



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission
FROM: Justin Beranich, Assistant Planner
DATE: March 17, 2011
SUBJECT: Planning and Zoning Permit No. 10-510-14 (Alcohol Special Use Permit)
 1420 W. Channel Islands Blvd.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 10-510-14 for a special use permit, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to add distilled spirit sales for off-site consumption to an existing convenience market currently permitted to sell beer and wine at 1420 West Channel Islands Boulevard, known as Channel Islands Dairy. The hours of operation are between 7:00 a.m. and 10:00 p.m. Monday through Sunday. Filed by designated agent Migbel AlRabadi, on behalf of the property owner Hooshang Hakakzadeh, 711 W. Channel Islands Blvd. Oxnard, CA 93036.
- 3) **Existing & Surrounding Land Uses:** The subject site is a single story, multi tenant commercial building.

| Project Site | Planning | Current Zoning | Neighboring Land Uses |
|--------------|--|-----------------------------|---|
| Project Site | General Commercial Planned Development (C2-PD) | Commercial General (CG) | Single-story, multi tenant commercial building. |
| North | General Commercial Planned Development (C2-PD) | Commercial Community (CCOM) | Commercial shopping center |
| South | General Commercial Planned Development (C2-PD) | Commercial General (CG) | Single-story, multi-tenant commercial buildings |
| East | Single-family Residential | Residential Low (RL) | Single family residences |
| West | General Commercial Planned Development (C2-PD) | Commercial General (CG) | Gasoline service station |

- 4) **Background Information:** On October 2, 1962, the City Council approved Special Use Permit No. 42 for a drive-in dairy establishment. In 1992, a minor modification was denied for the conversion of the drive-through lane into building area based on traffic concerns, architectural design and the scope of work. In 1997, a building permit approved the conversion of one of the drive-through lanes into building area for a convenience market. On October 13, 1987, the City Council amended Section 16-136 of the C2 General Commercial zone, via Ordinance No. 2132, to require a

special use permit for the sales of alcohol for off-site consumption. The business has been operating with a state license to sell beer and wine for off-site consumption since December 29, 1989, and is considered existing non-conforming because of the absence of a special use permit for alcohol sales. Since that time, the business has been operating under conditions imposed and enforced by the state.

- 5) **Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving the permitting of existing facilities may be found to be exempt from the requirements of CEQA. The request is to permit the sale of beer, wine and distilled spirit sales for off-site consumption within an existing convenience market. There is no development associated with this 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) **General Discussion:** The Applicant is requesting to upgrade the existing ABC License Type 20, which permits the sale of beer and wine for off-site consumption, to an ABC Type 21 License that permits the sale of beer, wine and distilled spirits. As part of this permit request, the Police Department included operating conditions. If approved, these conditions will be incorporated into the state license.

The tenant space is 1,682 square feet and can be accessed by a main entrance along the north elevation of the building or through a secondary entrance located underneath the drive-through canopy along the west elevation. The current state license and the attached condition prohibit the sale of alcohol through the drive through. If this permit is not granted, the business may continue to sell beer and wine for off-site consumption until the use loses its non-conforming status pursuant to City Code Section No 16-509.

The existing operating hours for the convenience market are from 7 a.m. to 10 p.m. Monday through Sunday. No changes are proposed to the hours of operation at this time, however, a condition of approval is included that would allow the business to expand the hours from 7:00 a.m. to 11:00 p.m. (Condition No. 29).

As of the date of the writing of this staff report, the site has several unpermitted signs that do not comply with city code and excessive window signage. There is an existing roof sign mounted above the building entry, a sign advertising beer and wine attached to the drive-through canopy, temporary wall signage along the north elevation and a portable drive-through sign along the rear of the building. In addition to these illegal signs, outdoor storage is occurring at the rear of the building including empty crates, cardboard boxes, and other similar items. As part of this approval, conditions will require the excessive window signage to be brought into compliance and removal of the outdoor storage and un-permitted signage prior to the issuance of the State Department of Alcoholic Beverage Control Type 21 license (Condition Nos. 16, 17).

- b) **General Plan Consistency:** The 2020 General Plan designates the subject parcel as Commercial General. The underlying zoning designation is C2PD (General Commercial Planned Development), which is consistent with the Commercial General 2020 General Plan land use designation. Convenience markets are listed as principally permitted uses; however, the sale of

alcohol for off-site consumption requires the approval of a special use permit. Approval of this special use permit for alcohol is consistent with the policies and standards of the General Plan and the C2 zoning designation.

- c) **Request for Sale of Alcoholic Beverages for Off-site Consumption:** The applicant has filed an application with the Department of Alcoholic Beverage Control (ABC) for a Type 21 License at the location, and requires City of Oxnard approval of this special use permit prior to license issuance. The Type 21 License (Off-sale Beer, Wine and Distilled Spirits) allows alcohol sales for off-site consumption.
- d) **Police Department Review:** The Oxnard Police Department prepared a report on February 14, 2011 which analyzed the site and surrounding area for any potential policing problems which might be intensified as a result of approval of this request (Attachment D).

The report provides information regarding the number of incidents of police response, and whether the proposed request is likely to significantly aggravate policing problems.

- i) **Concentration of Alcohol Sales:** There are two similar alcohol outlets within 350 feet of the site and consequently a presumed issue of undue concentration.

Crime Statistics 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 134 during the same 12-month time period. This is 14% higher than the average crime rate citywide and is not generally considered to be significant.

The concentration of incidents is spread evenly throughout the area and disturbance calls are consistent with citywide averages. The number of disturbance incidents in the area that list alcohol as a contributing factor is slightly above the citywide average. There were a total of 11 calls for service to this site in 2010 with three of those being disturbance related and six being thefts.

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.

Additional Police Input: The Police Department generally doesn't consider the area to be a policing problem. There are occasional problems associated with the nighttime activity at the bar just south of the site but that the management is cooperating with police to keep problems to a minimum. The Police Department's primary concern is the proximity of the proposed business to two other off-sale alcohol outlets, one of which also sells distilled spirits.

The existing business has been in operation for at least two decades and currently operates without a special use permit with any preventative, regulatory conditions. While the Police Department generally does not recommend permitting more than one similar Off-sale outlet within 350 feet of each other, having the opportunity to update the permit to current standards with proven, responsible operating conditions is highly desirable and should help to mitigate any risks associated with the availability of distilled spirits.

Conclusion: The statistical analysis shows the area to have a crime rate that is not significantly higher than the citywide average but that there are occasional problems associated with the bar nearby. The Police Department recognizes the risks associated with having multiple alcohol licenses within close proximity to each other but concludes that the addition of new, standard and special operating conditions on the SUP will help to keep the business from becoming a nuisance. The added conditions also allow police many enforcement and compliance options should the site become problematic. The Police Department does not believe the sale of distilled spirits will significantly aggravate policing problems as long as the establishment complies with these new regulations and operates responsibly.

- 7) Community Workshop:** On February 4, 2011, the applicant mailed notices of the Community Workshop to all property owners within the Bartolo Square South and Redwood Neighborhoods. The applicant also provided notice on the project site with a brief description of the project and contact information for the Community Workshop, conducted on February 14, 2010. During the workshop, one person spoke against the proposed request based on the area's saturation with existing alcohol establishments.
- 8) Appeal Procedure:** In accordance with Section 16-545 of the City Code, the Planning Commission's decision may be appealed to the City Council within 18 days. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period.

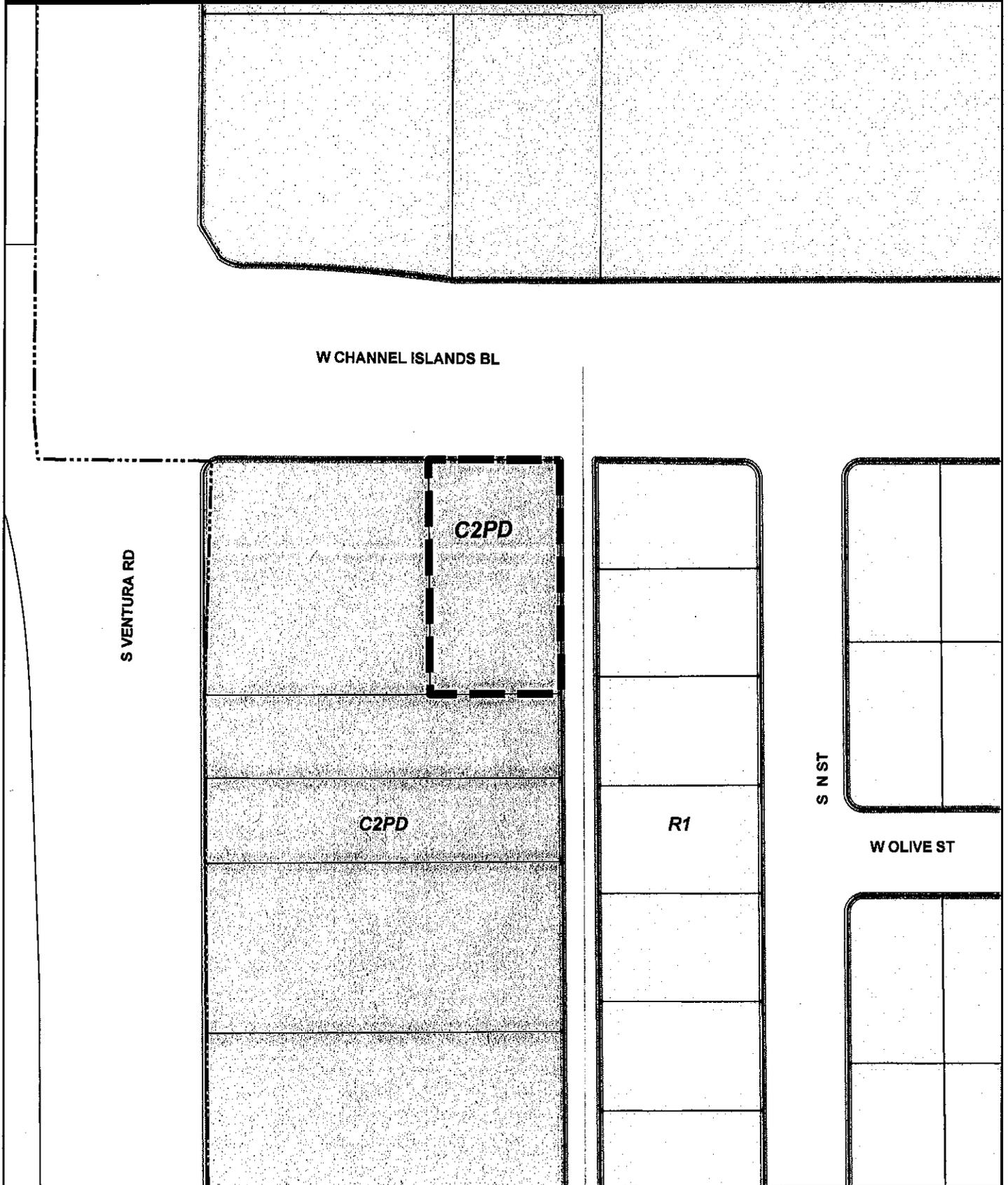
Attachments:

- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Police Department Report
- E. Resolution

| | |
|--------------|-----------------|
| Prepared by: | <u>JB</u> JB |
| Approved by: | <u>SM</u> SM |

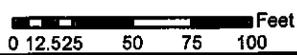
Attachment A
Maps (Vicinity, General Plan, Zoning)

Zone Map



Oxnard Planning
January 28, 2011

PZ 10-510-14
Location: 1420 W Channel Islands Bl
APN: 203008028
Channel Islands Dairy



Zone Map



1:959

CCOM

W CHANNEL ISLANDS BL

S VENTURA RD

CG

CG

RL

RL

S NST

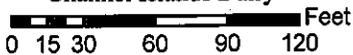
W OLIVE ST

RL



Oxnard Planning
January 28, 2011

PZ 10-510-14
Location: 1420 W Channel Islands Bl
APN: 203008028
Channel Islands Dairy

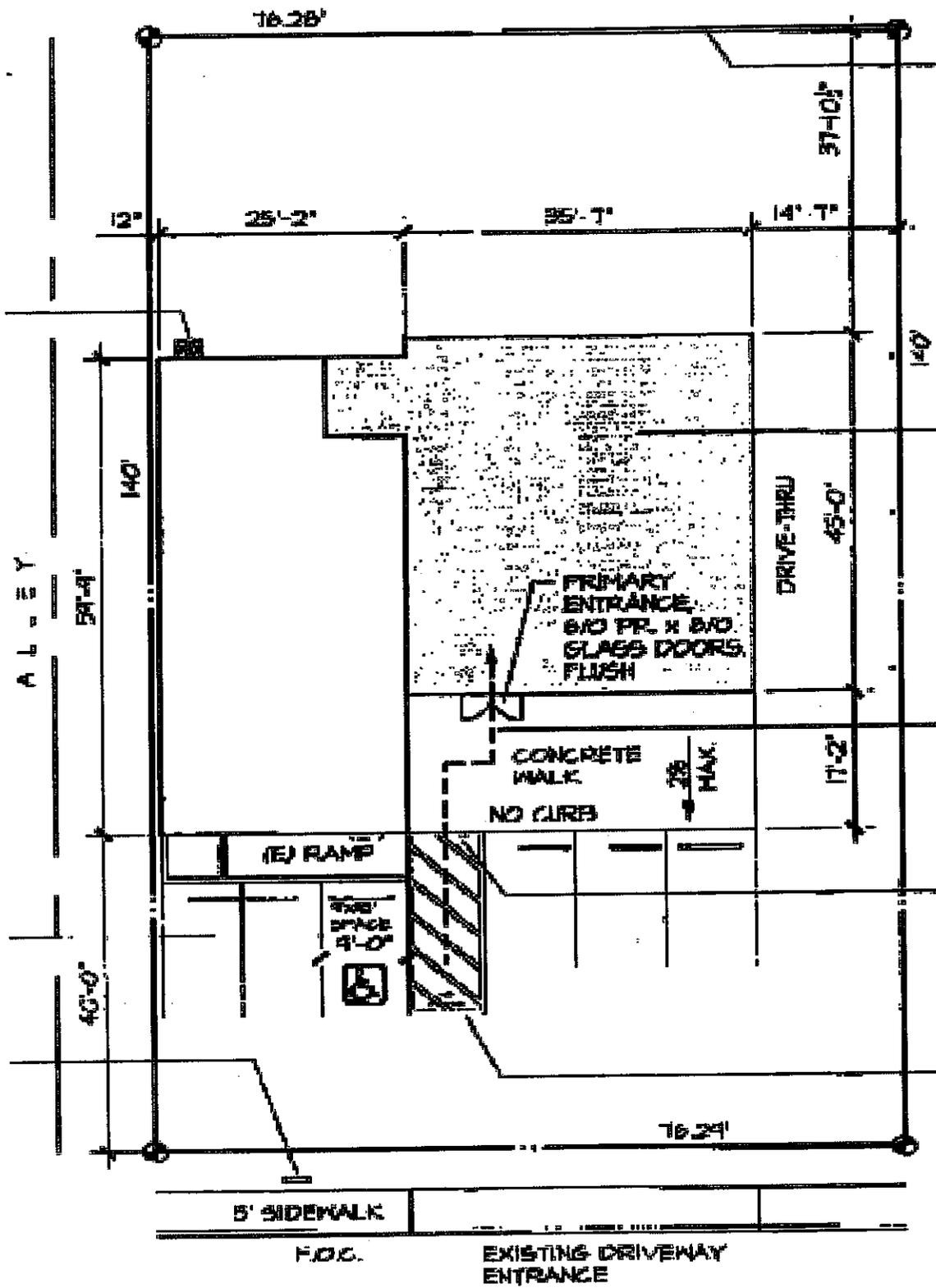


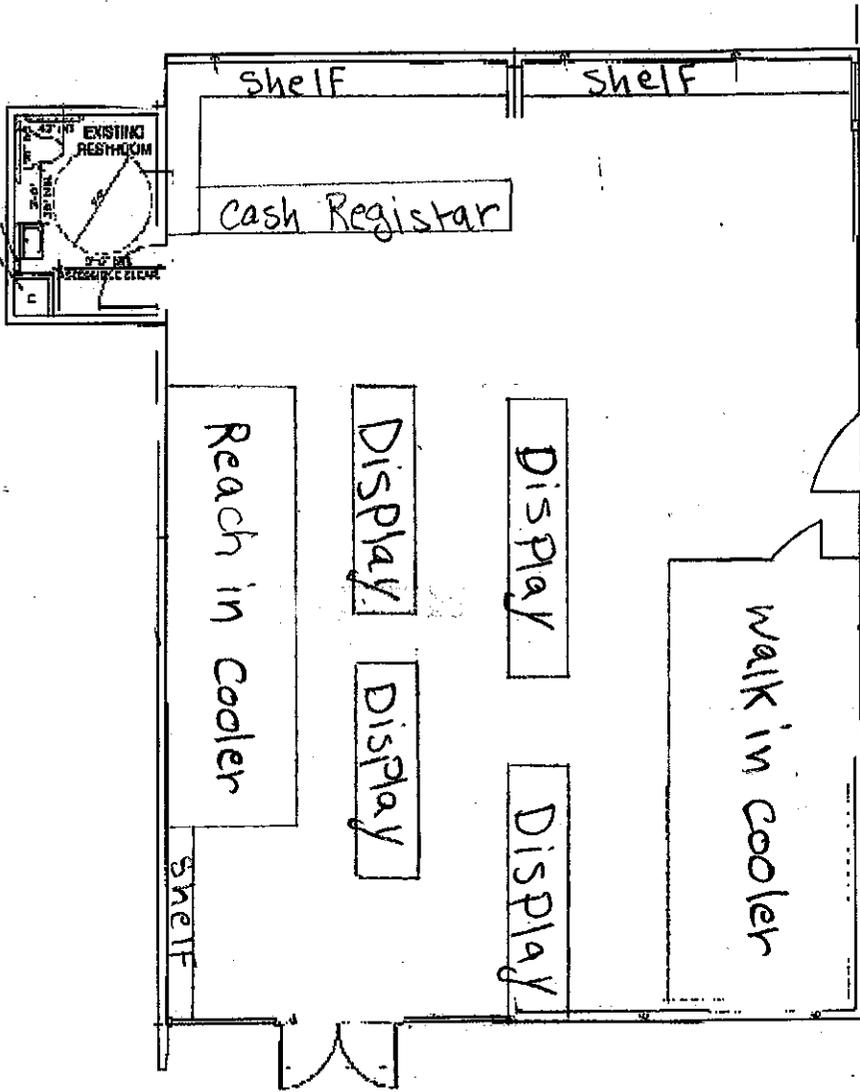
General Plan Map



1:952

Attachment B
Reduced Project Plans





PORTE COCHERE



Attachment C
Notice of Exemption



NOTICE OF EXEMPTION

Project Description:

A request to add distilled spirit sales for off-site consumption to an existing convenience market currently permitted to sell beer and wine at 1420 West Channel Islands Boulevard, known as Channel Islands Dairy. The hours of operation are between 7:00 a.m. and 10:00 p.m. Monday through Sunday. Filed by designated agent Migbel AlRabadi, on behalf of the property owner Hooshang Hakakzadeh, 711 W. Channel Islands Blvd. Oxnard, CA 93036.

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 Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving the permitting of existing facilities may be found to be exempt from the requirements of CEQA. The request adds distilled spirit sales for off-site consumption to an existing convenience market currently permitted to sell beer and wine at 1420 West Channel Islands Boulevard. 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

Jeri Williams, Police Chief

Date: February 28, 2011

To: Justin Beranich, Assistant Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 1420 W. Channel Islands Blvd. (Channel Islands Dairy) **Re: PZ 10-510-14**

Site Information:

The proposed site is located near the southeast corner of Channel Islands Boulevard and Ventura Road in an existing commercial building. The business is currently being operated as a small market with the sales of beer and wine. The front doors face Channel Islands Boulevard and customer parking is primarily along the northern edge of the property. There is a drive-through feature along the west side of the building where customers enter from the north and exit to the rear of the store into the alley on the east side of the building. There is a second liquor store (A-Z Liquor) approximately 300 feet to the south in another small commercial center along Ventura Road.

The site is generally bordered by Channel Islands Boulevard to the north, commercial to the south, Ventura Road to the west, and residential to the east. The nearest residences are approximately 75 feet to the east.

The applicant has requested to upgrade their existing Type-20 (Off-Sale Beer and Wine) to a Type-21 license (Off-Sale General) that allows for the sale of beer, wine and distilled spirits for consumption off the premises. There are two similar alcohol outlets within 350 feet of the site (A-Z Liquor and Circle K).

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

| BUSINESS NAME | LOCATION | LICENSE TYPE | LICENSE TITLE | BUSINESS TYPE | ALCOHOL ALLOWED |
|---------------|----------------------|--------------|------------------|---------------|------------------------|
| 1. A-Z Liquor | 2810 S. Ventura Road | Type 21 | Off-Sale General | Liquor Store | Beer, Wine and Spirits |

| | | | | | |
|--------------------|-------------------------------|---------|------------------------|--------|------------------------|
| 2. Circle K Market | 1445 W. Channel Islands Blvd. | Type 20 | Off-Sale Beer and Wine | Market | Beer and Wine |
| 3. Sea Rounders | 2670 S. Ventura Road | Type 48 | On-Sale General | Bar | Beer, Wine and Spirits |

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

| BUSINESS NAME | LOCATION | LICENSE TYPE | LICENSE TITLE | BUSINESS TYPE | ALCOHOL ALLOWED |
|------------------|--------------|--------------|-----------------------|---------------|-----------------|
| 1. Little Tony's | 1441 Redwood | Type 20 | On-Sale Beer and Wine | 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 134 during the same 12-month time period. This is 14% higher than the average crime rate citywide and is not generally considered to be significant.

The concentration of incidents is spread evenly throughout the area and disturbance calls are consistent with citywide averages. The number of disturbance incidents in the area that list alcohol as a contributing factor is slightly above the citywide average. There were a total of 11 calls for service to this site in 2010 with three of those being disturbance related and six being thefts.

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 generally not considered to be a serious policing problem. He said there are occasional problems associated with the nighttime activity at the bar just south of the site but that the management is cooperating with police to keep problems to a minimum.

The Police Department's primary concern is the proximity of the proposed business to other Off-Sale alcohol outlets, one of which also sells distilled spirits. 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 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.

In this case, the existing business has been in operation for at least two decades and does not have a Special Use Permit (SUP) with any preventative, regulatory conditions. Allowing the upgrade of the license to sell distilled spirits requires them to obtain a new SUP and they would now be subject to the current standards of preventative conditions. While the Police Department generally does not recommend permitting more than one similar Off-Sale outlet within 350 feet of each other, having the opportunity to update the permit to current standards with proven, responsible operating conditions is highly desirable and should help to mitigate any risks associated with the availability of distilled spirits.

Community Input:

The Responsible Alcohol Policy Action Coalition (RAPAC) had the opportunity to discuss this proposal at their monthly meetings. They expressed concern over the proximity to other similar outlets and noted the close proximity to residences as well. The Police Department encouraged members to provide further comments, if desired, at the Planning Commission hearing.

Conclusion:

The statistical analysis shows the area to have a crime rate that is not significantly higher than the citywide average but that there are occasional problems associated with the bar nearby. The area is generally not considered to be a significant policing problem. There are two similar uses within 350 feet of the proposed site so there is an issue of undue concentration by local standards.

The Police Department recognizes the risks associated with having multiple alcohol licenses within close proximity to each other but concludes that the addition of new, standard and special operating conditions on the SUP will help to keep the business from becoming a nuisance. The added conditions also allow police many enforcement and compliance options should the site become problematic. If the upgrade is denied, the business will still be able to exercise the privileges of their older license and continue to sell beer and wine. The density rate in the area would still be the same and the business would not be subject to the responsible operating conditions that are included on new Special Use Permits. The Police Department does not believe the sale of distilled spirits will significantly aggravate policing problems as long as the establishment complies with these new regulations and operates responsibly. Listed below are the Police Department's recommended operating conditions for the Resolution.

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.

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.

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) The 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 involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (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 11:00 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 near the middle of the store where the cashiers or clerks have a clear view from their normal work stations of the activity of persons in the alcohol aisle. (PD)
- 16) There shall be no amusement machines or video devices maintained on the premises at any time. (PD)
- 17) Beer, malt beverages and wine coolers, in containers of 40oz in volume or less, cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
- 18) No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles (Port, Sherry, Saki, Marsala, Madiera, Muscat and Vermouth are permitted). (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 coolers. (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 or otherwise secure 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 or develop other cash handling procedures 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

- 1) The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, drive-thru window or a slide-out tray to the exterior of the premises.

Attachment E Resolution

RESOLUTION 2011-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 10-510-14 (SPECIAL USE PERMIT), TO ALLOW THE SALE OF BEER, WINE AND DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION (ABC LICENSE TYPE 21) IN AN EXISTING CONVENIENCE MARKET LOCATED AT 1420 WEST CHANNEL ISLANDS BOULEVARD, (APN 205-0-192-145), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DESIGNATED AGENT MIGBEL ALRABADI, 711 WEST CHANNEL ISLANDS BOULEVARD, PORT HUENEME, CA 93035.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 10-510-14, a special use permit to allow the sale of beer, wine and distilled spirits for off-site consumption in an existing convenience market located at 1420 West Channel Islands Boulevard, filed by designated agent Migbel Al Rabadi, in accordance with sections 16-530 through 551 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, section 15301 of the California Code of Regulations exempts the project from the requirements for the preparation of 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. That the proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. That 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. That the site for the proposed project 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. That 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. That the site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The establishment is in a retail center where convenience markets selling alcoholic beverages for consumption off the premises are appropriate, and the proposed use will not result in or add to an undue concentration of establishments selling alcoholic beverages at retail within 1000 feet of the location for which the special use permit is applied.
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 16-530 through 551 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 Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated December 14, 2010 (“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. 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)
6. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
7. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
8. 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)
9. 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)
10. Prior to issuance the State Department of Alcoholic Beverage Control Type 21 license, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

11. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)
12. If the project property is already occupied or use has already been initiated, Developer shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-6)
13. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, PL-7)
14. Within 30 days of approval of this permit, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, PL-16).

PLANNING DIVISION SPECIAL CONDITIONS

15. This permit shall automatically be null and void 12 months from the date of issuance, unless Developer has received from the State Department of Alcoholic Beverage Control a license to sell alcoholic beverages on the project property. (PL)

16. Prior to issuance the State Department of Alcoholic Beverage Control Type 21 license, Applicant shall remove all unpermitted signage on site including the roof sign above the buildings entry, the beer and wine sign posted on the drive through canopy, temporary wall signage on the north elevation, the portable drive through sign along in the rear of the building and bring all window signage into compliance with the conditions of this permit and city code. Any areas where signs have been removed shall be repaired and painted to match existing colors and conditions of the building.
17. Prior to issuance the State Department of Alcoholic Beverage Control Type 21 license, Applicant shall remove any and all outdoor storage including, but not limited to, crates, boxes and refuse located in the rear of the building and maintain the area clean and clear of all debris.

POLICE STANDARD CONDITIONS

16. 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)
17. 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)
18. 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)
19. 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.
20. 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.
21. 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)
22. The 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)

23. Any door other than the main entrance 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)
24. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
25. 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)
26. 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)
27. 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)
28. 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)
29. 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 11:00 PM to 6:00 AM. (PD)
30. 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 near the middle of the store where the cashiers or clerks have a clear view from their normal work stations of the activity of persons in the alcohol isle. (PD)
31. There shall be no amusement machines or video devices maintained on the premises at any time. (PD)
32. Beer, malt beverages and wine coolers, in containers of 40oz in volume or less, cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
33. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles (Port, Sherry, Saki, Marsala, Madiera, Muscat and Vermouth are permitted). (PD)
34. 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 coolers. (PD)

35. No open floor displays of alcoholic beverages are allowed, including but not limited to "beer mountains" and portable coolers. (PD)
36. There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.
37. 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.
38. Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.
39. Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery.
40. Permittee shall have drop-safes installed or develop other cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50).
41. Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.
42. Permittee shall install height gauges at all exit doors.
43. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion.
44. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601.
45. 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.
46. 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

- 47. The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, drive-thru window or a slide-out tray to the exterior of the premises.
- 48. The sale of distilled spirits in a single serving size is prohibited.
- 49. Any display of distilled spirits shall be maintained in locked cabinets as all times under direct control of employees. No distilled spirits shall be accessible to customers at any time without assistance from an employee.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day of March, 2011, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Patrick Mullin, Chairman

ATTEST: _____
Susan L. Martin, Secretary