



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Justin Beranich, Assistant Planner

DATE: April 7, 2011

SUBJECT: Planning and Zoning Permit No. 11-510-02 (Major Modification to Special Use Permit No. 06-510-01), located at 3600 Saviers Road.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 11-510-02 for a Major Modification to Special Use Permit No. 06-510-01, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to modify conditions of approval to allow public dances and live entertainment at Puerto Nuevo Restaurant, located at 3600 Saviers Road. The restaurant currently comprises 3,200sq.ft. and has a 90 person occupancy. No physical changes to the existing facility are proposed with this request. The existing hours of operation are from 8:00 a.m. to 9:00 p.m. Wednesday through Monday with the exception of Saturdays from 8:00 a.m. to 12:00 a.m. The proposed hours of operation are from 8:00a.m. to 12:00 a.m. Monday and Thursday, 8:00 a.m. to 1:00 a.m. Wednesday, Friday, Saturday and Sunday, and closed on Tuesdays. Filed by designated agent Tamara Cutler, on behalf of the property owner, Rami Griswald, 3600 Saviers Road, Oxnard CA 93033.
- 3) **Existing & Surrounding Land Uses:** The subject site is developed with a multi-tenant commercial building.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	General Commercial Planned Development (C2PD)	Commercial General (CG)	Restaurant within a multi-tenant shopping center
North	General Commercial Planned Development (C2PD)	Commercial General (CG)	Commercial business
South	General Commercial Planned Development (C2PD)	Commercial General (CG)	Gas station
East	High Rise Residential (R4)	Residential Low (RRL)	High Rise Residential Apartments
West	Garden Apartment (R3)	Residential Low (RRL)	Garden Apartments

- 4) Background Information:** The shopping center was constructed in 1967 (Building Permit No. 17475). The restaurant, Puerto Nuevo, opened in 1989. In 2002 the Planning Commission approved Special Use Permit No. 02-510-1 (Resolution No. 2002-46), which allowed the on-site sale of beer and wine. On April 20, 2006, the Planning Commission approved Special Use Permit No. 06-510-01, via Resolution No. 2006-26, for the on-site consumption of general alcohol sales and a caterer's permit. Currently, the applicant operates with a Type 47 license and caterer's permit (Type 58) issued by the California Department of Alcoholic Beverage Control. The Type 47 license allows for the on-site consumption of beer, wine and distilled spirits in conjunction with a bona fide eating place and the caterer's permit allows the Applicant to cater events with beer, wine and distilled spirits.
- 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 amends conditions of approval that restrict public dances and events with entertainment. There is no development or building expansion 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 restaurant is situated on the northwest corner of the Saviers Plaza Shopping Center adjacent to Saviers Road. The restaurant comprises 3,200 sq.ft. of floor area and has a 90 person occupancy. The restaurant is comprised of two dining rooms, a service bar and an outdoor patio. A glass entry door opens into a reception area on the south side of the restaurant. The main dining room is comprised of fifteen fixed booths and a thirteen-seat service bar, which separates the restaurant from the kitchen. There is a patio, accessible through the dining room, on the west side of the restaurant. A seven-foot tall brick and metal wall enclose the patio with bamboo sheeting along the upper half. The patio is uncovered and used for an area for patrons to smoke and is conditioned to restrict eating or drinking. No physical changes to the existing facility are proposed with this request.

The request modifies Condition No. 55 within Resolution No. 2006-26 that currently restricts public dancing and entertainment. The Applicant proposes karaoke and live acoustic performances within the main dining room while the second dining room would accommodate private receptions. When dancing is proposed, the Applicant applies for a One-Day Permit through the Licensing Division which is reviewed by the Police Department for potential policing problems. Condition No. 55 of Resolution No. 2006-26 is amended to read: "Entertainment or the use of any amplifying system or device shall not be audible outside the premises nor shall it be disruptive to neighboring businesses." This condition allows the permittee to provide various types of amplified sound associated with dancing and entertainment and is monitored and enforced by the Police Department.

To clarify the applicable regulatory conditions and to aid with enforcement, all related conditions from Resolution No. 2006-26 are incorporated into this request, including the amended condition relating to dancing and entertainment, along with several new conditions added by the Police Department. All conditions within Resolution No. 2006-26 are being superseded and replaced by this new resolution. The amended condition is Condition No. 56 in the attached resolution.

b) General Plan Consistency: The Safety Element of the 2020 General Plan lists policies consistent with the City's goal of the "Maintenance and enhancement of a safe community" (IX-16). Of these policies, number 35 states: "The City should require the Police Department to review all proposed development projects for potentially dangerous situations, and implement its recommendations" (IX-20). Consistent with this, the Police Department has reviewed the proposed use for compliance with safety and security requirements and has subsequently conditioned the project to include implementation measures which address the Police Department's concerns.

c) Police Department Review: The Oxnard Police Department prepared a report on March 14, 2011 (Attachment D) which analyzed the site and surrounding area for any potential policing problems which might be intensified as a result of approval of this request. 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 on-sale alcohol establishments within 350 feet of the site and consequently a presumed issue of undue concentration.
- ii) **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 108 during the same 12-month time period. This is 8% lower than the average Part I/II crime rate citywide. The bulk of calls for service run along Saviers Road and Samuel Avenue which is directly behind the shopping center. Calls that list alcohol as a contributing factor are slightly above citywide averages and disturbance related calls are consistent with similar commercial areas. Calls for service directly to Puerto Nuevo totaled 12 during a recent 12-month period with six of those being disturbance related (all loud music). The number of calls to the site is approximately half as many as with other similar businesses in the general area and it is not considered to be a problem location.

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. All references to police "calls for service" may include *any* type of police response to the area in addition to those classified as Part I or II.

Additional Police Input: The Police Department does not consider the area surrounding the premises to be a policing problem; however, in the area along Saviers Road from Channel Islands Boulevard south to Pleasant Valley Road there are multiple bars and restaurants with entertainment and dancing that can occasionally generate problems. The subject site is not considered to be a problem location but has had occasional calls regarding loud music. With one bar in the same shopping center recently closed and unlikely to reopen, the outlet density is not so much of an issue and the potential risks are reduced.

In 2006, when this site originally applied for a special use permit to sell alcohol, the Police Department, together with the surrounding community, was very concerned about the business becoming another problematic nightclub like too many others had been along Saviers Road. At the time, the Police Department included conditions that restricted the use of entertainment or dancing to private events only which are generally of a celebratory nature and less likely to generate problems. Since then, the crime rate in the area has dropped significantly (a 13% overall downward swing) and a nearby bar has been closed for nearly a year. The management has worked closely with the Police Department, and, while the site is not problem free, the issues have been very manageable and not considered to be significant.

The Responsible Alcohol Policy Action Coalition (RAPAC) recognize the applicant has been operating reasonably well for the last few years and has generally been a good neighbor; but cautioned that a change in the formula that has seemed to work may bring with it some challenges and problems.

In addition, the Police Department contacted the council chairpersons for both the Blackstock North and Blackstock South neighborhoods and informed them of the amendment request. Each of these neighborhoods had originally recommended the condition that restricts public dancing and entertainment. They were advised to consider the request and voice their opinions at the hearing if desired.

Conclusion: A condition of the original SUP also allows the Chief to immediately suspend the privileges allowed by the SUP if it is determined the site is a threat to public safety. These and other conditions give the City a safety net to help ensure compliance and keep the business operating in a responsible manner. For these reasons, the Police Department is not opposed to the proposed amendments to the original SUP subject to conditions of approval.

- 7) Community Workshop:** On March 8, 2011, the applicant mailed notices of the Community Workshop to all property owners within the Blackstock North and Blackstock South Neighborhoods. The project site was also noticed with a brief description of the project and contact information for the Community Workshop, conducted on March 21, 2011. Those who spoke expressed support of the business and were in favor of granting the request.
- 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:

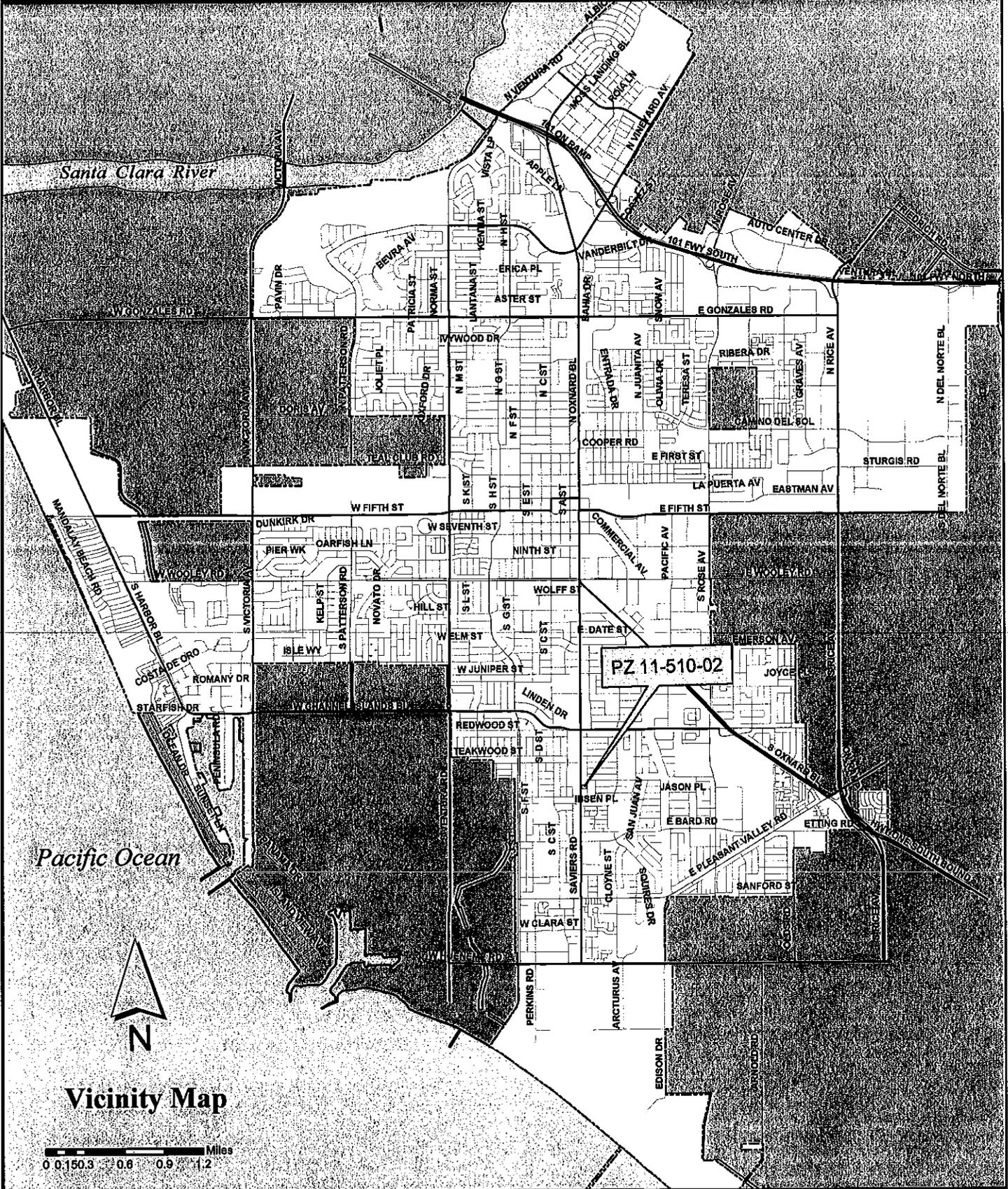
- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Police Department Report
- E. Resolution

Prepared by: JB
JJB

Approved by: SM
SM

Attachment A
Maps
(Vicinity, General Plan, Zoning)

Vicinity Map



Vicinity Map

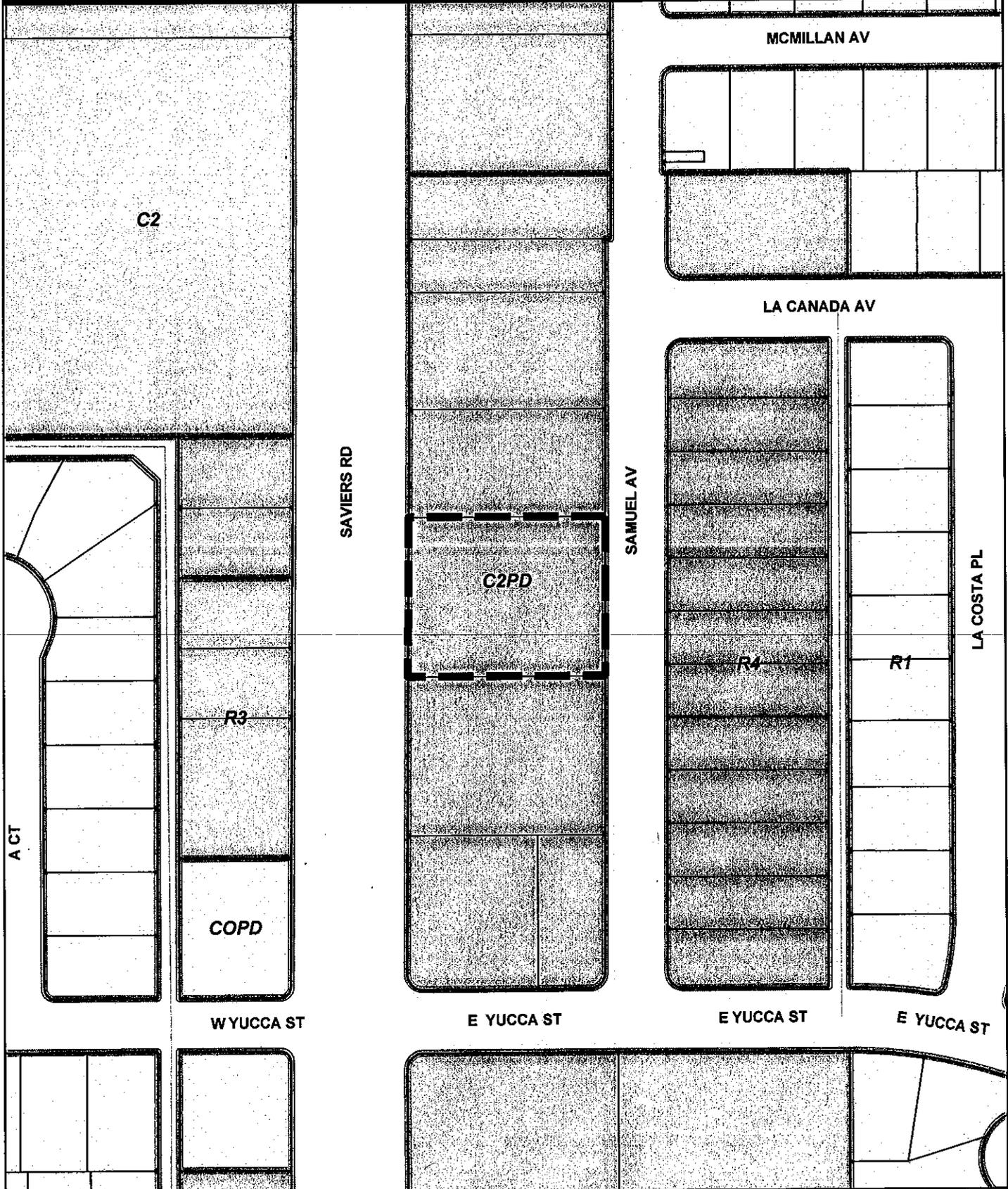
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Oxnard Planning
January 28, 2011

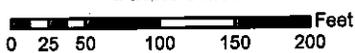
PZ 11-510-02
Location: 3600 Saviers Rd.
APN: 219042304
Puerto Nuevo

Zone Map



Oxnard Planning
January 28, 2011

PZ 11-510-02
Location: 3600 Saviers Rd.
APN: 219042304
Puerto Nuevo

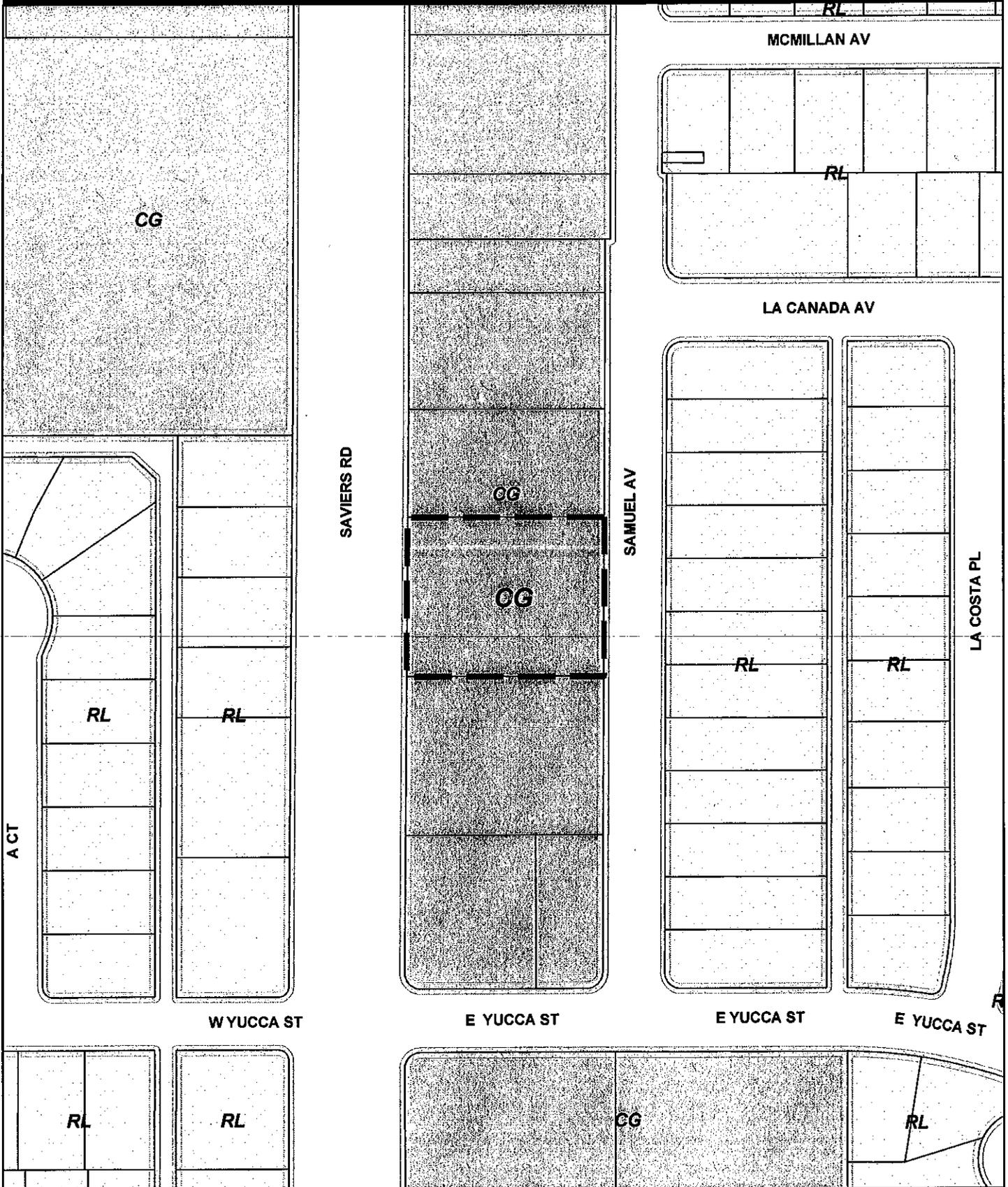


Zone Map



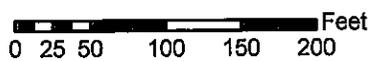
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General Plan Map



Oxnard Planning
January 28, 2011

PZ 11-510-02
Location: 3600 Saviers Rd.
APN: 219042304
Puerto Nuevo

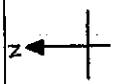
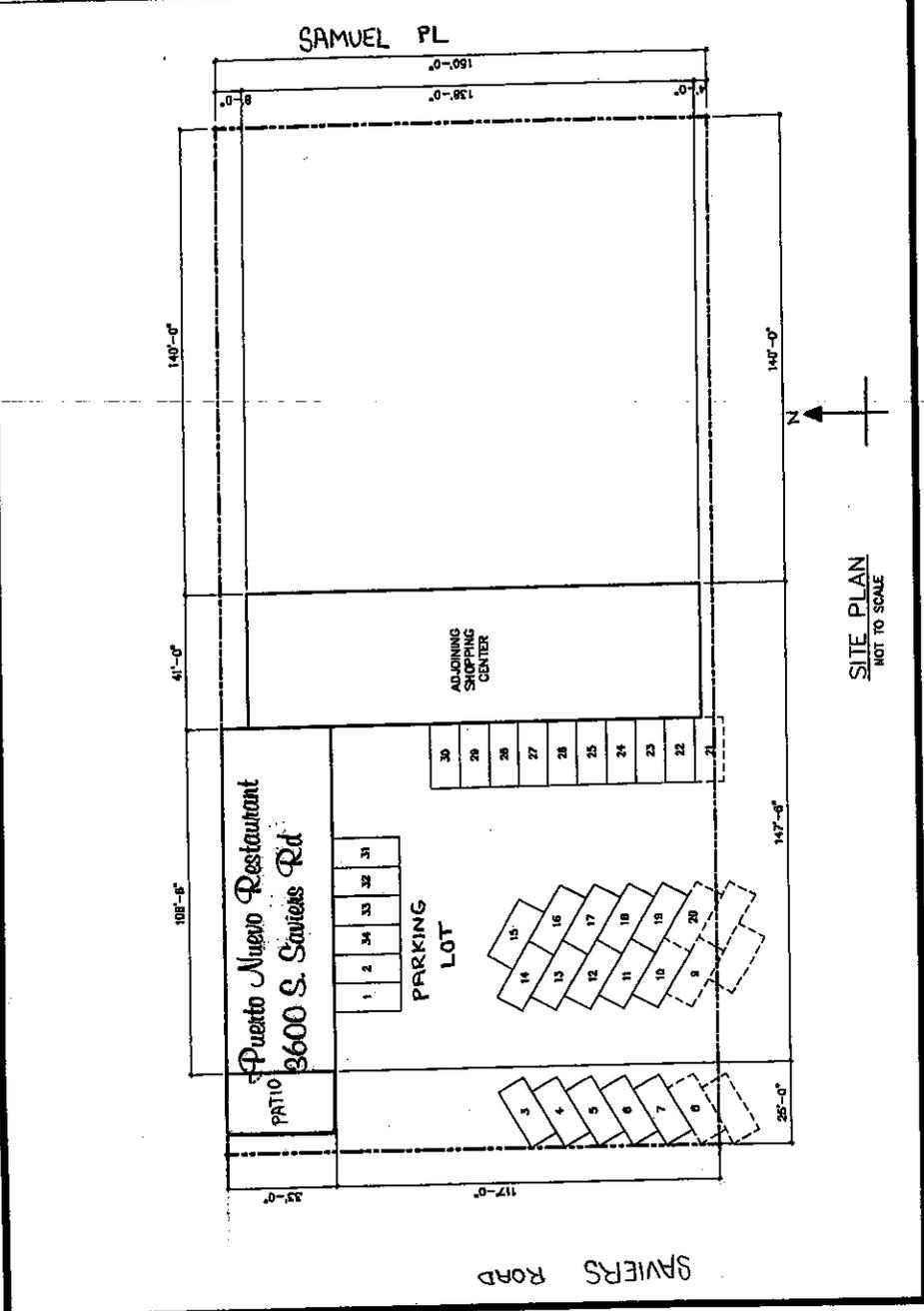


General Plan Map



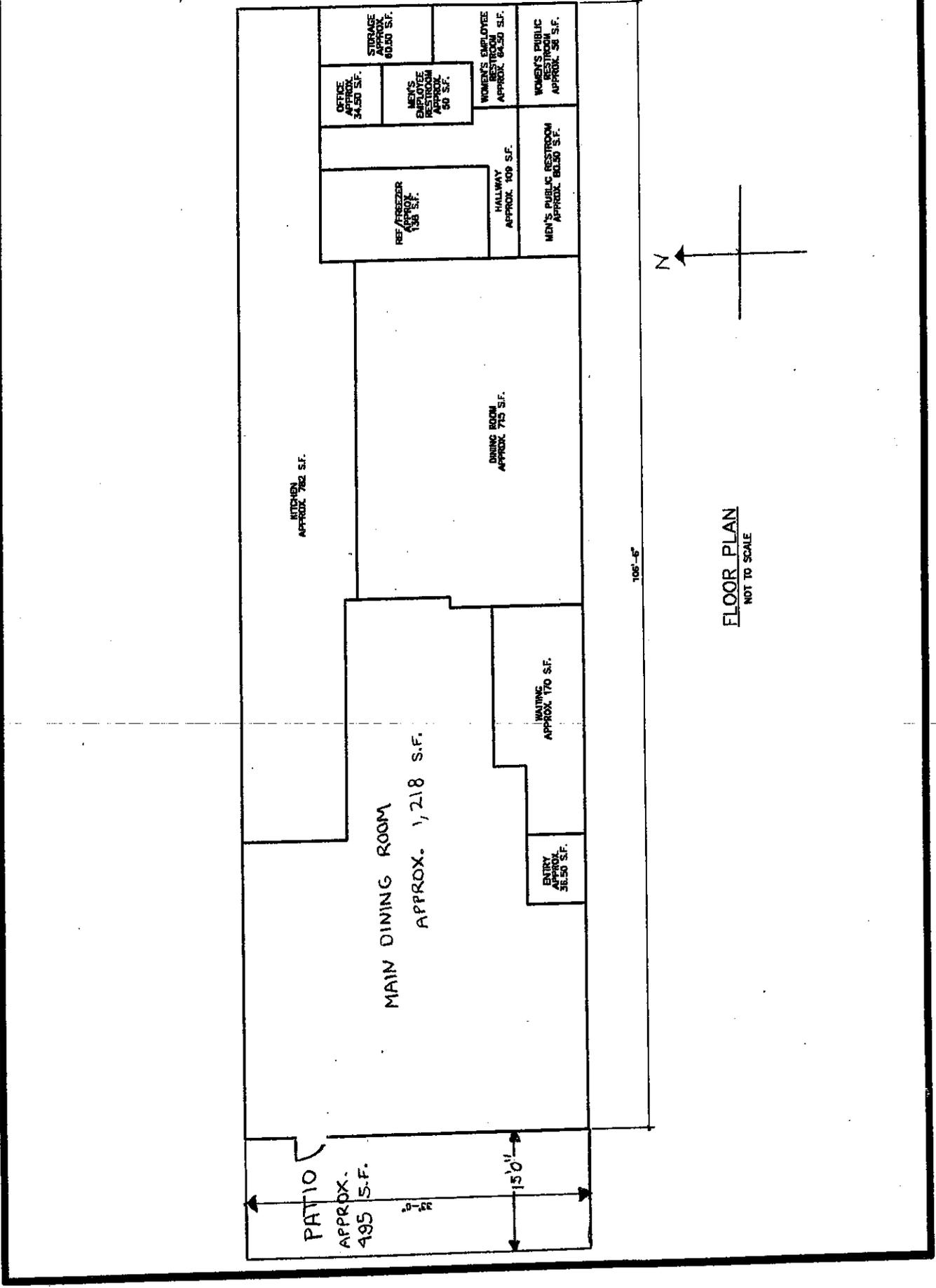
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Attachment B
Reduced Project Plans

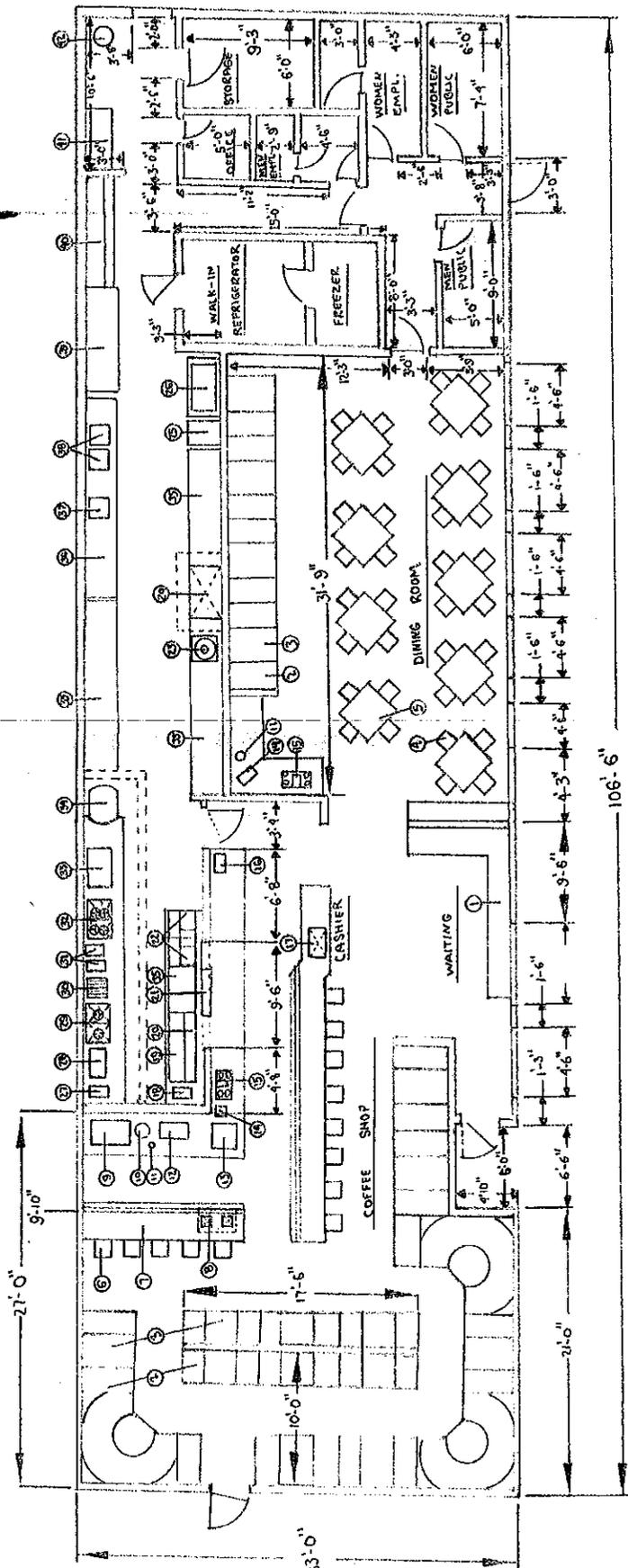
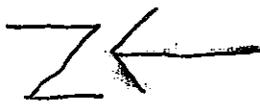


SITE PLAN
NOT TO SCALE

SAVIERS ROAD



FLOOR PLAN
NOT TO SCALE



33	AMER. AIR 36-36" GRIDDLIE w/ DNEW
34	31" X 31" FREEZER
35	31" X 31" REFRIG.
36	3" X 3" WASH SINK
37	HARD WASH SINK
38	DUAL VEGETABLE SINK
39	S.T.S. WOKK TABLE
40	WOOD STORAGE CABINET
41	WOOD STORAGE CABINET
42	WATER HEATER

17	CASH REGISTER
18	HAND WASH SINK
19	COUNTER TOP DISPOS
20	COUNTER TOP REFRIGERATE
21	FOOD WARMER
22	FOOD DISPOSAL
23	FOOD WARMER
24	DISHWASHER
25	36" X 30" TABLE
26	ICE MAKER
27	AMERICAN SF 18-3 STOCK W/ MINGE
28	AMERICAN 36-36" GRIDDLIE
29	AMERICAN CUP 424 - 3 BUBBLER NOT FL
30	AMERICAN AVB - 2 VERTICAL BROWE
31	AMERICAN AIR-25 104L EXHAUS
32	AMER. B BURGERS w/ 1 DNEW

1	BOOTH
2	BOOTHS
3	TABLES
4	CHAIRS - MOVABLES
5	36" X 36" TABLES
6	CHAIRS - NON-MOVABLE
7	COUNTER TOP
8	HAND WASH SINK
9	BEVERAGE DISPENSER
10	ICE TEA DISPENSER
11	DRINKING WATER FAUCET
12	BEVERAGE DISPENSER
13	COFFEE CUPS RACKS
14	HOT WATER DISPENSER
15	COFFEE MAKER
16	SALADS - DRESSINGS

Attachment C
Notice of Exemption



NOTICE OF EXEMPTION

Project Description:

A request to modify conditions of approval to allow public dances and live entertainment at Puerto Nuevo Restaurant, located at 3600 Saviers Road. The restaurant currently comprises 3,200sq.ft. and has a 90 person occupancy. No physical changes to the existing facility are proposed with this request. The existing hours of operation are from 8:00 a.m. to 9:00 p.m. Wednesday through Monday with the exception of Saturdays from 8:00 a.m. to 12:00 a.m. The proposed hours of operation are from 8:00a.m. to 12:00 a.m. Monday and Thursday, 8:00 a.m. to 1:00 a.m. Wednesday, Friday, Saturday and Sunday, and closed on Tuesdays. Filed by designated agent Tamara Cutler, on behalf of the property owner, Rami Griswald, 3600 Saviers Road, Oxnard CA 93033.

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 "minor alteration of existing...structures" may be found to be exempt from the requirements of CEQA. The request amends conditions of approval that restrict public dances and events with entertainment. There is no development or building expansion 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.

(Date)

Susan L. Martin, AICP
Planning Division Manager

Attachment D
Police Department Report



Police Department

Jeri Williams, Police Chief

Date: March 14, 2011
To: Justin Beranich, Junior Planner
From: Cliff Waer, Senior Alcohol Compliance Officer
Subject: 3600 S. Saviers Rd. (Puerto Nuevo Restaurant)

SITE INFORMATION:

The proposed site is located at 3600 Saviers Road and is part of a small, U-shaped retail center in South Oxnard. The building is currently occupied and operated as a Mexican food restaurant (Puerto Nuevo) with a valid Type-47 ABC license (beer, wine and distilled spirits with food) as well as a Type-58 License (off-site catering). The business is positioned at the northernmost portion of the center with a raised, fenced-off patio facing Saviers Road. The site has been operated as a restaurant for many years and has previously been the home of Grapes and Loop's Restaurants. The parking lot is shared by all of the tenants and the front doors face south to the parking lot. Other businesses in the center include a massage parlor (directly alongside the proposed site), the El Maguery liquor store (25 feet from proposed site), another restaurant with a Type-41 ABC license (beer and wine with food), and a bar with a Type-48 ABC license (This location is currently closed for business and has surrendered their ABC License; the License will remain active until transferred or cancelled).

The site is generally bordered by commercial uses and Yucca Street to the south, commercial to the north, Samuel Ave. and residences to the east and Saviers Road on the west. The closest residences are primarily apartments along Samuel Avenue, approximately 100 feet from the proposed site. The applicant has requested to amend their existing Special Use Permit to allow entertainment and public dancing. The current SUP has a condition that restricts such activity to private events only and they are asking to strike that condition.

ALCOHOL OUTLETS LOCATED WITHIN 350 FEET OF THE PROPOSED SITE:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. La Isla Bonita Restaurant	3630 Saviers Road	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine only
2. Mariscos El Pulpo	3553 Saviers Road	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine only
3. El Maguey Liquor	3610 Saviers Road	Type 21	Off-Sale General	Liquor Store	Beer, Wine and Spirits
4. Four Guys Liquor	121 E. Yucca Street	Type 21	Off-Sale General	Liquor Store	Beer, Wine and Spirits
5. Sandpiper Inn (License surrendered)	3620 Saviers Road	Type 48	On-Sale General- Public Premises	Bar	Beer, Wine and Spirits

ALCOHOL OUTLETS LOCATED WITHIN 1000 FEET OF THE PROPOSED SITE:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Los Compadres	3706 Saviers Road	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine only
2. El Matador Market	3801 Saviers Road	Type 21	Off-Sale General	Liquor Store	Beer, Wine and Spirits
3. Ralph's Grocery	3443 Saviers Road	Type 21	Off-Sale General	Liquor Store	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 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 108 during the same 12-month time period. This is 8% lower than the average Part I/II crime rate citywide. The bulk of calls for service run along Saviers Road and Samuel Avenue which is directly behind the shopping center. Calls that list alcohol as a contributing factor are slightly above citywide averages and disturbance related calls are consistent with similar commercial areas. Calls for service directly to Puerto Nuevo totaled 12 during a recent 12-month period with six of those being disturbance related (all loud music).

The number of calls to the site is approximately half as many as with other similar businesses in the general area and it is not considered to be a problem location.

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. All references to police "calls for service" may include *any* type of police response to the area in addition to those classified as Part I or II.

POLICE DEPARTMENT INPUT:

The Beat Coordinator who is responsible for coordinating day-to-day police services in the surrounding district said the area is generally not considered to be a policing problem; however, in the area along Saviers Road from Channel Islands south to Pleasant Valley Road there are multiple bars and restaurants with entertainment and dancing that can occasionally generate problems. The Puerto Nuevo Restaurant is not considered to be a problem location but has had occasional calls regarding loud music. With one bar in the same shopping center recently closed and unlikely to reopen, the outlet density is not so much of an issue and the potential risks are lessened.

In 2006 when this site originally applied for a Special Use Permit to sell alcohol, the Police Department, together with the surrounding community, was very concerned about the business becoming another problematic nightclub like too many others had been along Saviers Road. At the time, we included conditions that restricted the use of entertainment or dancing to private events only which are generally of a celebratory nature and less likely to generate problems. Since then, the crime rate in the area has dropped significantly (a 13% overall downward swing) and a nearby bar has been closed for nearly a year. The management has worked closely with the Police Department, and, while the site is not problem free, the issues have been very manageable and not considered to be significant. The overall appearance of the shopping center is somewhat improved from the date of the original issuance of the SUP and the changes were largely inspired by exterior improvements that began at the restaurant.

COMMUNITY INPUT:

The Responsible Alcohol Policy Action Coalition (RAPAC) discussed this proposal at their monthly meeting and expressed similar concern about allowing nightclub-like activity. They recognized that the applicant has been operating reasonably well for the last few years and has generally been a good neighbor; but cautioned that a change in the formula that has seemed to work may bring with it some challenges and problems.

The council chairpersons for both the Blackstock North and Blackstock South neighborhoods were contacted by the Police Department and informed of the amendment request. Each of these neighborhoods had originally recommended the condition that restricts public dancing and

entertainment. They were advised to consider the request and voice their opinions at the hearing if desired.

CONCLUSION:

The statistical analysis shows the area to have a crime rate that is slightly lower than the citywide average. There are two On-Sale establishments within 350 feet of the proposed site so there is an issue of undue concentration; however, the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises are typical of such environments and can generally be appropriate.

The site has been selling beer, wine and distilled spirits since 2006 and, along with its restaurant services, has hosted private events with dancing and entertainment. The number of calls for service at the site is approximately half as many as with similar uses nearby and the business is not considered to be a policing problem. While recognizing that a change in the operating practices may have an adverse effect on the relatively problem free environment that the site currently enjoys, the Police Department is confident there are multiple enforcement options that can be used to correct any problem behavior. For one, the business will need to maintain a valid Dance Permit in addition to the Special Use Permit that allows such activity. This Dance Permit can be immediately suspended by the Police Department if there are chronic problems or an issue of public safety. A condition of the original SUP also allows the Chief to immediately suspend the privileges allowed by the SUP if it is determined the site is a threat to public safety. These and other conditions give the City a safety net to help ensure compliance and keep the business operating in a responsible manner. For these reasons, the Police Department is not opposed to the proposed amendments to the original SUP subject to the special conditions recommended below and all the terms and conditions of the original SUP.

The Police Department's experience is that the proposed license (Type 47 – On-Sale General, Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly.

1)

POLICE SPECIAL CONDITIONS

- 1) Entertainment or the use of any amplifying system or device shall not be audible outside the premises nor shall it be disruptive to neighboring businesses.
- 2) There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses.
- 3) There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
- 4) Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
- 5) Customer access to and from the patio shall be made through the interior of the business only.

Attachment E

Resolution

RESOLUTION NO. 2011-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 11-510-02 (MAJOR MODIFICATION), TO MODIFY SPECIAL USE PERMIT NO. 06-510-01 TO ALLOW DANCING AND LIVE ENTERTAINMENT USES WITHIN AN EXISTING RESTAURANT (PUERTO NUEVO), LOCATED AT 3600 SAVIERS ROAD (APN 219-0-423-040), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY TAMARA CUTLER, 3600 SAVIERS ROAD, OXNARD, 93030.

WHEREAS, the Planning Commission of the City of Oxnard has previously approved Special Use Permit No. 02-510-1 (Resolution No. 2002-46), which allowed the on-site sale of beer and wine in conjunction a restaurant use, and Special Use Permit No. 06-510-01 (Resolution No. 2006-26), for the on-site consumption of general alcohol sales in conjunction a restaurant use and a caterer's permit; and

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 11-510-02 to modify the limitations previously imposed regarding dancing and live, amplified entertainment in conjunction with the sale of alcohol for on-site consumption at a bona fide eating place, filed by Tamara Cutler in accordance with Section 16-530 through 16-553 of the Oxnard City Code; 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 presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a commercial area where the multiple restaurant and entertainment establishments selling alcoholic beverages for consumption on the premises is appropriate.
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 restates and modifies the conditions of approval for Special Use Permit No. 06-510-01 to read as follows. Resolution 2006-26 is accordingly superseded in its entirety and the operative conditions of approval for Special Use Permit No. 06-510-01 are stated in this Resolution. 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.

STANDARD CONDITIONS OF APPROVAL

FOR LAND USE PERMITS

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

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic
PD	Police	B	Building Plan Checker
SC	Source Control	FD	Fire
PK	Parks	CE	Code Enforcement

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 April 7, 2011 ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or a major modification to the plans is approved by the Planning Commission. (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 record with the Ventura County Recorder a "Notice of Land Use Restrictions and Conditions" in a form acceptable to the City Attorney. Before the City issues building permits or allows Developer to occupy the project, Developer shall submit a copy of the recorded document to the Planning and Environmental Services 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 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 signs on the project property. (PL/B, G-10)
9. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15)

PLANNING CONDITIONS

10. Prior to issuance of building permits, 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-26).
11. Permittee shall remove all non-conforming advertising flags and un-permitted banners. (PL)

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 and Environmental Services Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
14. Project on-site lighting shall be of a type and in a location that does not constitute a hazard to vehicular traffic, either on private property or on adjoining streets. To prevent damage from vehicles, standards in parking areas shall be mounted on reinforced concrete pedestals or otherwise protected. Developer shall recess or conceal under-canopy lighting elements so as not to be directly visible from a public street. Developer shall submit a lighting plan showing standard heights and light materials for design review and approval of the Planning and Environmental Services Manager. (PL/B, *PL-8*)
15. In order to minimize light and glare on the project property, all parking lot and exterior structure light fixtures shall be high cut-off type that divert lighting downward onto the property and shall not cast light on any adjacent property or roadway. (PL, *PL-9*)
16. Before the City issues building permits, Developer shall submit and obtain approval from the planning manager of a master sign program for the project, which shall indicate on the site plan the elevations, the size, placement, materials, and color of all proposed free-standing and building signs. The square footage of all signs for the project shall not exceed 106 square feet, calculated in accordance with the City Code. (PL/ B, *PL-46*)

PLANNING SPECIAL CONDITIONS

17. This permit shall automatically be null and void 12 months from the date of issuance, unless Developer has received a One-Day Permit from the Licensing Division for the project property. (PL)

POLICE STANDARD CONDITIONS

18. Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
19. Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)
20. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)

21. When security personnel are present or required, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations.
22. 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)
23. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area.
24. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
25. Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section. (PL/PD)
26. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
27. The premises shall possess the necessary utensils, table service, and condiment dispensers with which to serve meals to the public. (PL/PD)
28. 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)

29. Sales of alcohol shall not occur between the hours of 12:00 a.m and 6 a.m. (PL/PD)
30. Alcoholic beverages shall not be offered at significantly reduced prices that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not implement any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
31. Alcoholic beverages shall be served in standard sizes, not larger than 20 ounces, and shall not be served by the pitcher, "bucket" or similar high capacity amounts. (PD)
32. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, 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)
33. 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 minimum, be posted at all stationary points of sale. (PD)
34. The use of any amplifying system or device shall not be audible outside the premises nor shall it be disruptive to neighboring businesses. (PD)
35. 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)
36. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. Authorized catering events shall not be considered a violation of this condition, as long as Permittee is properly licensed by the California Department of Alcoholic Beverage Control (ABC). (PD)

37. The subject Alcoholic Beverage License shall not be exchanged for any other type Alcoholic Beverage License without Planning Commission or City Council approval. (PD)
38. 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 in the Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)
39. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within forty-eight (48) hours of being applied. (PL/PD)
40. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
41. The parking lot and adjacent areas of the premises under the reasonable control of the Permittee (including the rear of the business) 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. (PL/PD)
42. No pay phone on the exterior of the premises shall be allowed and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
43. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
44. Any rear door of the premises shall be equipped on the inside with an automatic locking device and 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 does not constitute a violation. (PD)
45. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
46. Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
47. Permittee shall install height gauges at all exit doors prior to final inspection. (PD)
48. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
49. 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. (PD)

50. 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). (PD)
51. Permitttee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register. (PD)
52. 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

53. Permittee shall offer an assortment of food items to customers at all times. Permittee may, at Permittee's discretion, modify the standard menu or reduce the number of menu items offered to the customers but shall continue to make available a reasonable assortment of food items during all hours of operation. (PD)
54. The consumption of food and alcoholic beverages in any outdoor area is strictly prohibited. (PD)
55. Permittee shall not modify or create an area that functions as or that resembles an appearance that is generally associated with that of a traditional "bar". This includes having an area with a dedicated bartender serving primarily alcoholic beverages or multiple bar stools situated in front of a countertop with wall displays of alcohol or other large alcohol displays. (PD)
56. Entertainment or the use of any amplifying system or device shall not be audible outside the premises nor shall it be disruptive to neighboring businesses.
57. There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses.
58. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
59. Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
60. Customer access to and from the patio shall be made through the interior of the business only.

Resolution No. 2011-XX

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 7 day of
April, 2011, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT:

Patrick Mullin, Chairman

ATTEST: _____
Susan L. Martin, Secretary