOT
drive way
grass area
sidewalk
DATE STREET

22


Blownup w/Dimension
137 FT
40 FT
BEER LOCATION
COLD STORAGE VEG.
ICE CREAM
ENTRY
DRY FOODS
DRY FOODS
DRY FOODS
CASHER
SOUDS
PAPER GOODS
MEAT CASE
TOILET
WALK-IN FREEZER
WALK-IN COOLER
ROLL UP DOOR
DRY STORAGE
BEER STORAGE
(E) OFFICE
EXISTING UNITS
(E)

ATTACHMENT

C

Notice of Exemption

NOTICE OF EXEMPTION

Project Description:

A request to sell beer and wine for off-site consumption at the 4-Way Meat Market located at 508 East Date Street (APN 204-0-051-140). Filed by Salvador Ayala on behalf of Jose and Adeline Carbajal.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- ☐ Ministerial Project
- ☒ Categorical Exemption
- ☐ Statutory Exemption
- ☐ Emergency Project
- ☐ Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- ☐ No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

Supporting Reasons: In accordance with the California Environmental Quality Act Guidelines and Section 15301of the California Code of Regulations, projects involving "operation, licensing, or minor alteration of existing…structures" may be found to be exempt from the requirements of CEQA. The proposed project is a request to add an alcoholic beverage sales license to an existing market with no new development. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment.

(Date)

Susan L. Martin, AICP
Planning Division Manager

ATTACHMENT

D

Police Report

Police Department

John Crombach, Police Chief

Date: September 2, 2007

To: Winston Wright, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 508 E. Date Street (4-Way Market) **Re: PZ 07-510-03**

Site Information:

The proposed site is in an existing, occupied 5500 square foot building located at 508 E. Date Street. The site is situated on the northeast corner of the intersection of California Street and Date Street and is currently operating as a meat market without the sale of alcohol. It is generally bordered by Date Street to the north, California Street to the west, State Route 1 (Oxnard Blvd.) to the east and residences to the south. Other businesses nearby include an extended-stay motel (the Palace Inn) directly northeast of the site and a liquor store to the east, diagonally across the rear parking lot of the 4-Way Market. The nearest residences are apartment complexes approximately 50 feet south of the site and single-family homes directly across the street to the west. The applicant has requested to obtain an ABC License Type-20 which is an Off-Sale License that allows for the sale of beer and wine.

*Alcohol outlets located within **350 feet** of the establishment include:*

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Fiesta Liquor	1637 S. Oxnard Blvd..	Type 21	Off-Sale General	Liquor Store	Beer, Wine and Spirits
2. Fiesta Mexican Grill	1635 S. Oxnard Blvd.	Type-41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Snooky's	1657 S. Oxnard Blvd.	Type 42	On-Sale Beer and Wine	Bar (Public Premise)	Beer and Wine

*Alcohol outlets located within **1000 feet** of the establishment also include:*

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Sal's Mexican Inn	1450 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits

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 139.

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 218 during the same 12-month time period. This is 56% higher than the average crime rate citywide. The majority of the calls in the areas surrounding the site were property crimes (burglary and theft) with the heaviest concentrations of incidents occurring in the southern portion of the neighborhood. Disturbance-related incidents were heaviest to the west of the site and closer to Saviers Road. Alcohol was listed as a contributing factor in approximately 28% of disturbance calls which is consistent with 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.

Police Department Input:

Senior Officer Mike VanAtta, the Beat Coordinator for the neighborhood surrounding the proposed site, was not opposed to the use but identified a few concerns. He indicated that the general area has a comparatively high number of drug-related incidents and wanted to make sure that the market did not become a magnet for more problems. The Police Department recognizes that markets and similar uses can often present an environment that contributes to loitering, drug dealing and other problems. By their nature, such uses generally have a high volume of customer traffic and individuals seeking to sell or buy drugs can often blend together with the legitimate customers and not be as suspicious or easily identified. Senior Officer VanAtta suggested that certain mitigating conditions be applied to the Special Use Permit to minimize the potential for loitering and other problem behavior.

The Police Department is also concerned about the density of Off-Sale outlets in this area as there is a liquor store literally across the rear parking lot toward Oxnard Boulevard (Fiesta Liquor). Many studies have shown that alcohol outlet density significantly effects neighborhood and policing problems and should be carefully considered.

Community Input:
The Responsible Alcohol Policy Action Coalition (RAPAC) discussed this proposal at their monthly meeting and was generally opposed to the sale of alcohol at this location. They cited the higher-than-average crime rate and the sites proximity to another liquor store. They also had concerns about the elementary school that is approximately 500 feet from the market and that there are residences on three sides of the location. They did not agree that there is a necessity to the neighborhood to have two outlets so close together and suggested that the market continue to offer their current products that have allowed the business to be successful for several years.

The Cal-Gisler Neighborhood Council was contacted and was initially opposed to the use. They agreed with the conclusion reached by RAPAC and suggested the business remain as is, without the sale of alcohol. The neighborhood had many reasons to oppose the granting of the Permit including the outlet density, crime rate, proximity to Elm Street School and the past history they have had with the operators of the market.

The applicant requested the opportunity to meet further with the neighborhood to try and address their issues and obtain more support. The Police Department helped to arrange a meeting where the applicant presented his proposal to a group of residents and explained some of the preventative policies that would be implemented to reduce the likelihood for problems. The residents expressed their concerns with the applicant and, after much discussion, backed away from their opposition to the proposed use. The applicant indicated that they would not be selling fortified wines or malt liquors which are products most often consumed by problem drinkers who typically consume the alcohol in nearby public areas. The applicant also told the neighborhood that there would be no single servings of alcohol to help further reduce the likelihood of persons consuming alcohol in adjacent areas. The neighborhood ultimately offered their support for the proposed use, contingent upon conditions being applied to the Permit that would reflect the responsible policies the applicant had promised to implement.

Residents also suggested that there be no deliveries trucks permitted to park directly in front of the business which has been a concern of the neighborhood for years. They explained that there are frequently large delivery vehicles double-parked in front of the store which creates a hazard for passing motorists and reduces visibility at the unique intersection. They also recommended that parking for customers be minimized in the front. This is to allow for greater visibility near the crosswalk that is heavily used by students going to and from the nearby school.

Conclusion:
The statistical analysis shows the area to have a crime rate that is 56% higher than the city-wide average but with an added note that the majority of the incidents are property crimes that are not heavily influenced by the addition of an alcohol outlet. The disturbance calls that most often list alcohol as a contributing factor are concentrated further away from the site and closer to Saviers Road. Still, there is a significant number of disturbance and drug-related incidents nearby which is of some concern to the Police Department.

There is a similar use within 350 feet of the proposed site so there is a local issue of undue concentration. The California Department of Alcoholic Beverage Control (ABC) uses census tract statistics to determine the allowable number of Off-Sale outlets that a particular census tract may have. In this case, the number of alcohol outlets currently operating in this census tract

exceeds the allowable number. This means that there is also an issue of undue concentration on the state level and the ABC License will not be granted unless the City of Oxnard declares there is a "public convenience or necessity".

The primary concerns of both the Police Department and the community are how close the site is to an existing alcohol outlet and how the use may affect the crime rate. Additional concerns are the proximity to the school as well as to residences. Both the Police Department and the neighborhood were initially opposed to the proposed use based upon the above mentioned factors. The applicant has negotiated with the neighborhood and agreed to implement several polices that would address most of the neighborhood concerns. The neighborhood eventually withdrew their opposition with the understanding that the responsible policies would be included in the operating conditions.

The Police Department remains cautious as well but supports the conclusion of the neighborhood and is not opposed to the proposed use. The fact that the outlet is a successful meat market already suggests that the business will not rely upon excessive sales of alcohol to remain profitable and they are offering the product as a convenience to their customers. The Police Departments experience is that this type of license (Type 20 – Off-Sale Beer and Wine), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate police and community issues, as long as the establishment complies with these regulations and operates responsibly. This particular proposal has a few unique concerns which is why the Police Department recommends adoption of all of the standard and special conditions listed in the attached Planning Commission resolution.

Police Standard Conditions
(Off-Sale Alcohol Establishments)

1) Permittee and all sellers or servers shall complete a course in Responsible Beverage Sales and Service (RBSS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)

2) There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)

3) The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the Manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)

4) Any signs, advertisements or decorations placed upon the windows shall not exceed 20% of the overall window area. Additionally, there shall be no other obstructions placed near the windows that exceed 20% of the overall viewing area including display racks, stored products, shades or blinds.

5) Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined by Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and the Planning Commission may apply or remove conditions as appropriate to mitigate existing or potential problems.

6) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)

7) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control. This includes the rear of the business. (PL/PD)

8) Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies or disposal of trash does not constitute a violation. (PD)

9) Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift. (PD)

10) The parking lot and adjacent areas of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the area. This includes the rear of the business. (PL/PD)

11) There shall be no pay phones installed inside the premises nor shall there be any pay phones installed outside within 100 feet of the premises. (PL/PD)

12) Permittee shall regularly police the area under Permittee's control (including the rear of the business) in an effort to prevent the loitering of persons about the premises. (PL/PD)

13) In the areas surrounding the business the Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)

14) Coolers shall be maintained in such a way as to allow for them to be locked during hours of prohibited sale and shall, in fact, be secured during the hours from 10:00 PM to 6:00 AM. (PD)

15) Coolers or displays containing alcoholic beverages shall be separate from other coolers or displays and shall be positioned so as to allow maximum visibility to cashiers, clerks or employees. Alcohol displays shall not be positioned near customer entry/exit doors, nor shall they be in a location that allows for an easy and unobstructed path to any entry or exit. It is recommended that the alcohol displays or coolers be positioned where the cashiers or clerks have a clear view of the activity of persons in the alcohol isle and where the customers would likely need to pass near the cashier or other workstation before exiting the business. (PD)

16) There shall be no amusement machines or video devices maintained on the premises at any time. (PD)

17) No single containers, 12oz., 16oz., 20 oz., 24 oz., 32 oz., or 40 oz., of malt liquor shall be sold. (PD)

18) No fortified wine products shall be sold with an alcohol content greater than 14% by volume with the exception of the following products (provided they are consistent with those permitted by their Alcoholic Beverage Control License): Port, Sherry, Marsala, Madiera, Muscat and Vermouth. (PD)

19) Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". These signs shall, at a minimum, be posted at each point of sale and near any alcohol display or areas. (PD)

20) No open floor displays of alcoholic beverages are allowed, including but not limited to "beer mountains" and portable coolers. (PD)

21) There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.

22) Security cameras shall be installed to monitor the premises and be positioned to monitor at minimum the entry/exit, all points of sale, alcohol coolers and the areas immediately surrounding the exterior of the business. The camera system shall comply with the following minimum standards: (PD)

    a. The cameras shall be color cameras, made by a reputable manufacturer and maintained to current industry standards. They shall have low light capability and be capable of identifying persons conducting transactions at the stores' registers or entering/exiting the business.

    b. The system shall utilize a Digital Video Recorder (DVR). The use of videocassette recorders (VHS and other formats) is prohibited. The DVR shall allow recording, live viewing and playback of recorded video for a period of least 30 days. DVR shall perform all recording, viewing (local and remote), playback (local and remote), queries and backup functions simultaneously, with no interruption of any other function.

23) Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.

24) Permittee shall bolt down all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery.

25) Permittee shall have drop-safes installed to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically $50).

26) Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.

27) Permittee shall install height gauges at all exit doors.

28) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion.

29) Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601.

30) The subject Alcoholic Beverage License shall not be exchanged or upgraded for any other type Alcoholic Beverage License without Planning Commission or City Council approval.

31) A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

Police Special Conditions

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1) Prior to the issuance of the ABC Type-20 License, permittee shall remove the existing pay phones in front of the business.

2) Prior to the issuance of the ABC Type-20 License, the permittee, with approval from the Traffic Engineer, shall create a partial no parking zone directly in front of the business by painting the curb red in compliance with local and state regulations. The red curb shall extend at least ten (10) feet from the crosswalk near the northeast corner of Date Street and California Street. Customer parking is permitted along the curb for the remaining distance in front of the business.

3) For the life of the business, there shall be no delivery vehicles permitted to load or unload form directly in front of the business on Date Street.

ATTACHMENT

E

Resolution

PZ No. 07-510-03 (Special Use Permit)

RESOLUTION NO. 2007 – [PZ 07-510-03]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 07-510-03 (SPECIAL USE PERMIT), TO ALLOW THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION (TYPE-20 ABC LICENSE), LOCATED AT 508 EAST DATE STREET(APN 204-0-051-14), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY SALVADOR AYALA, 508 EAST DATE STREET, OXNARD, CA, 93033.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 07-510-03, filed by Salvador Ayala in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; 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, 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 except as may be specifically excepted by the special findings and conditions of this resolution.

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.

6. The proposed sale of beer and wine at the subject market will not result in or add to an undue concentration of similar type establishments selling alcoholic beverages within 1000 feet of the subject location

7. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied.

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.

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. This permit is granted for the plans stamped approved ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager ("Planning Manager") or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)

3. 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*)

4. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, *G-6*)

5. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, *G-7*)

6. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, *G-8*)

7. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, *G-9*)

8. Before placing or constructing any signs on the project property, Developer shall obtain a sign permit from the City. Except as provided in the sign permit, Developer may not change any approved signs on the project property. (PL/B, *G-10*)

9. Developer shall obtain a building permit for any new construction, signs, or modifications to structures, including interior modifications, authorized by this permit. (B, *G-11*)

10. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, *G-12*)

11. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, *G-13*)

12. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, *G-14*)

13. Prior to the issuance of the ABC Type-20 License, Developer shall correct all violations of the City Code existing on the project property. (PL, *G-15*).

PLANNING SPECIAL CONDITIONS

14. This permit shall automatically become null and void 12 months for the date of approval, unless Permitee or successor in interest has received a Type- 20 License from the State of California Department of Alcoholic Beverage Control to sell alcoholic beverages from the subject property. (PL)

15. Permittee shall remove any and all graffiti from the project premises, including but not limited to graffiti within the building, such as in restrooms, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the underlying colors and/or design, and shall not look like a paint patch. (PL)

16. Prior to the issuance of the Type-20 ABC License, permittee shall remove all of the signs on the building that are not in compliance with the City Code.

POLICE STANDARD CONDITIONS

17. Permittee and all sellers or servers shall complete a course in Responsible Beverage Sales and Services (RBSS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)

18. There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)

19. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the Manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)

20. Any signs, advertisements or decorations placed upon the windows shall not exceed 20% of the overall window area. Additionally, there shall be no other obstructions placed near the windows that exceed 20% of the overall viewing area including display racks, stored products, shades or blinds.

21. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined by Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and the Planning Commission may apply or remove conditions as appropriate to mitigate existing or potential problems.

22. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)

23. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control. This includes the rear of the business. (PL/PD)

24. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies or disposal of trash does not constitute a violation. (PD)

25. Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift. (PD)

26. The parking lot and adjacent areas of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the area. This includes the rear of the business. (PL/PD)

27. There shall be no pay phones installed inside the premises nor shall there be any pay phones installed outside within 100 feet of the premises. (PL/PD)

28. Permittee shall regularly police the area under Permittee's control (including the rear of the business) in an effort to prevent the loitering of persons about the premises. (PL/PD)

29. Prior to the issuance of the ABC Type-20 License, in the areas surrounding the business the Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)

30. Coolers shall be maintained in such a way as to allow for them to be locked during hours of prohibited sale and shall, in fact, be secured during the hours from 10:00 PM to 6:00 AM. (PD)

31. Coolers or displays containing alcoholic beverages shall be separate from other coolers or displays and shall be positioned so as to allow maximum visibility to cashiers, clerks or employees. Alcohol displays shall not be positioned near customer entry/exit doors, nor shall they be in a location that allows for an easy and unobstructed path to any entry or exit. It is recommended that the alcohol displays or coolers be positioned where the cashiers or clerks have a clear view of the activity of persons in the alcohol isle and where the customers would likely need to pass near the cashier or other workstation before exiting the business. (PD)

32. There shall be no amusement machines or video devices maintained on the premises at any time. (PD)

33. No single containers, 12oz., 16oz., 20 oz., 24 oz., 32 oz., or 40 oz., of malt liquor shall be sold.

34. No fortified wine products shall be sold with alcohol content greater than 14% by volume with the exception of the following products (provided they are consistent with those permitted by their Alcoholic Beverage Control License): Port, Sherry, Marsala, Madiera, Muscat and Vermouth. (PD)

35. Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". These signs shall, at a minimum, be posted at each point of sale and near any alcohol display or areas. (PD)

36. No open floor displays of alcoholic beverages are allowed, including but not limited to "beer-mountains" and portable coolers. (PD)

37. There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.

38. Prior to the issuance of the ABC Type-20 License, security cameras shall be installed to monitor the premises and be positioned to monitor at minimum the entry/exit, all points of sale, alcohol coolers and the areas immediately surrounding the exterior of the business. The camera system shall comply with the following minimum standards: (PD)

    a. The cameras shall be color cameras, made by a reputable manufacturer and maintained to current industry standards. They shall have low light capability and be capable of identifying persons conducting transactions at the stores' registers or entering/exiting the business.

    b. The system shall utilize a Digital Video Recorder (DVR). The use of videocassette recorders (VHS and other formats) is prohibited. The DVR shall allow recording, live viewing and playback of recorded video for a period of least 30 days. DVR shall perform all recording, viewing (local and remote), playback (local and remote), queries and backup functions simultaneously, with no interruption of any other function.

39. Prior to the issuance of the ABC Type-20 License, permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.

40. Prior to the issuance of the ABC Type-20 License, permittee shall bolt down all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery.

41. Prior to the issuance of the ABC Type-20 License, permittee shall have drop-safes installed to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically $50).

42. Prior to the issuance of the ABC Type-20 License, permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.

43. Prior to the issuance of the ABC Type-20 License, permittee shall install height gauges at all exit doors.

44. Prior to the issuance of the ABC Type-20 License, permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion.

45. Prior to the issuance of the ABC Type-20 License, permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601.

46. The subject Alcoholic Beverage License shall not be exchanged or upgraded for any other type Alcoholic Beverage License without Planning Commission or City Council approval.

47. A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

POLICE SPECIAL CONDITIONS

48. Prior to the issuance of the ABC Type-20 License, permittee shall remove the existing pay phones in front of the business.

49. Prior to the issuance of the ABC Type-20 License, the permittee, with approval from the Traffic Engineer, shall create a partial no parking zone directly in front of the business by painting the curb red in compliance with local and state regulations. The red curb shall extend at least ten (10) feet from the crosswalk near the northeast corner of Date Street and California Street. Customer parking shall be permitted along the curb for the remaining distance in front of the business.

50. For the life of the business, there shall be no delivery vehicles permitted to load or unload form directly in front of the business on Date Street.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 4th day of October, 2007, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

_____
Dr. Sonny Okada, Chairman

ATTEST: _____
Susan L. Martin, Secretary